



Value Comparability in Natural Law Ethics: A Defense

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Natural law theory (NLT) holds that morality is based on human nature and human flourishing and can be known by natural human reason.¹ The foundation of morality is the set of *basic human goods*: the fundamental intrinsic values and components of human flourishing that perfect human nature and provide reasons for action.² Lists

¹ There are different approaches in normative ethics that sometimes go by the name of “natural law theory.” I use the label to refer to the mainstream natural law tradition that is inspired by the thought of Aristotle and Thomas Aquinas. For an overview of natural law ethics, see Mark Murphy, “The Natural Law Tradition in Ethics,” in *The Stanford Encyclopedia of Philosophy* (Summer 2019 Edition), ed. Edward N. Zalta. Online at: <https://plato.stanford.edu/archives/sum2019/entries/natural-law-ethics/>. In calling natural law ethics a ‘theory’, I follow John Rawls’s understanding of a moral theory as an account of how the central moral concepts—especially the good, the right, and virtue—are understood and structured; and Mark Timmons’s suggestion that the two main goals of moral theory are: (1) the theoretical aim of discovering and explaining the nature of morality or a criterion of moral evaluation—the underlying features of actions, agents, states of affairs, and other moral phenomena that make them right or wrong, good or bad; and (2) the practical aim of providing action guidance or a decision procedure that agents can use in their moral reasoning and choice. See John Rawls, “The Independence of Moral Theory,” *Proceedings and Addresses of the American Philosophical Association* 48 (1974): 5–22, 5; and Mark Timmons, *Moral Theory: An Introduction*, 2nd ed. (Lanham: Rowman & Littlefield, 2013), Ch. 1.

² Although the term ‘basic human good’ is not used by all natural law theorists and is often associated with the “new” natural law approach (which will be discussed shortly), the *concept* of a basic good (as I am construing it) is part of most Aristotelian-Thomistic natural law theories, including the “old” or “classical” version. For NLT, the most fundamental ethical concept is *the good*, understood as human happiness, well-being, or flourishing, which itself is understood as an “inclusive end” that is constituted by a plurality of distinct intrinsic goods. A basic human good is one of the *fundamental* constituents of human flourishing, which is an *irreducible* and *general* category of good rather than being reducible to some more fundamental good or being one specific instance/species of a more general type/genus of good. Put differently: human flourishing consists in the fulfillment of human nature. Because human nature includes a variety of distinct, irreducible, and fundamental natural capacities or inclinations, and they are directed toward different natural ends (where ends are identified with goods), there is a variety of different goods that fulfill the human capacities, and they can be called basic human goods. So, while the terminology of ‘basic goods’ is not used by all natural law theorists, and while proponents of “new” NLT often make additional claims about basic goods that are controversial and partisan (e.g., that basic goods are “pre-moral,” not derivable from human nature, or known only by self-evident practical intuition), my notion of a basic good is a neutral one that all natural law theorists can accept. For discussion of why the concept of a basic human good can be found in all the major versions of NLT, see David S. Oderberg, *Moral Theory: A Non-Consequentialist Approach* (Oxford: Blackwell, 2000), Ch. 2; David S. Oderberg,

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of basic goods usually include items such as life and health, knowledge, work and play, the appreciation of beauty, friendship, and religion. A key question for NLT is whether the basic goods can be measured or compared in terms of their value, and, relatedly, whether there is any kind of order or hierarchy of value. The answer to this question has significant implications for the theoretical structure of a natural law ethics, the kinds of moral norms that are derived from the basic goods, and our understanding of human flourishing. Some natural law theorists maintain that basic goods are “incommensurable” in a strong sense that precludes any measurement or comparison, while others propose a hierarchy of goods. Unfortunately, this debate is marked by widespread ambiguity surrounding the meaning of ‘incommensurability’, which makes it unclear how the opposing sides should be understood and evaluated.

First, I clarify the two rival positions by applying a distinction between incommensurability and incomparability. I explain that while all natural law theorists are committed to the *incommensurability* of basic goods—the position that there is no common scale of units of value by which all basic goods can be measured—the fundamental point of contention is the *comparability* of basic goods—whether there can be any kind of evaluative comparison among them. Proponents of “New Natural Law Theory,” the best-known version in the contemporary philosophical literature, maintain that basic goods are incomparable. Defenders of “Classical Natural Law Theory,” the historically mainstream version, typically disagree and affirm a hierarchy of goods. Second, I argue that commonsense moral intuitions about human flourishing and analysis of how we resolve moral conflicts provide good reasons to think that basic goods are comparable.

1 Natural Law Theory

Natural law theory is a *value-based* theory of morality and practical rationality: axiological properties like goodness and badness are prior to deontic properties like rightness and wrongness, and all practical reasons obtain in virtue of facts about values. At its conceptual foundation is a list of basic human goods: the fundamental intrinsic values that constitute human well-being, and the fundamental reasons for action that make human actions intelligible. For NLT, all of the central ethical concepts—principles, obligations, rights, virtues, etc.—are understood in light of these goods.

There is widespread consensus among natural law theorists about many of the things that belong on the list of basic goods.³ The following list is representative of mainstream natural law thought, and it is the one I will adopt throughout this article:

Footnote 2 (continued)

“The Structure and Content of the Good,” in *Human Values: New Essays on Ethics and Natural Law*, ed. David S. Oderberg and Timothy Chappell (New York: Palgrave MacMillan, 2004): 127–165; and Murphy, “The Natural Law Tradition in Ethics.” Thanks to an anonymous referee for alerting me to the need to clarify this terminology.

³ See Oderberg, “The Structure and Content of the Good.”

- (1) *Life and health*: continued existence, physical and mental health, and bodily integrity.
- (2) *Knowledge*: epistemic goods including propositional knowledge, knowledge by acquaintance, know-how, understanding, and wisdom.
- (3) *Work and play*: exertion and skillful performance in work or play, achievement.
- (4) *Appreciation of beauty*: aesthetic experience occasioned by art, nature, persons, meaningful experiences, or another source of beauty.
- (5) *Friendship*: various forms of social relationship and community, ranging from close personal relationships to living in harmony with others.
- (6) *Religion*: reflective concern for and harmony with a transcendent, ultimate reality that is the source of cosmic order, meaning, and value, which can take a variety of forms in different religious traditions.

The basic human goods are objective, prudential, perfectionist goods: their value is independent of human opinion and is not determined by subjective mental states like pleasure and desire; they are good *for* individuals rather than morally good or good simpliciter; and they are good because they perfect human nature by fulfilling human capacities and realizing natural human ends.⁴

There are two main varieties of natural law ethics in contemporary philosophy: Classical Natural Law Theory and New Natural Law Theory.⁵ Both approaches share all of the central features of NLT sketched in this section, but there are several major differences between them. The one that concerns us is their opposing views on the structure of the human good, specifically whether there is any kind of hierarchy or order of value among basic goods. I will explain this debate in the next section and situate my argument within it.

2 Incommensurability and Incomparability

A major subject of dispute among Classical and New natural law theorists is the “incommensurability” of basic human goods. Both groups affirm incommensurability in some sense, but the term has a variety of meanings in the natural law literature. The key to understanding the two positions and the central point of contention among natural law theorists is the distinction between incommensurability

⁴ See Mark Murphy, *Natural Law and Practical Rationality* (Cambridge: Cambridge University Press, 2001); and Oderberg, *Moral Theory: A Non-Consequentialist Approach*.

⁵ Some of the more prominent defenders of Classical NLT are Ralph McInerny, Henry Veatch, Alasdair MacIntyre, David Oderberg, Edward Feser, and Anthony Lisska. The New NLT camp includes Germain Grisez, John Finnis, Joseph Boyle, Mark Murphy, Robert George, and Christopher Tollefsen. For two excellent works that illuminate the differences between these two versions of NLT and defend opposing positions, see David S. Oderberg, “The Metaphysical Foundations of Natural Law,” in *Natural Moral Law in Contemporary Society*, ed. H. Zabrowski (Washington, D.C.: Catholic University of America Press, 2010): 44–75; and Robert P. George, *In Defense of Natural Law* (Oxford: Oxford University Press, 1999).

and incomparability. Following Ruth Chang,⁶ here is the best way to frame the distinction:

Incommensurability: Values are incommensurable when they are not able to be measured in terms of a single scale of units of value.

Incomparability: Values are incomparable when they are not able to be compared in terms of value.

These are two distinct propositions, and it is important to note that incommensurability does not entail incomparability, a point I will expand on below.⁷

All natural law theorists agree that basic goods are incommensurable in the sense defined above. They also agree that all the basic goods are intrinsic or non-instrumental values, all of them are distinct and irreducible to one another or to some more fundamental good, all of them generate fundamental and non-derivative reasons for action, each of them fulfills human nature in a unique way, and none of them possesses a greater quantity of goodness than the others.

Where natural law theorists disagree is the issue of comparability. Classical Natural Law theorists typically endorse comparability and argue that there is a hierarchy of goods corresponding to the metaphysical hierarchy within human nature, the mainstream view being that the rational powers and their associated goods of theoretical and practical knowledge are the most valuable.⁸ New Natural Law theorists, by contrast, hold that basic goods are both incommensurable and incomparable. They say there is no objective hierarchy or ranking of basic goods, there is no greatest or superordinate good, and we cannot make comparative judgments of “better than,” “worse than,” or “equal to” with respect to basic goods.⁹ This incomparability extends to basic goods considered both as general categories (e.g., knowledge vs. friendship) and as particular instances (e.g., my pursuit of play in this board game vs. my pursuit of health in that workout).¹⁰

⁶ Ruth Chang, “Introduction,” in *Incommensurability, Incomparability, and Practical Reason*, ed. Ruth Chang (Cambridge, MA: Harvard University Press, 1998): 1–34, 1–2.

⁷ See Chang, “Introduction”; and Ruth Chang, “Value Incommensurability and Incomparability,” in *The Oxford Handbook of Value Theory*, ed. Iwao Hirose and Jonas Olson (New York: Oxford University Press, 2015): 205–224.

⁸ See Thomas Aquinas, *Summa theologiae*, trans. Fathers of the English Dominican Province (London: Burns, Oates & Washbourne, 1920), Part I-II, Question 3; Michael Cronin, *The Science of Ethics, Vol. 1: General Ethics* (New York: Benziger Brothers, 1909), Ch. 3; Christopher Shields and Robert Pasnau, *The Philosophy of Aquinas*, 2nd ed. (New York: Oxford University Press, 2016), Ch. 8; and Brian Besong, *An Introduction to Ethics: A Natural Law Approach* (Eugene, OR: Cascade Books, 2018), Ch. 2.

⁹ See Germain Grisez, *Beyond the New Morality: The Responsibilities of Freedom* (Notre Dame: University of Notre Dame Press, 1974); Germain Grisez, “Natural Law, God, Religion, and Human Fulfillment,” *American Journal of Jurisprudence* 46.1 (2001): 3–36; Germain Grisez, Joseph Boyle, and John Finnis, “Practical Principles, Moral Truth, and Ultimate Ends,” *American Journal of Jurisprudence* 32.1 (1987): 99–151; John Finnis, *Natural Law and Natural Rights*, 2nd ed. (Oxford: Oxford University Press, 2011); George, *In Defense of Natural Law*; Murphy, *Natural Law and Practical Rationality*; and Patrick Lee, “The New Natural Law Theory,” in *The Cambridge Companion to Natural Law Ethics*, ed. Tom Angier (Cambridge: Cambridge University Press, 2019): 73–91.

¹⁰ In a not-yet-published article titled “Value Incommensurability in Natural Law Ethics: A Clarification and Critique,” I offer a more in-depth analysis of the various incommensurability and incomparability claims found in the natural law literature. I examine the leading New Natural Law arguments and con-

Since I will be defending value comparability, we must get clearer on what it involves. The standard comparative relations are *better than*, *worse than*, and *equal to*.¹¹ Two or more items are incomparable if they fail to stand in one of these relations. Chang explains that there must be some “covering value” in terms of which items are compared, and all comparative judgments must be relativized to the covering value (instead of being a comparison of better than, worse than, or equal to, simpliciter).¹² The covering value can be either formal or substantive. When it comes to basic human goods, the formal covering value is prudential value/well-being/goodness-for, and the substantive covering value is human perfection/flourishing/nature fulfillment. When assessing the comparability of basic goods, we are considering their comparative prudential value, contribution to well-being, and importance for human flourishing.

As I have noted, comparability does not require commensurability: there are different ways, aside from common units of measurement, that basic goods might be compared. Chang suggests two: “First, the values might be ordinally compared; though there is no unit that measures the difference between them, they can be ordinally ranked as first, second, third, and so on, as in a list of priority or importance. Second, one item might be better than the other, but the values of the items might be measurable only by an ‘imprecise,’ not a precise, unit.”¹³ Another possibility is that goods are ordered hierarchically, which can be construed as a teleological ordering based on the metaphysical structure of human powers,¹⁴ a teleological ordering based on the for-the-sake-of relation,¹⁵ or higher and lower orders of value.¹⁶ Alternatively, goods could be susceptible of simple comparative judgments of “better

Footnote 10 (continued)

clude that they fail to establish that basic goods are incomparable. I also explain why it is possible to affirm value comparability while remaining consistent with the essential features of natural law ethics. But in that article I do not attempt to defend the position that basic goods are comparable, leaving that task for the present work.

¹¹ Chang adds a fourth relation – *on a par with* – which is relevant to her analysis of commensurability and comparability. I leave it aside because it does not map onto the mainstream positions held by natural law theorists, and it is not needed for my argument.

¹² Chang, “Introduction.”

¹³ Ruth Chang, “Incommensurability (and Incomparability),” in *International Encyclopedia of Ethics*, ed. Hugh LaFollette (Oxford: Blackwell, 2013): 2591–2604.

¹⁴ See Benedict Ashley, “What is the End of the Human Person? The Vision of God and Integral Human Fulfillment,” in *Moral Truth and Moral Tradition: Essays in Honour of Peter Geach and Elizabeth Anscombe*, ed. Luke Gormally (Dublin: Four Courts Press, 1994): 68–97; and Besong, *An Introduction to Ethics: A Natural Law Approach*.

¹⁵ See Russell Pannier, “Finnis and the Commensurability of Goods,” *New Scholasticism* 61.4 (1987): 440–461; Murphy, *Natural Law and Practical Rationality*; Oderberg, “The Structure and Content of the Good”; and Daniel McInerney, “Hierarchy and Direction for Choice,” in *Virtue’s End: God in the Moral Philosophy of Aristotle and Aquinas*, ed. Fulvio Di Blasi, Joshua P. Hoshchild, and Jeffrey Langan (South Bend: St. Augustine’s Press, 2008).

¹⁶ See John Stuart Mill, *Utilitarianism*, 2nd ed. (Indianapolis: Hackett Publishing Company, 2001); and Richard Kraut, *The Quality of Life: Aristotle Revised* (Oxford: Oxford University Press, 2018).

than,” “worse than,” or “equal to” that do not depend on a universal and fixed hierarchy of goods but instead are particular and context-sensitive.¹⁷

My aim is not to lay out a detailed explanation of comparability; instead, it is to give reasons to think that comparability is true without delving into a theoretical account of its nature. The arguments in the next section are meant to be neutral between the kinds of approaches listed above, avoiding the need to adopt a specific account. I will, however, endorse three general claims regarding comparability. First, comparability should be understood as partial comparability rather than total comparability: the position that basic goods are comparable sometimes and in some cases, not that basic goods are comparable always and in all cases. Second, the comparability relations I am interested in are objective, not subjective. The relative value of basic goods is not determined solely by an individual’s opinion, desires, preferences, plans, or pro-attitudes; instead, there are some objective truths about the comparative value and priority of goods, which are independent of human beliefs, choices, and attitudes. Third, comparability judgments come with a *ceteris paribus* clause and concern the relative value, importance, and priority of goods “other things being equal.” They are not absolute and exceptionless claims that some good has absolutely overriding value in the sense that it always takes priority over all other goods at all times and in all circumstances.

3 A Case for Comparability

In this section, I will defend value comparability: the position that we can make evaluative comparisons among basic human goods, and that some goods are more valuable than others in certain ways. Two initial disclaimers are in order. First, the arguments are meant to support the conclusion that basic goods are comparable on a natural law approach to ethics. But for readers with normative ethical views that are similar enough to NLT in the relevant respects, the arguments can be read as supporting the conclusion that basic goods are comparable full stop. Second, I will not use metaphysical or theological arguments, which are the kinds typically put forward by Classical Natural Law theorists.¹⁸ Although I find some of these arguments compelling, I leave them aside because New Natural Law theorists tend to reject their relevance to philosophical ethics (as opposed to theological ethics), and they are ruled out by certain features of the New Natural Law conception of practical reason, which prohibits drawing normative conclusions from facts about human nature.¹⁹ In the interest of arguing from neutral ground that all natural law theorists

¹⁷ See Alfonso Gomez-Lobo, *Morality and the Human Goods: An Introduction to Natural Law Ethics* (Washington, D.C.: Georgetown University Press, 2002); and Oderberg, “The Structure and Content of the Good.”

¹⁸ See Aquinas, *Summa theologiae*, Part I-II, Questions 1–5; Austin Fagothey, *Right and Reason*, 2nd ed. (Charlotte: TAN Books, 2000), Ch. 2–4; Steven Long, “Fundamental Errors of the New Natural Law Theory,” *National Catholic Bioethics Quarterly* 13.1 (2013): 105–131; and Oderberg, “The Structure and Content of the Good.”

¹⁹ See Grisez, Boyle, and Finnis, “Practical Principles, Moral Truth, and Ultimate Ends.”

share, my case will stay within the normative domain. I will offer two arguments for the comparability of basic goods: an intuitive argument and an explanatory argument.

3.1 The Intuitive Argument

The first argument is that value comparability is intuitive and consistent with commonsense moral judgments, whereas incomparability is counterintuitive and inconsistent with commonsense moral judgments. Virtually all of us can and do make comparative judgments all the time, and some of them are objective and rationally justified. Some involve particular instantiations of basic goods. Consider a simple example of someone who develops an acute and life-threatening illness and must choose between going out to dinner with a friend or seeking medical care at a hospital. In this case, it is extremely plausible to say that protecting the good of life and health is more important than promoting the good of friendship. This is an objective judgment grounded in facts about the requirements of human flourishing and the nature of human goods, rather than in the subjective opinion or pro-attitudes of the agent. In this case, the relevant facts include the metaphysical truth that life is the fundamental precondition for the attainment of any goods, medical truths about human health and disease, and psychological truths about friendship, like the fact that friendship is marked by understanding, care, and forgiveness, and is the type of relationship that can survive a missed dinner date. Extrapolating from this case, we can say that as a general rule, when a person is seriously ill the good of life and health usually takes on a priority of value. Even if there are exceptions to the rule in some cases, it still holds as a *ceteris paribus* or *prima facie* rule.

Here are some other examples involving specific instances of basic goods. One's relationship with a parent, spouse, or child is more valuable than one's relationship with a friend from college whom one speaks with once a year (friendship vs. friendship). Coming to know truths about the big questions of life, like whether God exists, what makes actions right and wrong, and whether we have free will, is more valuable than coming to know trivial truths like how many alien species there are in the fictional *Star Wars* universe (knowledge vs. knowledge). The achievement of winning a Super Bowl is more valuable than the achievement of taking the minutes at a committee meeting (work vs. work). Going for a run contributes less to an artist's well-being than does finishing a painting or musical composition that will be the greatest artistic achievement of her life (health vs. appreciation of beauty). Reconciling with a former best friend and reestablishing a positive relationship contributes more to a person's well-being than does reading the newspaper to learn about the daily news (friendship vs. knowledge).

Likewise, when we consider basic goods as general categories, some of them seem to be more important for human well-being than others. This is easiest to see if we consider the relative contribution of goods to the global value of a whole life. Life and health are more essential to human flourishing than the appreciation of beauty is. Knowledge—encompassing theoretical knowledge and understanding, practical knowledge and wisdom, and know-how—is also more valuable than the

appreciation of beauty. Religion, at least when it takes the form of a major world religion, usually contributes more to the overall value of a life than work and play do. Friendship—including membership in a social community, interactions with neighbors and colleagues, and close, loving relationships with family and friends—is also more important for human flourishing than work and play is. These examples might suggest some sort of hierarchy, where the goods of life and health, knowledge, religion, and friendship are superior to the goods of work and play and the appreciation of beauty. Comparability does not depend on there being such a hierarchy, however.

At a more general level, most of us think that, all else being equal, the basic goods that correspond primarily to our psychological capacities (e.g., friendship and knowledge) are more valuable than the basic goods that correspond primarily to our physical capacities (e.g., health and play), and it would be better to lose bodily functioning than mental functioning. Imagine that you have been captured by a sadistic villain who has seen too many horror movies. He tells you that he will eventually let you go free, but only after inflicting a serious injury on you. To make the dark deed more interesting, he lets you decide your own fate by giving you a choice between two different types of suffering: a traumatic brain injury that will deprive you of significant mental functioning, like the ability to form new memories, use language, carry out simple reasoning processes, or interact meaningfully with other people; or a severe bodily injury that will take away significant physical functioning, such as the ability to walk or see. Which option would you choose? I suspect that in this twisted scenario, most of us would choose bodily injury. The reason is that we recognize that psychological flourishing is more important than physical flourishing, at least in normal circumstances.

Consider also some domains of human life where comparative judgments play an indispensable role. One is parenting, where it is clear that children's needs can be ranked in order of priority. For example, an infant's physical and cognitive development (life and health, knowledge, and play) is more important for the infant's well-being than aesthetic experience is. In addition, the social development of young children (friendship) is more vital than the good of religion. In order to promote the optimal thriving of children, parents must determine which goods take precedent at certain stages of their development.

Another timely example is the set of practical challenges posed by the COVID-19 pandemic. The global pandemic confronted most of us, both individually and collectively, with complicated and agonizing practical decisions, many of them involving a tradeoff between preventing infection and protecting the vulnerable (life and health) on the one hand, and other goods like gathering socially (friendship), going into work (work), sending children to school (knowledge), and attending religious services (religion) on the other. What made these decisions so difficult was the inescapable need for comparability judgments combined with the difficulty of determining which goods should take priority and which risks were worth taking.

Examples like the ones catalogued in this section could be multiplied at length. Comparability makes sense of these various moral intuitions, and the intuitions support the position that basic goods are comparable. But they are ruled out by the New Natural Law position, which clashes with all of them because it prohibits making

comparisons between basic goods. The incomparability thesis flies in the face of commonsense morality and is highly counterintuitive, whereas the comparability thesis harmonizes with commonsense morality and is highly intuitive. Hence, these moral intuitions are evidence for value comparability.

One potential response to this argument is to deny the validity of the intuitive judgments on either of two grounds. The first is simply not sharing the intuitions. If the examples I have cited do not generate in the reader the comparative judgments they are meant to elicit, then the intuitive argument will have little to no force. This is a limitation of the argument, but it is a feature of all arguments that make use of intuitions, which is the vast majority of arguments in moral philosophy.

The second ground for denying the intuitions is skepticism about the validity, epistemic justification, evidential value, or reliability of moral intuitions in general. Now, if one believes (as I do) that intuition is ineliminable in ethics and that at least some of our intuitions are reliable and are evidence for moral claims, then this objection will be misguided. But whatever the merits of the skeptical position, it is not a viable option for natural law theorists. NLT is supposed to be consistent with the ordinary moral judgments of ordinary human beings. NLT in large part consists of systematic philosophical reflection on common moral knowledge and experience. Unlike more revisionist moral theories, it cannot stray too far from commonsense morality. The intuitions I am appealing to plausibly fall into this category. They are neither highly controversial nor based on artificial scenarios that are far removed from ordinary experience, like many of the thought experiments cooked up by moral philosophers. Instead, with the possible exception of some pandemic-related decisions, they are widely shared and relatively uncontroversial intuitions about ordinary human life.

A second and better reply to the argument is to accept the validity of the intuitions and provide an alternative explanation of them that is consistent with incomparability. This objection amounts to a sort of “error theory” of comparative axiological judgments: although we might think our intuitions concerning the priority of basic goods are about their *value*, they are really about something else. If so, the intuitions do not provide evidence for value comparability. This is the standard approach taken by New Natural Law theorists, and it comes in a variety of forms.

One strategy is to maintain that basic goods are comparable in terms of *reason* and *morality*. According to one version of this strategy, the good of religion is rationally superior to other goods because of its omnipresent moral significance and its unique role in an individual life plan or vocation. The idea is that religion is at stake in every morally significant choice, and it has an unrivaled ability to transform and regulate the way people pursue all the other basic goods. According to Germain Grisez, Joseph Boyle, and John Finnis,

The life of a virtuous person should be unified in view of a single purpose. We think that such a purpose can be established by a religious commitment and cannot be established without it. Why do we think so? Every human fulfillment can be considered a participation in divine goodness—goodness itself. Many morally good persons consider real this participating of their acts in the goodness of God, whom they regard as a transcendent source of meaning and

value. So, such persons believe that the good of religion—that is, harmony with the source or sources of meaning and value—is morally exigent whenever it is at stake. Clearly, this good is in fact realized whenever one must choose between what is right and what is wrong, and chooses what is right.²⁰

On this view, religion, compared to other basic goods, has a kind of superiority with respect to practical rationality and morality, but not a superiority of value.²¹ We can call this the “religion rules approach.”

There is a second and closely related version of this strategy. Grisez, Boyle, and Finnis also propose that while there is no objective hierarchy of value, there is a kind of “natural priority” among our “interests” in basic goods that is demanded by morality:

Prior to anyone’s choice, unfettered practical reason, together with the conditions which human nature inevitably sets for moral life, establish certain natural priorities among a good person’s basic interests. It follows that these priorities set necessary conditions for any morally good life plan... This order involving the basic goods, nevertheless, is not a hierarchy among them. It *does* establish a structure among the diverse aspects of human fulfillment, in the individual person and in community. But the principle of this order is moral truth—the integral directiveness of practical knowledge—not the primacy of any one of the basic goods.²²

They offer the following example to illustrate:

No one can live a morally good life without living. The good of life can be pursued only in community with others; indeed, human persons come to be only in community with others who care for them. Morality demands that one play one’s proper part in morally good cooperation with others, deal fairly with them, avoid taking revenge, and so on. Thus, without any choice on anyone’s part, the good of harmony with others considered morally has as one of its specific forms the elementary community essential for survival. This form of harmony might be called “family solidarity.” For children, one thing family solidarity means is obedience. So, for children, obedience to any morally legitimate command of their parents (and those who act on their parents’ behalf) should take absolute priority over any other interest.²³

Natural priorities of interests, they might say, can explain the kinds of intuitions found in the intuitive argument without having to posit any sort of evaluative comparability among basic goods. We can call this the “natural priorities approach.”

This strategy, whether it appeals to religion or to natural priorities, is unsuccessful for three reasons. First, it fails to account for most of the intuitions in the

²⁰ Grisez, Boyle, and Finnis, “Practical Principles, Moral Truth, and Ultimate Ends,” 141.

²¹ See also Grisez, “Natural Law, God, Religion, and Human Fulfillment,” 16–17; and Lee, “The New Natural Law Theory,” 82–5.

²² Grisez, Boyle, and Finnis, “Practical Principles, Moral Truth, and Ultimate Ends,” 138–9.

²³ *Ibid.*, 138.

intuitive argument. It does not cover the wide variety of comparative judgments we make, which involve *all* the basic goods and do not always prioritize the *same* goods in all cases. The religion rules approach can account for the priority of religion in some cases, mainly due to religion's unique features as a human good. But, as Grisez, Boyle, and Finnis recognize, it cannot be used to explain the priority of any other basic goods because none of them share the omnipresent moral significance and architectonic status of religion. The natural priorities approach also does not cover all the intuitions I have highlighted. Grisez, Boyle, and Finnis do not attempt to extend it this broadly, and any attempt to do so would involve an elaborate and ad hoc story about natural priorities.

The second problem is that this strategy provides an unsatisfying explanation because it leaves unanswered the question of *why* the priorities among basic goods obtain. It is true that some of our judgments about the relative priority of basic goods can be explained in terms of morality; but this explanation is insufficient on its own. For the religion rules approach, the question is why the good of religion possesses a special kind of rational and moral superiority. The most plausible answer is that religion is more important than other basic goods (when it is more important) because it makes a greater contribution to human flourishing. Here we must remember that natural law theory is a *value-based* theory, which means that all practical and moral reasons ultimately bottom out in considerations about goods. The strategy under examination reverses this order of explanation by saying that moral and practical reasons determine the priority of goods. A more natural story about the rational superiority of religion, and one that is more in line with the natural law approach, is that rational comparability tracks axiological comparability.

The natural priorities approach is also an inferior explanation to the axiological one. Grisez, Boyle, and Finnis acknowledge that the prioritization in question reflects a *natural* and *objective* order of goods based partly on "the conditions which human nature inevitably sets for moral life." On a natural law approach, it makes more sense to understand the order of goods in light of human nature and what it means for that nature to flourish, as opposed to the demands of "unfettered practical reason" obeying the "integral directiveness of practical knowledge"—especially since practical reason, practical knowledge, and morality are all analyzed in terms of objective, natural human goods (not vice versa). With respect to Grisez, Boyle, and Finnis's example of family relationships, a more fitting analysis of the priority of family solidarity over competing interests is that the family is more important for the flourishing of individuals and communities than are the other interests in question. Compared to both the religion rules approach and the natural priorities approach, a better explanation for the commonsense priority relations among basic goods is that they are comparable in terms of value.

The third problem is that this strategy essentially changes the subject by reframing the priorities among basic goods as a matter of *moral* priority rather than *prudential* priority. But the intuitions in the intuitive argument all concern prudential value (well-being), not moral value (like the rightness or wrongness of actions). Thus, on top of failing to account for the scope of the intuitions, this strategy fails to account for their content. The content of the intuitions is not a general proposition like "Good A takes priority over good B," or a specific moral proposition like

“Good A is more incumbent than good B from the moral point of view.” Instead, it is a specific prudential proposition like “Good A is more important for human well-being than good B.” So this strategy, in the end, does not even provide a real *alternative* explanation of the intuitive comparative judgments about human flourishing, because it is an explanation of something else: rational or moral priority.

A second error theory strategy is more promising. New Natural Law theorists sometimes explain judgments about the priority of basic goods in terms of subjective life plans and personal commitments. According to Finnis, for example, “each [basic good], when we focus on it, can reasonably be regarded as the most important...each can reasonably be focused on, and each, when focused upon, obtains a priority of value.”²⁴ He illustrates this point with respect to the good of knowledge:

If one focuses on the value of speculative truth, it can reasonably be regarded as more important than anything; knowledge can be regarded as the most important thing to acquire; life can be regarded as merely a precondition, of lesser or no intrinsic value; play can be regarded as frivolous; one’s concern about ‘religious’ questions can seem just an aspect of the struggle against error, superstition, and ignorance; friendship can seem worth foregoing, or be found exclusively in sharing and enhancing knowledge and so on.²⁵

Finnis clarifies that the “chosen plan *made* truth more important and fundamental for one. One’s new choice changes the status of that value *for oneself*; the change is in oneself...one’s reasons for choosing the particular ranking that one does choose are reasons that properly relate to one’s temperament, upbringing, capacities, and opportunities, not to differences of rank of intrinsic value between the basic values.”²⁶ The critic of the intuitive argument might adopt this “subjective approach” and argue that the intuitions contained in the argument can be explained by subjective life plans and personal commitments rather than objective axiological relations.

This strategy is better than the last one because it does not change the subject and keeps the focus on human flourishing and the prudential priority among basic goods. It also provides a plausible explanation of *some* comparative judgments. Sometimes the relative importance of basic goods is primarily—perhaps even wholly—determined by subjective factors like individual life plans and personal commitments. For an academic who is committed to teaching and research and who devotes most of her professional and private energy to these activities, the good of knowledge will be more valuable than other goods like the appreciation of beauty. For a cloistered monk who has taken a vow of silence and spends virtually all his time in prayer and worship, the good of religion will be more important than the goods of friendship and work and play. And so on.

Nevertheless, the subjective approach is not a successful rebuttal to the intuitive argument because not all axiological relations among basic goods are wholly determined by subjective factors. Even if this strategy explains some of our intuitive

²⁴ Finnis, *Natural Law and Natural Rights*, 92–3.

²⁵ *Ibid.*, 92.

²⁶ *Ibid.*, 93–4.

judgments, it does not explain them all. The subjective approach does not work for most (if any) of the examples in the argument. For one thing, some involve groups of human beings, such as young children, who do not have subjective life plans or personal commitments that can be applied, and yet we still make objective comparability judgments about their well-being. More generally, at least most of the judgments track objective truths about human flourishing. The intuitions are all meant to be about comparative relations among basic goods that are at least partly objective in nature. And often we can point to objective facts that underlie and explain the intuitions, as in the earlier example of choosing whether to meet a friend for dinner or seek medical care for a life-threatening illness.

Another consideration against the subjective approach is that sometimes it gets things backwards. We evaluate life plans and personal commitments themselves partly on the basis of how they rank-order goods. We sometimes judge life plans to be good or bad depending on whether they respect the objective order of value and prioritize goods in an appropriate way. New Natural Law theorists affirm this point with respect to non-basic goods. They claim, for instance, that a life plan would be defective if it prioritized instrumental goods like money over intrinsic goods like friendship.²⁷ The same goes for basic goods. Consider a life plan that puts work or play over friendship, where the person is an obsessive workaholic or spends all his free time playing video games, allotting a meager amount of time and attention to his spouse and children. Or take a fitness junkie whose primary commitment is her health, with all her spare time and mental energy devoted to diet and exercise, to the neglect of any other form of meaningful knowledge and intellectual activity. Such life plans and personal commitments are rationally and morally flawed precisely *because* they do not align with the objective order of value—in these two cases, the facts that people are more important than work and play and that knowledge is a higher good than physical health. In some cases, at least, we do not evaluate the order of basic goods according to subjective life plans and commitments, we evaluate these subjective phenomena according to the objective scale of value.

In light of the failure of these various objections to the intuitive argument, we can conclude that moral intuitions about human flourishing support the position that basic goods are comparable.

3.2 The Explanatory Argument

The second argument for the comparability of basic goods is explanatory in nature. Instead of appealing to intuitive judgments about comparability itself, it says that comparability is what explains a specific type of moral judgment. The type of moral judgment in question is a common one: a judgment about conflicting moral norms. An inescapable feature of the moral life is that moral obligations, rights, and virtues often come into conflict (or apparent conflict), and we must balance them against one another to determine which moral norm has priority and should be followed.

²⁷ Grisez, Boyle, and Finnis, “Practical Principles, Moral Truth, and Ultimate Ends,” 137.

I will call this a *balancing judgment*.²⁸ As an example, say I have promised to help a friend move, and as I'm driving to the friend's house my wife calls and tells me that my son has been badly injured and needs to go to the hospital. I'm faced with a conflict between an obligation to keep my promise to my friend and an obligation to help my family. In this case, the duty of family beneficence overrides the duty of promise keeping, and I ought to go home and help my son.

My contention is that for at least some moral conflicts, comparative axiological judgments are an essential part of the normative explanation and justification of balancing judgments.²⁹ In some cases, we adjudicate between conflicting moral norms by making judgments about the relative importance of the goods at stake in the situation, and these judgments presuppose objective axiological relations among basic goods. The claim being made here is that a comparison of basic goods is *necessary* for *some* balancing judgments, not that it is *sufficient* for balancing judgments or necessary for *all* balancing judgments. On a natural law approach, axiological comparison is just one thing that goes into balancing, and it is not the sole determinant of the morality of actions. Other things are also relevant to moral evaluation, such as the nature of the act itself, the agent's intention, the agent's motive, and circumstantial factors. Nothing I say should be construed in a consequentialist way as claiming that a comparison of good and evil effects is the only thing that matters for act evaluation. Axiological comparisons are never sufficient to determine the moral status of an action or to resolve conflicts of moral norms, but sometimes they are necessary. To be more specific about the kind of necessity I have in mind, I mean that comparative axiological judgments are part of the *best explanation or account* of balancing judgments.³⁰ It is logically possible to explain balancing judgments in a way that makes no reference to comparability, but this kind of explanation will be inferior to the one I am offering. I will defend this claim in more detail below when I consider a rival New Natural Law account.

²⁸ I borrow this term from Tom Beauchamp and James Childress, *Principles of Biomedical Ethics*, 8th ed. (New York: Oxford University Press, 2019).

²⁹ To be more precise, the type of explanation and justification I have in mind is *moral* explanation and justification, which involves *normative* reasons rather than what are usually called motivating reasons (ones that motivate an agent and that she considers in her practical deliberation) or explanatory reasons (ones that explain and make intelligible why an agent acts the way she does). The moral justification of balancing judgments encompasses both the justification of the judgment itself and the action it supports. Some Classical Natural Law theorists agree that an appeal to the comparative value of basic goods plays a key part in moral reasoning and decision making. See Oderberg, *Moral Theory: A Non-Consequentialist Approach*; Oderberg, "The Structure and Content of the Good"; and Gomez-Lobo, *Morality and the Human Goods*.

³⁰ It is important to emphasize that my account of balancing judgments is meant to be a partial one and not a full one. It focuses on just one dimension of moral choice—that involving judgments about the comparative value of goods. For a complete account of balancing, the axiological explanation I am offering will need to be situated within a broader and more comprehensive account of moral decision making that includes additional non-axiological elements. On a natural law approach, typically this will be an Aristotelian-Thomistic account of practical reason and virtue, one that assigns the virtues (especially practical wisdom) a crucial function in the resolution of moral conflicts. My axiological explanation of balancing judgments is compatible with this kind of larger account, not a competitor to it. I am grateful to Jennifer Frey for raising this point and encouraging me to address it.

The following are some examples of balancing judgments that require an appeal to the comparative value of basic goods. First, recall the case mentioned earlier, where my promissory obligation to help my friend move conflicts with my beneficence-based obligation to take my injured son to the hospital. Part of the explanation of why my all-things-considered obligation is to help my son, and why my promissory obligation is overridden, is that the basic good of my son's life and health is more valuable than the basic goods associated with helping my friend move, like friendship and work. This fact about the relative importance of the goods at stake in the situation is part of the moral justification of my action of breaking a promise in order to help my son.

Second, take a scenario where a community is being ravaged by a highly contagious and lethal disease. My rights to work and to socialize freely in public spaces might be infringed by other people's stronger rights to life and health and by my obligation to protect others from harm. Part of what justifies this balancing judgment is that the protection of other people's goods of life and health is more valuable than my pursuit of the goods of work, play, and friendship in the circumstances of a deadly disease. Staying within the realm of medical decision making, consider another example from David Oderberg:

the reason it is morally permissible, in some cases obligatory, to amputate a limb to save a life is that the continued existence of a person's life is more important than the continued existence of one of his parts. This proves immediately that one can and must make judgments of relative importance within goods, in this case the good of life—which has both continued existence and bodily integrity as constituent parts. The principle that guides this sort of judgment is sometimes called the Principle of Totality, namely the principle that one may sacrifice a part to save the whole.³¹

As Oderberg points out, some traditional natural law principles are predicated on the assumption of value comparability.

Finally, consider the terrible predicament St. Thomas More found himself in at the end of his life. More had to choose between violating his conscience by publicly supporting King Henry VIII's schismatic actions in order to save his own skin, or remaining true to his moral and religious convictions, refusing to do something he believed would be gravely wrong, and facing execution as a result. More judged that his obligations to maintain his moral integrity, not to betray his religious faith, and to avoid giving public scandal by supporting something he considered immoral were stronger than his obligations to preserve his life and to provide for his family. One reason More's choice was morally justified is that in his situation the basic goods of religion and friendship with God—which, in More's view, are what generate the absolute duty to obey one's conscience—were more important than the basic goods of life and human friendship.

In addition to these values, More's choice involves additional non-axiological considerations, including those of faith, justice, and conscience and their attendant

³¹ Oderberg, "The Structure and Content of the Good," 154.

virtues, obligations, and rights. But the hierarchy of goods plays a vital role in the justification of his action. In the classic film about More's life, *A Man For All Seasons*, the character Richard Rich wants to become a politician and seeks More's help in getting him an influential position at court. More gently turns him down and tells him to be a teacher instead, sensing that Richard's character flaws would make a political life morally and spiritually perilous for him. Richard spurns this wise advice and chooses the path of greed and ambition, doing whatever it takes to advance his career, which culminates in his betrayal of More at the end of the film. During More's trial, Richard commits perjury to secure More's conviction, sacrificing everything else—including his friendship with More, his moral integrity, and his relationship with God—for the sake of power, honor, wealth, and worldly success (which fall under the basic goods of work and friendship). When More realizes that Richard has made this tragic and despicable choice in exchange for being appointed the Attorney General for Wales, he says to him, "Why Richard, it profits a man nothing to give his soul for the whole world. But for Wales?" As this line indicates, Richard and More prioritize goods in different ways, which is part of what makes the former's choice morally evil and the latter's morally good. One thing that goes into More's decision is his belief that relationship with God is the greatest good, and that it should not be sacrificed even for the sake of his life, let alone for Wales. More reaffirms this belief at his execution, with his parting line, "I die his Majesty's good servant, but God's first." This kind of comparability judgment is not the only morally relevant consideration in More's case, but it is a significant one.

There are many cases like these where a judgment about the comparative value of basic goods is part of what underlies a judgment about how to resolve conflicts of moral norms. To make sense of these common balancing judgments, we need to recognize that some goods are more important than others in certain circumstances. The New Natural Law position, which holds that basic goods are incomparable, precludes this approach and cannot accommodate the kind of explanation and justification I am suggesting. This is a major strike against it. An analysis of balancing judgments gives us good grounds for affirming value comparability.³²

It should be stressed that the comparative value judgments in the preceding examples are at least partly objective. It is implausible to claim that the prioritization of the goods in question is wholly a function of subjective phenomena like the agent's opinion, pro-attitudes, life plan, commitments, or vocation. Oderberg's example of a life-saving amputation is particularly relevant here because it provides evidence against the idea that the relative importance of basic goods is determined solely by subjective factors. If someone believed that having all four limbs was more important for her flourishing than staying alive, and she valued physical wholeness over life itself, her belief would be mistaken and her values would be defective. Such a judgment would fail to recognize the fact that life is the most fundamental basic

³² For a fuller exploration and defense of the position that balancing judgments require comparative axiological judgments, focusing on balancing judgments in medical ethics, see Matthew Shea, "Principlism's Balancing Act: Why the Principles of Biomedical Ethics Need a Theory of the Good," *Journal of Medicine and Philosophy* 45 (2020): 441–470.

good and is a necessary precondition for all other goods—bodily integrity is impossible to experience when one is dead.

Another key clarification is that balancing judgments and comparative axiological judgments are not made from the impartial, agent-neutral “point of view of the universe.” Instead, they are agent-relative and must take into account the particular circumstances of the agent.³³ The basic reason is that on a natural law approach, circumstances are one of the determinants of the morality of an action.³⁴ Some of the relevant circumstances include agent-relative obligations and permissions, the agent’s knowledge base, the agent’s relationships, the agent’s abilities and powers, and the agent’s life plan, vocation, and personal commitments. The last cluster of agent-relative phenomena is relevant to some (but not all) balancing judgments, and this is the grain of truth in the “subjective approach” put forward by New Natural Law theorists, which was examined in the previous section. Agent-relativity is not tantamount to subjectivism, however, and many of the axiological relations among basic goods, even when they are partly determined by agent-relative phenomena, have an objective status.

New Natural Law theorists have a response to the sort of explanatory argument I am offering, which is presented in its clearest form by Robert George. George agrees that New NLT’s incomparability thesis rules out judgments about the relative importance of basic goods when settling conflicts of moral norms. He offers an alternative explanation and justification of balancing judgments that is consistent with incomparability. The example he uses is that of “a golfer who happens to notice a child drowning in a water hazard near the green at the fourteenth hole. He can, without risk to himself, save the child; the interruption will, however, deprive him of an hour’s worth of play and prevent his completing the course.”³⁵ In this case there is a conflict between the golfer’s right to play golf (stemming from the good of play) and the golfer’s obligation to help the drowning child (stemming from the good of life); and, as George agrees, the golfer clearly has an overriding obligation to sacrifice his game and save the child.

A commonsensical and very plausible explanation of this balancing judgment is that the golfer is obligated to save the child because the child’s life is more valuable than the golfer’s game. George, however, denies that we can make this kind of judgment about the comparative value of goods because the incomparability thesis of New NLT prohibits comparing the basic goods of life and play. As he puts it, “I do not believe...that the situation is controlled by a moral norm that says: In choosing

³³ The agent-relative/agent-neutral distinction is drawn in different ways by philosophers. The rough idea is that an agent-relative reason is one that is relative to the agent whose reason it is, whereas an agent-neutral reason is one that is a reason for every agent. Thomas Nagel offers a widely accepted and more precise formulation: “If a reason can be given a general form which does not include an essential reference to the person who has it, it is an *agent-neutral* reason...If on the other hand the general form of a reason does include an essential reference to the person who has it, it is an *agent-relative* reason” (Thomas Nagel, *The View from Nowhere* (Oxford: Oxford University Press, 1986), 152–3).

³⁴ See Aquinas, *Summa theologiae*, Part I-II, Question 18; and Oderberg, *Moral Theory: A Non-Consequentialist Approach*, 105–10.

³⁵ George, *In Defense of Natural Law*, 94–5.

between options in which competing basic values are involved, identify and choose the option which preserves or advances the weightier value. If, as I think, basic values, qua basic, are irreducible and therefore incommensurable... then such a putative moral norm is incoherent.”³⁶ So, the New Natural Law theorist is forced to come up with a different strategy for handling this kind of case and justifying our common-sense balancing judgments in a non-arbitrary way.³⁷ George’s strategy is to appeal to moral principles and rules to resolve moral conflicts. In this example, he says the relevant norm is the Golden Rule, which settles the conflict by showing that the golfer is morally required to save the child: “[the Golden Rule] governs the golfer’s choice by defeating his reason not to spend the time required to save the tot, i.e., the possibility of continuing his participation in the good of playing golf.”³⁸

George gets the correct verdict in this case, but his account of balancing judgments is inferior to the one I am suggesting. Delivering the correct outputs about what actions are right or wrong in specific cases is not the only requirement of a moral theory. Another major requirement, and probably the main purpose of a moral theory, is to *explain* the nature of morality and a criterion of moral evaluation: the ultimate good-making and right-making features of actions, agents, states of affairs, and other moral phenomena. Even if the New Natural Law approach and my approach happen to be extensionally equivalent (i.e., they arrive at the same conclusions about what ought to be done in specific cases), they are not explanatorily equivalent. The comparability account of balancing judgments is superior to George’s incomparability account. To be more specific, it is superior with respect to two widely-recognized desiderata for a moral theory, which Mark Timmons refers to as *intuitive appeal*—“A moral theory should develop and make sense of various intuitively appealing beliefs and ideas about morality”—and *explanatory power*—“A moral theory should feature principles that explain our more specific considered moral beliefs, thus helping us understand why actions, persons, and other objects of moral evaluation are right or wrong, good or bad, have or lack moral worth.”³⁹

With respect to intuitive appeal, George’s strategy flies in the face of the highly intuitive judgment that the child’s life is more valuable than the golfer’s play. To say that in this case we cannot compare the value or importance of these two instantiations of basic goods is extremely implausible. By contrast, to say that the child’s life is worth more than the golfer’s game, that continued existence is more important for well-being than finishing a round of golf, that the child’s life contributes more to the child’s well-being than the golfer’s remaining hour of

³⁶ Ibid., 95.

³⁷ In the article cited here, George is responding to a specific objection to New NLT, which is that the commitment to value incomparability prevents the New Natural Law theorist from being able to say that the golfer’s choice is rational and the golfer has a moral obligation to save the drowning child. I think George succeeds in defending New NLT against this objection by showing that “the incommensurability thesis does not entail the proposition that choices between rationally grounded options are necessarily arbitrary” (ibid., 100, n. 9), and that New NLT has the resources to show that the golfer is obligated to save the child. My criticisms of George’s strategy are different from this objection.

³⁸ George, *In Defense of Natural Law*, 97.

³⁹ Timmons, *Moral Theory: An Introduction*, 14–15.

play contributes to the golfer's well-being, and that it is worse for the child to die than for the golfer to give up his game, is about as plausible as axiological claims can be. The purpose of my first intuitive argument for comparability was to show that many of our commonsense moral intuitions support the position that basic goods are comparable and count against the position that they are incomparable. That argument can be invoked here to show why my account of balancing judgments fares better than the New Natural Law account in terms of intuitive appeal. Even if George is right that New NLT's incomparability thesis does not imperil commonsense *deontic* judgments, it does imperil commonsense *axiological* judgments, and this is a significant strike against it.

The comparability account also has superior explanatory power. As I have argued, a necessary part of the explanation and justification of some of our balancing judgments is a judgment about the comparative value of the goods and evils at stake in the situation. George's strategy, which eschews any comparative axiological judgments and invokes moral rules instead, is by comparison less natural and more ad hoc, and it suffers from a "wrong kind of reason" problem. In the golfer case, a story that appeals to the overriding value of the child's life compared to the golfer's play picks out the right kind of reason to explain why the golfer is obligated to save the drowning child. The Golden Rule may be relevant as well, but it is not the only or the main reason why the golfer should save the child. We do not even need to suppose that the axiological judgment is the *main* reason behind the balancing judgment. Even if we say that the Golden Rule is the primary reason why the golfer is obligated to save the child, and the comparative axiological judgment is a secondary reason, this kind of account will still be superior to George's in terms of explanatory power, because George's account prohibits comparative axiological judgments from being part of the explanation at all. The comparability account therefore offers a more appropriate and more comprehensive explanation.

The problem of an unsatisfying explanation applies to the New Natural Law approach in another way, too. George's strategy is to appeal to a moral norm to account for the golfer's obligation to save the drowning child. But we can ask for an explanation and justification of that moral norm itself. When we do, the comparability account once again gives a better answer. The reason why the Golden Rule implies that the golfer should save the child is that Golden Rule reasoning involves the comparative value of basic goods: we would want someone else to sacrifice a good of lesser importance (like a game of golf) if doing so were necessary to protect a good of greater importance (like a person's life). If we change the example so that what the child stands to lose is not life but a different basic good of equal or lesser value than the golfer's play—say, the child is swimming in the pond and asks the golfer to stop his game and come swim with her for the sake of making it more fun (i.e., for the sake of promoting the child's good of play)—then the Golden Rule does not imply that the golfer is morally required to drop his clubs and jump in the pond. The application of the Golden Rule, then, seems to depend on comparisons of basic goods, at least in some cases. The comparability account thus has greater explanatory depth than the New Natural Law account because it does not stop at moral rules but goes deeper.

To sum up, some balancing judgments require comparative axiological judgments, and the comparability account of balancing judgments is superior to the incomparability account. The explanatory argument offered in this section can be understood as an inference to the best explanation: the best explanation of balancing judgments will involve value comparability; therefore, balancing judgments provide evidence that basic goods are comparable.

4 Conclusion

I have presented two arguments for the comparability of basic goods: an intuitive argument and an explanatory argument. If these arguments are sound, then in the debate among natural law theorists over the structure of the human good, Classical Natural Law theorists are correct to hold that basic goods are comparable and New Natural Law theorists are incorrect to hold that they are incomparable. I have not attempted to answer the questions of whether there is a single greatest good or a general hierarchy of basic goods that exists above and beyond the specific comparability judgments invoked in the arguments. If the position I have defended is correct, then these questions do have answers, ones that are important for natural law theorists to discover.

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