

But Does it Work?

Natural Law at the Retail Level

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Introduction: A Needed Conversation

Context: Natural Law Over the Ages in Life and Law

1. Pagan Expressions: Greek and Roman
2. Christian Expressions: Augustine, Thomas, and Finnis

Day to Day Lawyering: Ethics, the Duty to Zealously Represent, and Natural Law

Studying Natural Law: Three Important Distinctions

1. Natural Law as Fact
2. Natural Law Theories: Consonant and Clashing
3. Natural Law as Tool or Judge

Obstacles to Applying Natural Law in Practice

1. General v. Special Revelation in Creation
2. The Noetic Effects of Sin v. Unaided Reason
3. Natural Law's Lack of Epistemological Granularity, Specificity, and Breadth
4. Natural Law's Incomplete Anthropology
5. Tension: Telos v. The Is/Ought Fallacy

6.Strong Headwinds: Judicial Skepticism

7.Deeply Rooted Political and Philosophical Opposition

8.Pesky and Persistent Questions:

a.Penology

b.Process

Benefits to Applying Natural Law Thinking in Practice

1.Pressing Moral Universals

2.Exposing the Myth of Neutrality

3.Exposing Moral Relativism

4.Affirming and Relying on Human Exceptionalism

5. Shifting the Overton Window

A Proposed Path for Applying Natural Law Thinking in Practice

1. Model Rule 2.1: The ABA Permits It as “ethical”

2. The Natural Law Assumption and Context of *The Federalist Papers* – *selected excerpts*

Natural Law at the Retail Level Yesterday

1. *Sommerset v. Stewart*

2. *The Antelope*

3. *La Amistad*

Natural Law at the Retail Level Today

1. Post-*Dobbs* Jurisprudence

2. Post-*Skrmetti* Jurisprudence