

Ministers of the Law: A Natural-Law Theory of Legal Authority

Jean Porter

Grand Rapids, Michigan, and Cambridge, United Kingdom: Eerdmans (368 pages)

In her latest monograph, Jean Porter, a professor of theology at the University of Notre Dame, demonstrates a protean mastery of the many problematics of legal and political philosophy, having previously done the same in moral philosophy and theology in her *Nature as Reason: A Thomistic Theory of the Natural Law* (Eerdmans 2004). *Ministers of the Law* is a penetrating reflection on central themes in jurisprudence where she again employs scholastic and Thomistic sources as her methodological point of departure.

Porter makes her task clear in the introduction when she states that she seeks a “contemporary synthesis” rather than a historical interpretation—a synthesis that results in a theory of legal authority that is “responsive to a widely expressed need for normative standards by which laws may be evaluated and interpreted” (5). She builds this theory on an understanding of practical rationality tied to “broadly natural purposes ... [developing into] a justification of legal authority in positive terms, reflecting the natural goodness of social and political life” (41).

In her opening chapter, “The Paradox of Legal Authority,” Porter helps to set the scene by exploring some of the main issues of contention in jurisprudence. In order to help locate her own viewpoint within legal philosophy, Porter helpfully expounds the theories of some of her key theoretical interlocutors. This helpful chapter could even serve as a self-contained overview of the principal jurisprudential schools in legal philosophy considered from a Thomistic vantage point. H. L. A. Hart’s “soft” legal positivism and Joseph Raz’s development of Hart’s position are neatly summarized—not an easy task in itself—as is Ronald Dworkin’s recent egalitarian jurisprudence. In this chapter, she omits an examination of the work of John Finnis and instead chooses to examine Lon Fuller as a paradigmatic natural law jurist.

In chapter 2, Porter sets out her constructive understanding of natural law theory as it relates to *legal* philosophy as developed by medieval jurists and theologians such as Gratian, Albert the Great, and Thomas Aquinas. She then summarizes her interpretation of Scholastic moral theory as outlined in her earlier work, *Nature as Reason*. This theory is a sophisticated compound of an (unabashed) neo-Aristotelian ethical naturalism allied to an interpretation of Aquinas’s ethics. This interpretation, in contrast to the new natural-law approach expounded by John Finnis and others, gives an architectonic role to Aquinas’s theory of virtue and beatitude rather than natural law—however important Porter considers the latter to be.

A chapter on political authority follows, focusing on familiar Thomistic themes: the common good and distinctive political virtues. Porter endorses a view according to which the political common good is seen as an intrinsic aspect of human flourishing, thus taking

a position at variance from other noted Thomists such as Finnis and Mark Murphy who view the common good as instrumental or aggregative respectively. As political association is seen flowing from natural principles springing from the intelligible structures of human nature, Porter views political rhetoric that eschews publically accessible arguments based on natural law principles as ineffective and inappropriate.

“Legal Authority” is the subject of the penultimate chapter. Here Porter presents an extended analysis of the grounding of formal law and the way laws are interpreted and applied by judges. The relative autonomy or positivity of law in scholastic law is well noted. An extended passage deals with the question of legal authority in a prelapsarian state. This is not as recondite a question as it might appear and is one that is fundamental to any jurisprudence engaged with theological or metaphysical questions. She links the need for recognized legal authority to the complexity and public sphere of modern societies. The treatment of this issue is valuable, but it is not clear why she avoids reference to Finnis’s influential (and persuasive) “coordination” account of legal authority that is similarly based on Aquinas’s arguments about a hypothetical state of innocence. Porter’s relative avoidance of the important arguments put forward in the sphere of *legal* philosophy by Finnis (and allied theorists such as Robert George) is perhaps a surprising lacuna for a work that so richly engages a variety of historical and theoretical literatures.

Throughout the book, Porter uses texts from Scholastic theorists other than Aquinas to build her powerfully argued position. This is characteristic of the author’s estimable published scholarship in the last two decades. Yet, in *Ministers of the Law*, it is not clear whether these other Scholastic thinkers, with the exception of Gratian, contribute much to her overall thesis. At almost all key points, it is Aquinas’s position that Porter takes to be paradigmatic of scholastic thought and her own normative theory. What is of value in the book is her willingness to bring into conversation theological voices—such as the Anglican political theologian Oliver O’Donovan—with important perspectives in Anglo-American analytic jurisprudence.

In the final chapter, Porter gives a nuanced account of the legitimate role of nation states against the claims of cosmopolitan advocates of world government. She cites favorably, but finally rejects, Reinhold Niebuhr’s Christian Realism as the basis of respect for the nation state. In good Thomistic fashion, she maintains, against Niebuhr, the primal goodness of the created order and cleverly extends Aquinas’s notion of licit self-love to a moderate love of nation, thus making a case for an outward looking patriotism married to a manifest concern for the *global* common good. Finally, she propounds a theory of subjective natural rights developed from scholastic and canonistic sources that she believes can be used as the foundation for a theoretical defense of modern human rights.

Conservative readers may balk at Porter’s apparent endorsement, at various points in *Ministers of the Law*, of European social democracy and same-sex marriage. Yet, Porter does not advance uniformly à la mode positions: In previous works, she has put forward a view on the objectivity of the moral act similar to some pre-Vatican II theologians, and her position on the nature of the political common good is closer to traditional Thomist interpretations than many contemporary ones.

In *Ministers of the Law* and previous writings, Jean Porter has demonstrated clearly that she is one of the foremost Thomist scholars of her generation. By bringing Aquinas's position into productive dialogue with contemporary analytical jurisprudence, she assists in clarifying key debates in legal philosophy. This is a work of considerable erudition that will stand as a leading scholarly statement of a distinctively Thomist jurisprudence for some time to come.

—Greg Walker (e-mail: walkergh@cardiff.ac.uk)
Cardiff University, United Kingdom

The Gospel and Globalization: Exploring the Religious Roots of a Globalized World

Michael W. Goheen and Erin G. Glanville (Editors)

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This important collection of essays has its origin in a series of invited lectures on the religious significance of globalization held at Trinity Western University in Vancouver, British Columbia. Thus, the reader might well expect in this volume, and actually does find, a range of evangelical perspectives on globalization, seasoned perhaps with a dose of brisk, Canadian common sense. The collection is remarkably innocent of the kind of enthusiasm with which some evangelicals in the United States embrace globalization as the providential vehicle for ushering in the kingdom of God—or if not the kingdom of God, at least the global expansion of personal freedom, democracy, and free-market capitalism. Although the essays are contributed by a wide range of Christian authors, appropriately selected from various disciplines, including but not restricted to theology and economics, they are arranged and edited in such a way as to form a single metanarrative.

They mean to witness to the gospel, and they know their Bibles well enough to realize that any uncritically optimistic assessment of globalization simply cannot be squared with biblical teaching. Thus, the collection opens with Richard Bauckham's chapter "The Bible and Globalization," which takes the reader through the stories that ought to inform any seriously Christian assessment of globalization: the original unity-in-diversity of the human race (Gen. 10); the idolatrous agenda of the Tower of Babel (Gen. 11); the ongoing struggle with God's own design for globalization, beginning with the calling of Abraham (Gen. 12); specific warnings against the pretenses of global political hegemony—epitomized by Daniel's interpretation of Nebuchadnezzar's dream (Dan. 4)—and global economic domination captured by Ezekiel's prophecy against Tyre (Ezek. 26–28); culminating in the book of Revelation's vision of the final conflict between Roma Aeterna depicted as the whore of Babylon and the Holy City decked out like a bride on her wedding day, the New Jerusalem (Rev. 17–21). Framing the assessment of globalization within the parameters established by these stories insures that both positive and negative aspects as well as outcomes of globalization will be given their due and that through it all the criticism