

Corresponding with Professor George:
Key Questions about the Natural Law
By Maclain Conlin
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Robert P. George is the McCormick Professor of Jurisprudence at Princeton University and Director of the James Madison Program in American Ideals and Institutions. He has served as chairman of the United States Commission on International Religious Freedom (USCIRF), and before that on the President's Council on Bioethics and as a presidential appointee to the United States Commission on Civil Rights. He has also served as the U.S. member of UNESCO's World Commission on the Ethics of Scientific Knowledge and Technology (COMEST). He is a former Judicial Fellow at the Supreme Court of the United States, where he received the Justice Tom C. Clark Award. A graduate of Swarthmore College, he holds J.D. and M.T.S. degrees from Harvard University and the degrees of D.Phil., B.C.L., D.C.L., and D.Litt. from Oxford University. He has been a visiting professor at Harvard Law School and is a member of the Council on Foreign Relations.

This past week, Professor George kindly corresponded with me about his views on natural law, and his answers to my questions are available below. I encourage my fellow students at OA to take an interest in his writings, as they are an excellent introduction to natural-law theory.

1. In an amicus brief that you co-authored with Professor Finnis last year at the Supreme Court, you argued that the original meaning of the Fourteenth Amendment would protect the lives of the unborn. However, many natural law theorists have recently begun to question originalism, arguing that it is devoid of a moral anchor. Do you believe that originalism is compatible with natural law?

In interpreting the Constitution, my view is that we should be guided by (1) its text, (2) the logic of its provisions (their logical presuppositions and implications), (3) the structure of the document and its provisions, and (4) their original public meaning. Originalism doesn't provide the answer to every question of constitutional interpretation, but it does provide the answers to some and helps to shed light on others.

2. What level of agreement is required for a moral rule to be considered part of the natural law? For instance, St. Thomas Aquinas supported capital punishment, but modern theologians and philosophers, including Pope Francis, have advocated against it. Does the natural law mandate one solution to this question, or does it leave room for further debate?

None. A truth remains a truth even if no one recognizes or holds it. An untruth remains an untruth even if it is universally believed to be a truth.

3. Are there any examples from the Supreme Court's history where it has explicitly applied natural law principles?

Yes, but mostly indirectly. Many jurists and courts have noted that the framers of our Constitution were believers in natural law and placed natural law principles in the Constitution. In enforcing those principles—because they are the positive law—they give effect to the natural law (at least insofar as the natural law was understood by the framers).

4. Is natural law theory mainly a product of Christianity, or have other religious/ethical traditions also embraced this concept?

No. Natural law theory predates Christianity. Its roots are in the thought of the Greek philosophers and Roman jurists of antiquity. Christian thinkers draw on the tradition and expand and develop it. St. Thomas Aquinas, for example, draws on Plato and, especially Aristotle in his thought about natural law.

5. For students interested in learning more about natural law theory, are there any sources that you would recommend they begin reading (philosophers, court opinions, etc.)?

***Aristotle's Nicomachean Ethics*; the sections of St. Thomas Aquinas's *Summa Theologiae* known as the "Treatise on Law"; John Finnis's *Natural Law and Natural Rights*. I'll attach a paper of my own, "Natural Law, God, and Human Dignity."**

[Natural Law, God, and Human Dignity \(eku.edu\)](http://eku.edu)