



## ‘Finnis’ Natural Law is effective in dealing with ethical issues.’ Evaluate this view.

### Answer 1

The beauty of John Finnis’ system is that it is grounded in morality and yet established through the law. Since there are moral issues that are dealt with by the law, for example stealing and murder, and also those that are not, for example, issues surrounding sexuality, one could put forward the argument that it is the ideal ethical theory because it addresses the full range of moral issues. Ethical issues that are located within the parameters of law are dealt with by the law; the ethical issues that do not, are debated, resolved and decided upon by individual citizens in a more private realm and without the need for common public approval. Therefore, it would appear that on the surface of things, Finnis’ Natural Law is effective in dealing with ethical issues.

In order to evaluate a little more effectively, we need to delve a bit deeper than just a general overview and so we will consider some ethical issues and how Finnis has used his version of Natural Law.

In regard to the issue of homosexuality, Finnis has been quite clear. In an article from the Guardian newspaper 3rd February 2017, it points out that in 1994, Finnis had written that ‘a life involving homosexual conduct is bad even for anyone unfortunate enough to have innate or quasi innate homosexual inclinations’. In the same paper he described ‘the evil of homosexual conduct.

It is, therefore, quite clear that in applying his basic goods, homosexuality does not fall within the remit of life or friendship (society). However, homosexuality is not against the law. Homosexuality has quite recently been afforded the similar rights as heterosexuality. Indeed, for many people today homosexuality is not an issue and where there is a moral issue it is with how homosexual individuals have, both today and in the past, been



discriminated against and not whether or not homosexuality is 'moral' or 'immoral'. Finnis' Natural law then appears to be outdated when dealing with this ethical issue.

With regard to immigration, the official Roman Catholic teaching is one of warm welcome. However, for Finnis, his view of immigration over the past 50 years has meant 'a trajectory of demographic and cultural decay... pervasive untruthfulness about equality and diversity; population transfer and replacement by a kind of reverse colonisation'. In other words he sees the overall idea of immigration as destroying a country's identity and a threat to a 'community's medium term-survival' due to their 'replacement, as a people by other peoples, more or less regardless of the incomers' compatibility of psychology, culture, religion or political ideas and ambitions, or the worth or viciousness of those ideas and ambitions'.

Once again, his application of the basic goods appears to be skewed towards an ancient Greek model of patriotism and a nationalism that is not in line with the Pope's declarations that 'There is no Christian joy when doors are closed; there is no Christian joy when others are made to feel unwanted, when there is no room for them in our midst'.

In terms of capital punishment, Finnis' appears more compassionate. Finnis says that the law of 'talion' (Latin for 'retaliation') miss the point because it focuses on the criminal acts rather than on the criminal and that this is preferring self-interest to common good. If we are really going to address the wrong, we need to help people turn from selfishness. For Finnis, capital punishment directly attacks the basic good of life. It is not acceptable and he argues that the law should 'work to restore reasonable personality in offenders, reforming them for the sake not only of others but of themselves'.

In conclusion, we can see that Finnis' Natural Law clearly works when applied to moral issues. However, effectiveness does not really mean it is simply applied but more that it is applied well. My own view that it is not always applied well, as clear instances of ethical views that are contrary to human rights are in danger of emerging. However, this does



not mean it cannot be effective. I am sure that there are other ways of applying Finnis' Natural Law and reaching a different conclusion.

### Feedback

This is a wide-ranging discussion that is well structured and evaluative. In terms of critical analysis it may be a little one-sided in its selection of how Finnis applies the theory without consideration of different ways; however, this is recognised and addressed in a balanced and mature conclusion. Good use of evidence and examples throughout.



## Answer 2

John Finnis makes a modern statement for Natural Law in his famous book entitled 'Natural law and Natural Rights' published in 1980. In this book, Finnis develops the idea of primary precepts of Aquinas and gives them a more modern feel. Once again, coming back to the idea of a natural good, first identified by Aristotle vaguely in his concept of 'eudaimonia' (happiness) and then developed by Aquinas into natural good, Finnis uses the term 'well-being' to establish what the telos, end or purpose for humanity ideally is.

Like Aquinas and others, Finnis stresses the importance of reasoning: 'From one's capacity to grasp intelligently the basic forms of good as 'to-be-pursued', one gets one's ability... to sympathetically (though not uncritically) see the point of actions, life-styles, characters and cultures that one would not choose for oneself.'

In using reason human beings can identify what Finnis calls basic values or "basic forms of good". He identifies seven of these:

- Life
- Knowledge
- Sociability (friendship)
- Play
- Aesthetic experience
- Practical reasonableness
- Religion

Such goods are identifiable psychologically through 'corresponding inclinations and urges of one's nature'.

In order to apply them to society, Finnis develops aspects of what he calls 'practical reasonableness' which assist an individual in life with the aim of fulfilling the 'basic forms of good'. The nine principles are:

- Having a rational and coherent life plan
- Not arbitrarily prioritising one basic good over another



- Treating everyone as equal
- Remaining objective by not letting detachment lead to indifference
- Maintaining commitment to the ideals of the basic goods
- Limiting the relevance of consequences
- Respect for every basic value in every act
- The requirements of the common good
- Following one's conscience

As can be seen from above Finnis' work is very well set out for ethical issues and being effective in solving them because there are clear guidelines.

### Feedback

This is a weak attempt at evaluation. This is more of an AO1 skill answer than an AO2. It consists of reciting some application of Finnis but not weighing the relative strengths and weaknesses of these applications. It may be that the person has panicked and just written down anything on Finnis. This answer clearly demonstrates the reminder to make sure AO1 and AO2 answers are clearly different.



### Answer 3

Finnis says that the goal of the law is a quality of communal life 'in which the demands of the common good indeed are... also recognised as including the good of individual autonomy...' So, the law has to serve both the community as well as individuals.

Natural Law is based on what it means to be human and this means acting in line with your true nature and follow our natural inclinations. When the theory is applied, it assumes the special status of human beings. It is a universal law, and not relative to culture or a religion and it appeals to common sense. Therefore, in theory, it is effective in dealing with moral issues.

Finnis' Natural Law is good because it is based in the Law and Morality. Its guidelines are clear and can be easily applied to moral issues. So therefore, in theory it can be seen to be effective but what about in practice?

Take capital punishment. It is easy to see how capital punishment might serve the community - removal of threat, no ongoing cost to the community for services to the prisoner, a sense of justice and closure for the victim's family. However, it contravenes the basic good of life. Finnis says that the law of 'talion' (Latin for 'retaliation') misses the point because it focuses on the material consequences of criminal acts rather than on their formal wrongness. This means that it is preferring self-interest to common good. If we are really going to address the wrong, we need to help people turn from selfishness. This demonstrates the ambiguity of Natural Law. Finnis argues against it as going against a basic good; Aquinas argues that sometimes it is necessary to defend society. Therefore, it is not totally effective.

One could also question the idea of a constant unchanging human nature and a natural law that stems from it. For example, why is it, that so many through the centuries have got human nature so wrong (e.g. slavery and apartheid considered natural)? Human nature seems to change. For instance the debate about homosexuality has raised questions about what is natural.



Therefore, as in theory it seems ok, when it comes to applying it to specific moral issues it is not that effective.

### Feedback

This is a fair attempt at an evaluation. It mainly deals with some strengths and weaknesses that are generic to the theory, but it does at least attempt to evaluate the success of Finnis' Natural Law in terms of capital punishment. This aspect saves the answer from ruin and keeps it focused. In the generic parts of the answer it could have done with more discussion and evaluation of the other ethical issues mentioned. The conclusion does follow from the argument and makes sense.



## Question 1

### ‘Finnis’ Natural Law is a weak theory.’

### Evaluate this view.

#### Answer 1

In order to answer this question, we need to look at both the strengths and the weaknesses of Finnis’ Natural Law theory in order to reach a reasoned conclusion.

A strength of Finnis’ Natural Law is that it does not rely on the existence of God for its authority, e.g. the basic goods cannot be derived from God. Finnis’ Natural Law could appeal to non-believers because it is reliant on human (and not divine) deductive reasoning. White argues, ‘Finnis attempts to formulate a rational basis for moral action.’

However, Finnis accepts that one of the seven basic goods is religion, still providing a basis for believers to accept his theory. Greenawalt states, ‘natural law theorists have consistently asserted that individuals can discover the natural law, independent of their particular religious beliefs.’ Therefore, Finnis’ ethic can be seen to be open to all. It potentially provides a universally acceptable idea on what is ‘good’ rather than just a religious one.

In Finnis’ Natural Law, ‘basic goods’ and ‘principles of practical reason’ are adapted to contemporary society i.e. this version of Natural Law is more in line with the beliefs of a secular society. In addition, Finnis states that ‘Each is fundamental. None is more fundamental than any of the others.’ They are definitive and cover a wide range from play to religion.

Another strength of Finnis’ Natural Law is that it focuses on community morality rather than just individual morality. This can be seen in Finnis’ ‘First Moral Principle’ - the idea that we act for the good of the community as a whole not just as an individual. However, he also extends this with the idea of the ‘common good’ and argues, that ‘authority be





exercised... for the purpose of promoting a common good in which such respect for rights is a component.'

However, Finnis' Natural Law can be seen as a weak ethic. The seven basic goods are based on fallible human reason and therefore they have no divine justification. Many religious believers would, as a result of this, not consider following Finnis' Natural Law. Its status as a moral ethic is flawed because it is not associated with the command of God.

Alternatively, as Stephen Buckle has pointed out, his basic goods and the principal of practical reasonableness actually hide an underlying agenda of meeting the criteria of Roman Catholic theology.

A further weakness of Finnis' Natural Law is that it is not a clear ethic. Aquinas' Natural Law, for example, gives a clear set of ethical rules, whereas Finnis' Natural Law can be seen as something to aspire to rather than a set of moral commands.

Finnis claims that the seven basic goods are independent of human thought. They are universal and do not change in the same way that Aquinas claimed his precepts were universal and unchanging. This claim will not appeal to moral agents brought up in a post-modern society, where morality is seen as fluid and unique to each moral agent and or situation.

In conclusion it could be argued that whilst it is not by any means a weak theory as some of the strengths above have demonstrated, this does not mean that it is perfect or that it works well. That is a different matter.

## Answer 2

- Finnis is an Australian philosopher.
- Finnis also works at Oxford University as a scholar.
- His theory is a modern day version of Aquinas and his theory gives clear rules.
- The 'goods' he selects are up to dated from Aquinas. But the goods are not precepts.



- However, Finnis' Natural Law is weak because it is not clear.
- But it is strong because it is based in reason. People today like reason.
- It is also very much like common sense. People today like common sense arguments and not complicated ones.
- It also is contemporary because it does not accept God and this is a strong thing for society. Most people today are atheists.
- It is a strong theory because it helps makes laws but is weak because it has no morals.
- Practical reasonableness makes it strong because it means that it is a practical theory and it is reasonable.
- In conclusion, there are two sides to the argument and both are valid so it just depends really on your whole point of view.

### Answer 3

A strength of Finnis' Natural Law is that it does not rely on the existence of God for its authority, e.g. the basic goods cannot be derived from God. In this way it could be argued that Finnis' Natural Law could appeal to non-believers because it is reliant on human (and not divine) reasoning. This also makes it a firm basis for Law in society. However, he accepts that one of the seven basic goods is religion, still providing a basis for believers to accept his theory.

Therefore, Finnis' ethic can be seen to be open to all. It potentially provides a universally acceptable idea on what is 'good' rather than just a religious one. Therefore, both religious believers and atheists will find it very useful.

Another strength of Finnis' Natural Law is that it focuses on community morality rather than just individual morality. This can be seen in Finnis' 'First Moral Principle' - the idea that we act for the good of the community as a whole not just as an individual. This is very important because the whole aim of Finnis' work is to give something that is practical and works in society. Finnis is big on laws as a barrister himself and so this is crucial for society.



However, Finnis' Natural Law can be seen as a weak ethic. The seven basic goods are based on fallible human reason and therefore they have no divine justification. Many religious believers would, as a result of this, not consider following Finnis' Natural Law. Its status as a moral ethic is flawed because it is not associated with the command of God.

Therefore, all in all, after weighing up both sides of the argument I would tend to say that it has more strengths than weaknesses. I particularly like the idea of it being secular and think that it works well.



## Question 2

# An evaluation of Finnis' Natural Law is a useful guide for contemporary society.

### Answer 1

This question asks me to look at John Finnis' Natural Law theory and decide whether or not it works in contemporary society. I will answer this by looking at who John Finnis is and what his argument entails.

John Finnis was Professor of Law and Legal Philosophy at Oxford University from 1989 to 2010. Finnis first made a modern statement for Natural Law in his famous book entitled *Natural Law and Natural Rights* published in 1980. This received critical acclaim but also created controversy amongst some scholars, for example, Stephen Buckle, who saw it as an attempt to justify Roman Catholic morality through a legal framework.

Finnis' attempts to set out a framework for society that is grounded in a legal framework. The way to do this is not by establishing moral laws primarily, as for Finnis these are already made known to us, but by creating a legal system within which the moral principles can operate. There is no doubt that Finnis is religious, and as a Roman Catholic himself, his moral grounding is revealed when he himself applies Natural Law to moral issues.

Finnis' identification of seven basic goods is his appeal to philosophical wisdom. Finnis sees the identification of those goods as 'basic' in that they should be the common denominators of pro-eudaimonic truth.

Finnis lists his seven basic goods as: 1) Life (2) Knowledge (3) Friendship (4) Play (5) Aesthetic experience (6) Practical reasonableness and (7) Religion. The pursuit of the basic goods is not teleological either; they do not set out a specific goal or a set of rules. Rather, according to Finnis, it is seen as a 'participation' in that particular basic good by



way of the commitments, projects and actions undertaken in life.

Therefore John Finnis' Natural law theory is very modern and works well.

## Answer 2

John Finnis' revamp of the Natural Law system gives it a much more contemporary 'feel'. It is based in 'goods' and it is not linked in God in any way. This means it can apply for all, religious and non-religious. To make specific decisions in life, you think reasonably, in accordance with the nine requirements, and then decide how you will pursue the basic goods. The focus on reason makes it applicable to contemporary society.

Against this, Finnis argues that contemporary motivations for action, such as the pursuit of pleasure or material gain, are misguided. However, it could be argued that Finnis is misjudging human nature. Maybe pleasure and greed are the contemporary dominant human emotions. His list of seven basic goods is not meant to be arbitrary but the focus on life for instance, rules out some important aspects such as 'death' and accompanying 'rights'. Thus, when applied to euthanasia it appears to uphold a 'traditional view' that it is not acceptable.

Again, it is not always a useful guide as the 'goods' are vague. There are no specific rules and there is no clear way to apply them. It may be suggested that two people could draw two very different conclusions.

But what is good and contemporary about Finnis' Natural Law is the above scope for discretion. As the seven basic goods do not exist in a hierarchy it appears flexible. This could appeal to post-modernists who see a new type of Natural Law that can be adapted to modern society. That is, Finnis' Natural Law would potentially work better in a Post-Modern Society because it rejects the traditional monist deontological fixed rules of Aquinas' Natural Law.

Overall, I think that it is a brave attempt to update Aquinas and that Finnis has done a reasonable job in making it appeal to the contemporary reader.



## Answer 3

Finnis' work is recognised as 'the leading proponent of natural law theory within the Anglo-American legal academy' according to Greenawalt. Indeed, the close relationship between morality and legal jurisdiction makes Finnis' theory applicable to all aspects of life that befall a citizen. Finnis' system allows for a safe and secure community based on clear principles that can be used to carefully formulate laws. It also protects society morally since, like all Natural Law theories, it establishes clearly which acts are always bad.

One major strength is the encouragement for individuals to engage with society by embracing the common goods which are not presented as a list of 'don'ts'. Instead they encourage purpose in life, which is to be enjoyed and full of activity. The rules (where there are rules) seem to appeal to common sense and the law is positive in defending human rights. This all makes for an attractive, thriving modern society. His emphasis on aesthetics, play and sociability makes a vital contribution towards the 21st-century discussions about shared values, citizenship and tolerance.

However, although this may be presented as an argument that this gives us clear guidance and values, some have rejected this. For instance, Finnis is known widely to be very 'right wing' in terms of politics and his conservative principles in applying Natural Law have been criticised. For example, he has made controversial observations about immigration, equating it with 'reversed colonisation' and causing 'a trajectory of demographic and cultural decay'. He has also been criticised for his views on homosexuality, even arguing that the law has the function and duty to condemn homosexuality in various ways, although he does not state how.

Another of the main attractions for Finnis' Natural Law is that it does not need consideration of a God. Whilst it does not deny the importance of 'religion' as a basic good, unlike Aquinas, there is no need to ground his theory in divinity. In this way it appeals to both religious and non-religious people as a common social foundation. As



Einwechter writes, 'Since natural law is part of the nature of things the knowledge of it is accessible to all men through reason apart from any supernatural revelation.'

However, it is also possible to deny that Finnis' model of Natural Law is relevant to all in society. For instance, we could reject the assumption that humans share a common human nature and also suggest that the basic goods are incomplete. In fact why are there seven? Why not more or less? Are the goods fully representative and meaningful? Brigita White suggests, 'A self-evident principle is only self-evident to the subject, in this case Finnis, and then only to the extent that it has become self-evident and not challenged by that subject's experience. It is quite conceivable that different people would come up with entirely different formulations of goods to be attained.'

The good of life ignores any consideration of death and the right to die and so immediately evades difficult debate about suicide and euthanasia. Indeed, Brigita White comments, 'Although, Finnis indeed posits a place for morality in the law, the type of morality Finnis has in mind is questionable.'

That there are other, more relevant and flexible systems of ethical theory that may be better for contemporary society. These include both religious and non-religious. Indeed, our society is built upon democracy and the law and our political system has had much utilitarian influence. People may prefer this because it is more flexible and applicable in a variety of ways and see Finnis' Natural Laws as simply inflexible.

There are clearly ways in which Finnis' Natural Law is acceptable in society but this does not mean that it will always work, that there are no problems, or indeed, that another alternative ethical theory may be better in serving contemporary society.