

ASIAN  
HORIZONS  
Vol. 12, No. 2, June 2018  
Pages: 262-273

## BEYOND NATURAL LAW: RETHINKING THE CONCEPT OF THE FAMILY IN THE CATHOLIC MORAL TRADITION

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### **Abstract**

The family has been an important subject in Catholic moral tradition. Grounded on the classical interpretation of Natural Law (NL), the Church continues to teach that the family is the most basic unit of society. This is evident and concrete in the Magisterial texts, pastoral pronouncements, and ecclesiastical norms and regulations. In recent years, especially under Pope Francis, a challenge has been made to think of and about the family in more pastoral rather than philosophical-theological-juridical terms. To what extent will this succeed or sustain – depends on the Church's willingness to interrogate the very framework of its moral perspective and vision, which is still grounded on NL.

**Keywords:** Catholic Moral Tradition, Family, Moral Law, Natural Law, Social Doctrine

The Compendium of the Social Doctrine of the Church (CSDC) emphasizes the importance of the family by stating in Chapter 5, par. 212 that it is the “natural community in which human social nature is experienced, makes a unique and irreplaceable contribution to the good of society.”<sup>1</sup>

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<sup>1</sup>Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*, Makati: Word and Life, 2004.

In saying this, the Compendium highlights the significance of the family, as a social and theological concept, in the Church's social doctrine. Inseparable from the Church's social teaching on the family are its teachings on conjugal morality, specifically the sanctity of marriage. The Compendium simply captures in some words what the Church teaches on marriage and the philosophical-theological context where it comes from.

The Church's teaching on the family is anchored on Natural Law. Although the 5<sup>th</sup> chapter of the Compendium (par. 209) says that the importance and the centrality of the family with regard to the person and society is repeatedly underlined by the Sacred Scripture. A critical analysis of the statement however especially from the viewpoint of modern biblical scholarship cannot but lead one to argue that scriptural passages are used as proof texts for a pre-existing (theological or philosophical) concept. It is thus the contention of this paper that in terms of conceptualization, the family as a socio-philosophical concept preceded any Biblical-theological concept. Thus, the Church's theological and thus moral teaching on the family is primarily a socio-philosophical (and even political) perspective. Consequently, this has some serious implications to the pastoral calling of the Church, the discussion of which we shall undertake later.

This paper intends to focus on the Church's teaching on the family and in doing so argues that although the Church's social teaching on the family serves as a strong theological foundation of the Church's views in the area of conjugal and even sexual morality, it is at the same time a fixated perspective, the application of which could set limiting parameters specifically in the field or area of pastoral ministry.

### **The Family: A Natural Law Perspective**

Catholic social teaching describes the family as the first "natural" society. It is further described as possessing "underived rights that are proper to it, and places it at the center of social life" (CSDC, 211). Calling it the "vital cell" of society, the Compendium elaborates its perspective on the family saying that it has a "unique and irreplaceable contribution to the good of society" (CSDC, 213).

If one pays attention to the details of the Compendium's definition and descriptions of the family, one cannot but notice the usage of terms that are basically not identifiable with the language of the Scripture, particularly the New Testament. Terms such as "center of social life," "underived rights," "vital cell," and "the good of society"

are basically foreign if not outside of the Gospel discourse. We are not saying that such concepts and the views within which they make sense of meaning cannot be reconciled or appropriated with Scripture. We are just pointing out the fact that as concepts they are not directly derived from Scripture.

Given this observation, we turn our attention to Natural Law which has a special and important value in Catholic moral theology specifically in its social teaching.

John Paul II in *Veritatis Splendor* (VS) highlights, what for him, is the significant role of NL. He argues that NL is the expression of God's eternal law. Citing St Thomas Aquinas, John Paul II explains that knowledge of NL is a necessary and logical consequence of our rational nature. It is "reason" that allows the human person to figure out, discern and understand that the universe is governed by objective laws, and human reason has the capacity to do this because it is a share in the Eternal Reason of God. In other words, NL and our observance of it is basically our participation in the Eternal Law of God (VS, 43; *Summa Theologiae*, I-II, q. 91, a.2).<sup>2</sup>

It must be made clear (and particularly for the purpose of this paper) that the theories and interpretations of NL are not monolithic or static.<sup>3</sup> Thus, when we speak of NL within the context of Catholic moral theology, we are basically referring to the notion of classical NL. As a philosophical system it is not entirely of Christian origin. It is a product of a long development across centuries. Eventually, NL was assimilated into the Church's doctrines because of Christianity's interaction and engagement with Hellenistic, specifically Aristotelian philosophy.<sup>4</sup> The official Catholic reading of NL is expressed in the official Magisterial discourse of the Church. A classic example is Paul VI's *Humanae Vitae* (HV). According to Christina Astorga, HV is based "on the essential unchanging human nature of the person, bounded by bodily dimensions of human existence."<sup>5</sup>

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<sup>2</sup>For a detailed discussion on the Natural Law theory and the family, see J. Coughlin, "Natural Law, Marriage, and the Thought of Karol Wojtyla" in *Fordham Urban Law Journal* 28, 6 (2001) 1771-1786.

<sup>3</sup>For more details see Emmanuel Fernando, *Natural Law Theories*, Quezon City: Rex Bookstore, 46-54. A reading of NL from the Classical perspective has two basic characteristics: (1) the belief that there is a connection between law and morality, and (2) the contention that the moral order is part of the natural order.

<sup>4</sup>See Richard Gula, *Reason Informed by Faith: Foundations of Catholic Morality*, New York: Paulist, 1989, 222.

<sup>5</sup>Christina Astorga, *Catholic Moral Theology and Social Ethics: A New Method*, Quezon City: Claretian Publications, 40-41.

Since it is not within the objective of this paper to elaborate Aristotelian philosophy, especially NL, it should be enough at this point to simply emphasize that Aristotle's philosophy views the universe and thus all things in it as teleological in nature. In simple terms, this means that things have a specific design, and they are designed for an end.<sup>6</sup> The perfection of a thing is its end, that is, the fulfilment of its function – or – having it function according to its operation. This view cannot but avoid a certain kind of physicalism, that is, to explain and understand things according to their physical (or biological) constitution. Thus, it is not difficult to understand why those who contend in the perennial validity of Natural Law, view nature as something embedded in the physical constitution of things, and that the morality of human actions largely depend on their conformity to what is physically or biologically natural.

If one analyses the family within the framework of Natural Law discourse, it would not be difficult to understand what others say or accuse of the Church's moral teaching on the family as conservative. Though, fairly speaking, what others say of such conservatism may basically mean or refer to the Church's stance and attitude of being "conservationist." At the end of the day however, what is clear is that the Church believes that the family is not just any group of persons but one that is of biological origin, and which has a purpose and function in the bigger design of the universe. The family is a crucial element in the maintenance of the order of the universe. This does not only mean that it is essential in the structural-economic functions of society. What it means in deeper terms is that society's stability is grounded on the reasonability of its existence, and the family is an indispensable variable in this logical equation that justifies the existence of society. The family does not only serve as a means to an end of the larger society, it is part of that end, of that fulfilment or perfection of society. In the words of the Compendium: "the Church considers the family as the first natural society, with underived rights that are proper to it, and places it at the centre of social life" (CSDC, 211).

### **The Family as the Golden Mean**

The first and fundamental structure for human ecology is the family, in which the human person receives his first formative ideas

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<sup>6</sup>For an elaborate discussion on the relationship between Aristotelian philosophy to St Thomas Aquinas' philosophy and theology, see E. Fernando, *Natural Law Theories*, 51-54. Also refer to Stephen L. Brock, *The Philosophy of St. Thomas Aquinas: A Sketch*, Cambridge, UK: James and Clarke Co., 2015, 25-50.

about truth, and goodness, and learns what it means to love and to be loved, and thus what it actually means to be a person.

The last line in par. 211 of Chapter 5 of the CSDC clearly represents the underlying philosophical bias of the Church on the family. It describes the family as a divine institution that stands at the foundation of life of the human person as the prototype of every social order. Hence, the Church believes that society is the family writ large; that order in society should begin with order in the family, and that impliedly, the horrors of society are rooted in the disorders and factions within the families that compose society.

In elaborating the fundamental role of the family in human and societal relations, the CSDC presents the family not only as a social unit but also as a force that strikes the balance of two possible extremes in the practical realm of social interaction: individualism and collectivism.

It would help if at this juncture, we discuss briefly the two possible extremes. Individualism emphasizes the individual as the measure of all human subjectivities and realities. At the end of the day, it is individual freedom which is the reason of and for everything. This philosophical view is presupposed by the absence of truth, and the subjectivity of all philosophical propositions. Truth is relative, and thus, the measure of all truth is individual subjectivity. Individualism is a common theme in Existentialist philosophy where its proponents speak of the individual as the truth and the crowd is the untruth.<sup>7</sup>

At the extreme opposite of individualism is collectivism, which sees the person and also families as inferior in value compared to society or any ideological concept that serves as the end-all and be-all of all human efforts. At the risk of oversimplification, collectivism leads to totalitarianism, which as human history would tell us, was packaged in the various forms of fascism, authoritarianism, and communist socialism.

Between these two “isms” Catholic social teaching on the family argues that the family is the golden mean. It is the virtuous option through which society avoids either emphasizing the selfishness of individualism or the greed of collectivism. It is through the family

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<sup>7</sup>See for example Soren Kierkegaard, “The Crowd is Untruth,” trans. Charles Bellinger in *Great Philosophers*. Available online: [https://oregonstate.edu/instruct/phl201/modules/Philosophers/Kierkegaard/kierkegaard\\_the\\_crowd\\_is\\_untruth.html](https://oregonstate.edu/instruct/phl201/modules/Philosophers/Kierkegaard/kierkegaard_the_crowd_is_untruth.html). Also see Jean Paul Sartre, “Existentialism is a Humanism,” in Walter Kaufman, *Existentialism: from Dostoevsky to Sartre*, New York: Meridian, 345-374.

that people learn to commit and it is also through the family that people learn social responsibility and solidarity (CSDC, 213).

### **Practical and Social Implications**

Because of the emphasis it has made on the family, the Church considers it as an institution that should be defended from threats both real and possible. Almost always, we hear and read in pastoral letters and discourses the unwavering defence of those who believe that secular forces have threatened the “sanctity” of the family.

Stretching the logic of its argument, the Church further emphasizes not only the need to protect the family but also the institution of marriage which is the foundation of the family (CSDC, 215). The Compendium emphasizes that, like the family, marriage is a natural right, and in fact it is endowed with its own proper, innate, and permanent characteristics (CSDC, 216). This view on marriage is reflective of the Church’s view on the family. The Church, thus, does not agree with those who argue that the family and marriage are mere human institutions that are products of a long time development of humanity’s social imagination. They are, from the Church’s point of view, not just socially constructed realities. On the contrary, they are realities that have their ultimate meaning and source in immutable values that are founded on an ontological truth.<sup>8</sup>

The Natural Law reading of the family has been repeatedly said in various documents of the Church.

*Familiaris Consortio* affirms that the family is the “basic unit” of the Church (FC, 15). The Apostolic Exhortation, once again, highlights the role and the value of the family within the natural order of things. It identifies four tasks of the family: forming a community of persons, serving life, participating in the development of society, and sharing in the life and mission of the Church (FC, 17). A closer examination of these four would emphasize the role of the family in the fulfilment of the common good.

### **Re-thinking the Family and Natural Law**

Across centuries, the use of Natural Law in the Church’s moral teaching has been found to be not only effective but also stabilizing. As demonstrated in the foregoing discussion, the concept of the

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<sup>8</sup>John Paul II in *Fides et Ratio*, 98 reminds and challenges moral theologians to “turn to a philosophical ethics which looks to the truth of the good, to an ethics which is neither subjectivist nor utilitarian. Such an ethics implies and presupposes a philosophical anthropology and a metaphysics of the good.” See John Paul II, *Fides et Ratio*, Pasay: Paulines, 1998.

family, specifically in the Roman Catholic tradition of moral theology, has been presented as a firm foundation of moral living.

Pastorally however, not everything can be analysed, engaged, lived, and understood only from the viewpoint of NL. The perennial tension between the “ought” and the “is” would tell us that while principles may be philosophically construed in black and white, human realities have a lot of grey areas that invite us to rethink our prejudices and preconceived ethical notions if we are to truly love our neighbour as demanded by our faith.<sup>9</sup>

The Church’s view on Natural Law, and the use of it as an approach to moral teaching, therefore, has not been without questions. Karl Peschke pointed out the theological controversy over Natural Law especially the general view (among its critics) that it is so rigid that it overpowers the essence of Christian morality.<sup>10</sup> Basically, it is a philosophical perspective that developed from a specific worldview and cultural context. Those who defend it, argue that though it developed from the Hellenistic civilization and largely reinforced by Christian faith, it is of universal character, which is applicable to all men. Moreover, other critiques of Natural Law include the limitations it imposes on the people’s opportunity to respond to the personal claims of God’s love and grace.<sup>11</sup>

Bernard Häring analyses the role of NL in Christian morality in relation to and never separable from the law of Christ. For Häring, NL is part of the Church’s teaching and must be explored in the light of Sacred Scripture. Coming from Häring, we can say that a truly Christian view of NL cannot be reduced to a mere natural law thinking, where one begins with a major premise that there is such an immutable law that dictates the meaning of nature and how such a nature must be interpreted. Moreover, if NL is to find its significance in the sphere of Christian morality, it is none other than the essential purpose it serves and that is the proclamation of the Gospel.<sup>12</sup>

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<sup>9</sup>See AL, 3. The Pope in the said documents says: “I would make it clear that not all discussions of doctrinal, moral or pastoral issues need to be settled by interventions of the magisterium. Unity of teaching and practice is certainly necessary in the Church, but this does not preclude various ways of interpreting some aspects of that teaching or drawing certain consequences from it.”

<sup>10</sup>Karl Peschke, *Christian Ethics, Moral Theology in the Light of Vatican II*, vol. 1, Manila: Divine Word Publications, 1996, 103-105.

<sup>11</sup>Peschke, *Christian Ethics*, 101.

<sup>12</sup>Bernard Häring, *Free and Faithful in Christ, General Moral Theology*, vol. 1, Quezon City: Claretians, 1978, 314-329.

A morality based on NL believed to be fixed, eternal, and static provides us with clear-cut answers to basic moral questions. For some moralists this approach may be clearer, and for pastors it may be a lot easier to interpret and apply. Thus, in the area of conjugal and sexual morality, it is easy to say in the light of NL that adultery, same sex unions, and divorce are immoral. This view in fact has been reverberated in the day-to-day discourses of parish priests, catechists, and teachers of Religious Education in Catholic schools. Such an approach to morality makes it easier for us to determine who has violated or kept the law. However, there are many areas and dimensions in moral living that are not that simple to interpret. Precisely and specifically, this is the case when it comes to moral issues involving the family, which basically has been evolving in a morally complex world.

The insistence on a fixed, rigid, and static interpretation of human nature would lead to the marginalization of those who would not fit into the neat categories and standards of nature. If applied to our discussion, this would mean that a family is one that naturally has a father and a mother (who should be married in the Church), and a child or children. But what about a single mother living with her child? What about bonds or unions of two persons who have not availed of Church marriage? Are they not families?

From a sociological point of view, a theology of the family that is fixed by frames of NL would necessarily identify, discriminate and segregate those who cannot be classified under an encompassing NL-based definition of the family. It would be too simplistic, of course, to just say that marginalization and discrimination within the Catholic Church is due to a conscious knowledge and belief in NL. What cannot be denied however is that the culture, attitude, and tendency to discriminate is within a system whose philosophical basis views the world through a specific lens, in this case NL.

The implication of exclusion and marginalization in a Catholic's life is, from a pastoral point of view, devastating. Through the years this has been concrete in many practices among Catholic institutions. For example, certain Catholic schools in the Philippines would not admit or enrol students who come from a broken family. At some point young boys or men born out of wedlock cannot be admitted to the seminary. Where do these prejudices come from? Consciously, subconsciously, or unconsciously, they come from the belief and understanding that the family is so important because it is "naturally" the most basic unit of society. Such idea must be defended and promoted, and thus, those who live in irregular



conditions that do not fit into the category believed to be dictated by no less than nature itself, cannot but be excluded in some of society's practices. No less than Pope Francis in *AL* speaks of the Church's need to be "humble and realistic" and thus acknowledge that at times the way Christian beliefs are presented, and the way Christians treat other people "has helped contribute to today's problematic situation" (*AL*, 36). Thus, the Pope continues: "[a]t times we have also proposed a far too abstract and almost artificial theological ideal of marriage, far removed from the concrete situations and practical possibilities of real families" (*AL*, 36).

### **The Family in the Scripture**

There is another reason why there is a danger in understanding or theologizing the family from a plainly and limitedly NL perspective. Here, we bring into the picture the role Scripture in Christian morality. Contemporary moral theology has made it clear that even Natural Law in some sense must be subject to the "norming norm" of God's revelation.<sup>13</sup> After all, it does not make sense to speak of Christian morality if such a morality is primarily based on Natural Law instead of the Law of Christ.

The Catholic Magisterium's moral discourse on the family would always make use of Scripture in highlighting the role and the importance of the family. To some extent, however, its approach to Scripture is problematic in two ways. First, it is as if the Bible is used as a secondary material that is used to validate an already existing philosophical view that simply needs theological confirmation. Second, the interpretation of Scripture as a normative text is not given justice by merely citing biblical verses as proof texts to an already existing system of thought such as NL.

*Familiaris Consortio* (FC), for example, uses Genesis' (Gen 1:26-27) concept of the "imago Dei" (image and likeness of God) together with the Johannine image of God as love (1 Jn 4:8) as a jump off point for a discourse on God's plan for marriage and the family (FC, 11f). However, the idea of the "imago Dei" as it is used as a biblical basis in the family could have taken out of context the entire story of creation. Precisely, historical-critical method would tell us that the creation hymn was about the origin of the human race, part of which is the notion of human dominion.<sup>14</sup>

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<sup>13</sup>James Bretzke, *A Morally Complex World*, Quezon City: Jesuit Communications, 2004, 43.

<sup>14</sup>Xavier Leon-Dufour, ed., *Dictionary of Biblical Theology*, Pasay: St Paul's, 1994, 252.

The Holy Family in the New Testament is the most commonly used image that would serve as the prototype of the family in God's plan. While for pastoral reasons the unity of Jesus, Joseph and Mary serves as a good example for families to love their own, and support and strengthen each other's bond, such an image of a family raises the question how about those who were born out of wedlock? This question, precisely, sends a simple message, have we interpreted Scripture correctly, particularly the members of the Holy Family by always caging if not fixating them as the model family – that is, the prototype of all human families?<sup>15</sup>

The Gospels in particular have a more inclusive idea or view of the family. The public ministry of Jesus in the Gospels tells us that he understood family in more embracing terms.<sup>16</sup> Nowhere in the Gospels is there an emphasis of the family as a basic unit of society that serves as the fundamental structure of exclusion and delineation for those who were born out of wedlock. Jesus in fact has called his disciples not to love their mothers and brothers more than God. The words and deeds of Jesus tell us that the Christian and Godly vision of the family is one that transcends the notion of kinship or blood relationship.<sup>17</sup>

From the perspective of NL, a family is a building block or a basic unit of society. Moreover it is a natural and legitimate union of a man and a woman whose partnership is solemnized by the Church. The end of the family is the common good of society. But this is not what the Gospels tell us about the family. In fact, Jesus tells us to think beyond our families and even leave them for the sake of the Kingdom of God. The message of salvation is, in fact, also extended to those who were accused of adultery and the barren. This does not mean that we stop giving value or deliberately destroy the family. The point is, while families are to be valued, the concept of a family

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<sup>15</sup>See Michael Coogan, *God and Sex*, New York: Twelve, 2004, 36-39.

<sup>16</sup>It can be said that the very norm of Christian morality is no less than Jesus himself. As one moral theologian said, "the highest and definitive revelation is not found in the Bible as a sacred text, but rather in the person of Jesus Christ. Thus it will have to be Jesus Christ and not a given biblical text that has final authority as the ultimate norming norm, the *norma normans non normata*, of our lives." See James Bretzke, SJ, *A Morally Complex World: Engaging Contemporary Moral Theology*, 81.

<sup>17</sup>Carolyn Osiek aptly expounds: "The Synoptic Gospels and some of their sources conveyed the hard message of the cost of discipleship. Part of that message was the preferment of discipleship over family ties, of community cohesion over family integrity. In case of conflict, the newly constituted community was to take precedence." See C. Osiek, "The New Testament Teaching on Family Matters," *HTS Theological Studies* 62, 3 (2006) 838-839.

should not be like an ideology that would be used to create a division among baptized peoples.

Jeremy Punt citing Osiek explains that in the Gospel traditions, there are no positive saying about the goodness of the family that were preserved or attributed to Jesus.<sup>18</sup> Thus, and in the light of our discussion on the Roman Catholic notion of family from the Natural Law perspective, we cannot stretch any interpretation too far – to the point of presenting Jesus to have understood his mother, father, brothers and sisters as individuals bonded by nature in order to accomplish an eternally designed metaphysical plan that would provide socio-political stability.

This does not mean that Jesus did not have any concern for his family. He did, but it was, and as the Gospels would tell us, because of the calling of the Father to be charitable to one another, our neighbours, our family included.<sup>19</sup> Jesus understood his family as a member of a Jewish community, not as a scholar educated in a Hellenic culture, more so as a scholastic philosopher who was well-versed in Natural Law.

The Holy Family, therefore, is holy not really because they are intact. They are holy because they are all obedient to the will of the Lord, and they lived their lives concerned for the well-being of their fellow men. A more serious and faithful reading of the New Testament should make us understand the idea of a family in a manner that is more inclusive rather than exclusive, more compassionate rather than judgmental. Jesus' call was for a social transformation that would embrace all men including the outcasts. He was not some kind of a jurist or a canonist who could easily put forward the needed citations in order to delineate who belongs and who doesn't.

## Conclusion

Recent Church documents such as *Amoris Laetitia* have been more pastoral in their reading of realities in the sphere of human relationships specifically the family. Unfortunately however, and as clearly pronounced by the Magisterium in its other documents, the traditional view on the family that has been strongly anchored on NL cannot just be undone that easily.

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<sup>18</sup>J. Punt, "Family in the New Testament, Social Location, Households, and Traditional Family Values," Paper prepared for joint International Meeting of the SBL and EABS; revised version of an earlier paper presented at the 10<sup>th</sup> UNISA Classics Colloquium on "Family as strategy in the Roman Empire / Early Christianity," Pretoria, 15-17 October 2009.

<sup>19</sup>See C. Osiek, *The New Testament Teaching on Family Matters*, 838-840.

Pope Francis has been strong in his invitation for the Church to be a source of joy simply because there is joy in the Gospel. The Holy Father has not intended to engage in a debate on the relevance of Natural Law nor its perennial validity. As a pastor and shepherd of men and women, he is more concerned with how the Gospel can and should be used as a means for conversion – to transform the hearts of people so that they will become more loving even to those who are living in irregular conditions, and most of all those who, not because of their own fault, were born into broken families.

Practically, those who do not have any knowledge, not even the least, about the Church's teaching on natural law would not know anything about the theory behind marginalization and exclusion within their Church. But just because they do not know the theory, just because they are not experts in the doctrine does not mean that they cannot and do not feel the marginalization and exclusion. Precisely, marginalization and exclusion are painful human realities and experiences that no theory or training in the doctrine is needed in order to know and understand it. To be marginalized simply means not being given importance; to be excluded simply means to be placed outside of the system. To be marginalized simply means not being given importance; to be excluded simply means to be placed outside of the system.