

Self-Evidence in Finnis' Natural Law Theory: A Reply to Sayers

IRENE O'CONNELL*

Introduction

In Volume 23 (1998) of the *Australian Journal of Legal Philosophy* Mark Sayers¹ sets out some objections to aspects of John Finnis' revised version of Natural Law. These objections centre on Finnis' claim that the basic goods that go to make up integral human fulfilment are self-evident. In *Natural Law and Natural Rights*² Finnis illustrates this claim by way of particular reference to the basic good of knowledge. Sayers suggests that Finnis' claim and account of the self-evidence of the basic good of knowledge is inferior to and out of step with Thomas Aquinas' account of self-evidence. The inferiority of Finnis' account of self evidence rests according to Sayers in the fact that it does not adequately convey the immediacy of self-evidence.

In this paper I shall suggest that Finnis' account of the self-evidence of the good of knowledge does not involve a negation of the immediacy of self-evidence. Furthermore, rather than being at odds with Aquinas' account of self-evidence Finnis' account is remarkably in step with Aquinas.

The basic goods in Finnis' natural law theory

One of the fundamental ideas of John Finnis' exposition of a natural law approach to morality and law is the Aristotelian view of the good as "that at which all things aim."³ The good is to be found in the ends of human activity. The ends of human activity are states and activities that are

* MA SJD (University of Sydney) Lecturer, Law Extension Committee, University of Sydney.

¹ Mark Sayers, 'Knowledge as a Self -Evident Good in Finnis and Aquinas: When is the Immediately Obvious not so Immediate?'(1998) 23 *Australian Journal of Legal Philosophy* 92-101.

² John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980).

³ John Finnis, *Fundamentals of Ethics* (Oxford: Clarendon Press, 1983) at 44.

worthwhile in themselves; our participation in these states and activities perfect us. Finnis categorises these as seven states and activities: life, knowledge, practical reasonableness, play, aesthetic experience, friendship and religion. Taken together they make up what Finnis refers to as *integral human fulfillment*.

The basic goods as self-evident

How do we know that these seven states and activities, or as Finnis describes them *the basic goods*, are in fact the end purpose of human activity? To this question Finnis replies that the basic goods are self-evident. 'The good of knowledge is self-evident, obvious. It cannot be demonstrated but equally it needs no demonstration.'⁴ This statement taken on its own is indeed a rather weak and unsatisfactory answer. Fortunately Finnis' reply does not end here.

Having claimed that the basic goods are self evident Finnis sets out to clarify what he means by the term *self-evident*. He does this in two ways. Firstly, he eliminates from discussion meanings of the term self-evident that are not included or implied in his statement that the basic goods are self-evident. Secondly, he elaborates on what he does mean by self-evidence in the statement that the basic goods are self-evident.

What is not *self-evidence*

When Finnis claims that the good of knowledge is self-evident he cautions the reader that he does not mean that this statement is to be equated with a claim that there exists unanimous agreement about the good of knowledge. Nor is it to be equated with or identified by the experience of a feeling of certitude on the matter.

After stating that the basic good of knowledge is self-evident or obvious Finnis goes on to make the following point.

The principle that truth (and knowledge) is worth pursuing is not somehow innate, inscribed on the mind at birth. On the contrary the value of truth becomes obvious only to one who has experienced the urge to question, who has grasped the connection between question and answer who understands that knowledge is constituted by correct answers to particular questions...⁵

Further on Finnis eliminates another possible interpretation of the

⁴ Finnis, *op cit*, p 65.

⁵ *Ibid.*

meaning he is attributing to the term *self-evident*. He states:

Nor can one validly infer the value of knowledge from the fact (if fact it be) that all men desire to know. The universality of a desire is not a sufficient basis for inferring that the object of that desire is really desirable, objectively good.⁶

Lastly, Finnis discounts the feeling of certitude as equivalent to his account of self evidence.

Self-evident principles such as those I have been discussing are not validated by feelings. On the contrary, they are themselves the criteria whereby we discriminate between feelings, and discount some of our feelings (including feelings of certitude), however intense, as irrational or unwarranted misleading or delusive.⁷

So when Finnis claims that the basic goods are self-evident he does not mean that we know this to be so innately, nor is he claiming that there is unanimous agreement that the basic goods are in fact the basic goods. Nor does he mean that self-evidence is the subjective experience of a feeling of certitude. What then does Finnis mean when he claims that the basic goods are self-evident?

What is self-evidence

The basic goods are described by Finnis as activities and states that are worthwhile for their own sake. As activities and states that are worthwhile in themselves, they are ends of human activity. As ends of human activity there is no recourse to a further reason to explain their value.

Ends, as Robert George has explained, are basic reasons for action, and 'a basic reason for action is a reason whose intelligibility as a reason does not depend on further or deeper reasons for action. Only those ends or purposes that are intrinsically worthwhile provide basic reasons for action.'⁸

Thus to say that the basic goods are self-evident is to say that we comprehend the good of knowledge, life, friendship etc. in an immediate and underived manner without recourse to a further reasoning process. We know by way of a non-inferential act of the mind.⁹ A non-inferential act of the mind is an act whereby the mind reaches a conclusion about the truth of

⁶ *Ibid*, at 66.

⁷ *Ibid*, at 69.

⁸ Robert George, *Making Men Moral* (Oxford: Clarendon Press, 1993) at 11.

⁹ *Ibid*, at 13.

a proposition or statement without needing to go through a process of reasoning from facts to conclusions.¹⁰

The basic goods as ends are the fundamental reasons for action. As fundamental reasons for action they cannot be inferred from more fundamental reasons or ends for they are the first and fundamental reasons for action. They are self-evident as they are the first and fundamental reasons for action. Thus it is of the very nature of ends that they are self-evident, for if they are not self-evident, nor are they basic goods or ends.

Kevin Staley has elaborated on this point in the following manner:

If a good is self-evidently good, then it must be irreducible to another good. For if it is self-evidently good, then no other good need be taken into consideration in order to comprehend its goodness. If a good is reducible to another, on the other hand, then its goodness is simply a function of the latter, and its goodness would be fully intelligible only in light of knowledge of the latter. That is, it would not be self-evident. So, the self-evidence and irreducibility of the primary goods mutually entail one another.¹¹

Yet, while self-evident statements are underived statements, not all underived statements are self-evident. Finnis makes this point in the following manner:

[N]on-derivability in some cases amounts to a lack of justification and of objectivity. But in other cases it betokens self-evidence; and these cases are to be found in every field of inquiry. For in every field there is and must be, at some point or points, an end to derivation and inference. At that point or points we find ourselves in face of the self-evident, which makes possible all subsequent inferences in that field.¹²

As self-evident statements do not derive from any further premise they cannot be demonstrated. Thus says Finnis the basic goods or ends cannot be demonstrated as they are the ends that are worthwhile for their own sake: their worthiness not depending on any further premise. So, while we are invited to reflect upon each of the seven basic goods as fundamental reasons for action that go to make up all round human flourishing, we cannot demand that the basic goods be demonstrated to be basic goods as it is not of the nature of basic goods that they be demonstrable.

¹⁰ *Ibid.*

¹¹ Kevin Staley, 'Metaphysics and the Good Life: Some Reflections on the Further Point of Morality', *The American Catholic Philosophical Quarterly* (1990) p5.

¹² Finnis, above n 2 p 70.

Finnis maintains that although it is not possible to demonstrate the basic goods as goods, it is possible to demonstrate that to deny the basic goods is to fall into that philosophical quagmire of self-refutation; the basic goods cannot be coherently doubted.¹³

Finnis distinguishes different types of self-refutation, what might be termed logical self-refutation, pragmatic self-refutation and operational self-refutation. For example, Finnis takes the basic good of knowledge and suggests that if one were to pursue the line that knowledge is not a basic good one would in fact be operationally self-refuting. That is, by engaging in the endeavour of establishing whether or not knowledge is a basic good, one has demonstrated, by the very pursuit of the issue, that one wishes to know. Thus one self-refutes. In a similar manner, to oppose the proposition that life is a basic good is to operationally self-refute.

Sayers objections to Finnis

As Sayers has pointed out¹⁴ a number of scholars such as Lissaka, McNerny and Hittenger have argued that Finnis' revised natural law theory while seemingly continuing in the tradition of Thomas Aquinas has in fact diverged from Thomist thought. Sayers supports this viewpoint and suggests that measured against Aquinas' account of self-evidence, Finnis' account of self-evidence is found wanting.

Sayers' criticism focuses on Finnis' explanation of the claim that the basic good of knowledge is self-evident. Sayers suggests that Finnis has offered us a somewhat different and inferior understanding of knowledge and self-evidence from that of Aquinas.

Thus states Sayers, 'for Aquinas knowledge is a given...it is a given without any pre-conditions other than the pre conditions of what might be called the infrastructure of knowledge.'¹⁵

Sayers relies rather heavily on one particular paragraph out of *Natural Law and Natural Rights* to make the case that Finnis "postulates certain pre-conditions for the achievement of knowledge"¹⁶ Sayers attributes to Finnis the following two pre-conditions to self-evidence 'that the individual be aware that at least some questions have answers' and 'the

¹³ John Finnis, 'Scepticism, Self Refutation and the Good of Truth' in P.M.S. Hacker and J. Raz (ed.), *Law, Morality and Society. Essays in Honour of H.L.A. Hart* (Oxford: Clarendon Press, 1977).

¹⁴ Sayers, above n 1 p 92.

¹⁵ *Ibid*, at 98.

¹⁶ *Ibid*, at 97.

curiosity to ask questions.’¹⁷

Sayers suggests that these pre-conditions encompass volition. As such we have the situation where ‘Aquinas only assumes the need for the infrastructure of knowledge, Finnis assumes the need for the volition to employ that infrastructure.’¹⁸

This leads, according to Sayers, to the position where self-evidence is depending on my *wanting* (emphasis added) to test my belief about the self-evident truth of x. Sayers states that ‘self evidence of x ought to be as clear as my hand. If I have to *want* (emphasis added) to find out if x is true and that my appreciation of x is not a mere belief, then it is as if I have to want x to be true.’¹⁹

In the final analysis, according to Sayers Aquinas’ account of self-evidence ‘qualifies on the count that our appreciation of the self-evidently true is immediate.’²⁰ Finnis’ account according to Sayers does not qualify on this count.

A reply to the objections

Let us turn to the particular passage from *Natural Law and Natural Rights* in which Finnis mentions pre-conditions to which Sayers gives much weight. The relevant paragraph is the following:

This is not to say that everyone actually does recognize the value of knowledge or that there are no *pre-conditions* (italics mine) for recognizing that value. The principle that truth (and knowledge) is worth pursuing is not somehow innate, inscribed on the mind at birth. On the contrary the value of truth becomes obvious only to one who has experienced the urge to question, who has grasped the connection between question and answer, who understands that knowledge is constituted correct answers to particular questions...²¹

In this passage Finnis seems to me, to be merely suggesting that one needs to have an understanding of the term knowledge before the proposition that knowledge is a basic good can be self-evident to oneself. One’s understanding of the term knowledge is dependent upon having some experience of knowledge. This experience of knowledge is simply to have had the experience of questioning and finding correct answers to the

¹⁷ *Ibid.*

¹⁸ *Ibid.*, at 98.

¹⁹ *Ibid.*, at 101.

²⁰ *Ibid.*

²¹ Finnis, above n 2 p 65.

questions asked. Sayers overplays Finnis' reference to pre-conditions. Finnis is not as such setting up pre-conditions but merely claiming that one needs to have an understanding of the terms of a self-evident proposition before that proposition can be self-evident to oneself.

The need to grasp the terms of a proposition before that proposition can be self-evident is not an original insight of Finnis but rather a point that was well laid out by Thomas Aquinas. In *Summa Theologica*, Aquinas states that:

Now a truth is self-evident at two stages, one, in itself, two, in our minds. A proposition is self-evident in itself when the Predicate is of the essence of the Subject. At the same time the proposition may not be self-evident to a man who does not know the definition of the Subject. For instance, 'Man is a rational animal', is a self-evident proposition of its nature, since to say 'man' is to say 'rational'. Yet to somebody who does not grasp what man really is, the proposition is not self-evident. That is why Boethius says, *there are some axioms or self-evident propositions generally known to all*; such are the terms of which everybody recognizes, such as, "The whole is greater than the part", or, "Things equal to a third thing are equal to one another." Sometimes however, propositions are self-evident only to the well informed, who know what the terms of the proposition mean.²²

Aquinas' distinction between a statement as self-evident in itself and self-evident in our minds is an important one. For while a proposition may be self-evident in itself it can only be self-evident to a mind which understands the terms. As both Finnis and Aquinas point out, for a proposition to be self-evident to a particular mind one must have experience of or knowledge of the terms.

The requirement that to have an understanding of the terms of a self-evident proposition before such as proposition be self-evident to oneself does not in any way reduce the immediacy of self-evidence. Once the terms are grasped a self-evident proposition itself is immediately understood by a non-inferential act of the mind.

The use of our will and intellect relates to our understanding of the terms of the proposition not the proposition as such. Sayers fails to make this distinction. There may be a process of reasoning in coming to understand the terms of a self-evident proposition but there is not a process of reasoning in coming to understand the proposition itself.

²² Thomas Aquinas, *Summa Theologica*, Vol. XXVIII (Cambridge: Blackfriars, 1966) at 79.

Sayers' claim that Finnis interposes volition to employ the infrastructure of knowledge, whereas Aquinas admits an infrastructure of knowledge but does not interpose volition to employ this infrastructure is thus misdirected.

Aquinas admits reason will have a place in coming to understand the terms of a self-evident proposition but not in grasping the proposition itself; take for instance the self-evident proposition cited by Aquinas that man is a rational animal.

The person who grasps this proposition is the person who understands or makes the effort to understand the terms of the proposition, that is, the wise man. But to the one who does not make the effort to understand by setting their mind to study these terms then the proposition will not be self-evident.

In this regard it is interesting to note the following passage of Aquinas from *Summa Theologica*.

Observe all the same that a thing in its acting and moving may tend towards an end in two ways. First, by setting itself in motion towards it, thus a man; second, by being set in motion towards it, thus an arrow flighted by an archer to the target. Now things possessing intelligence set themselves in motion towards an end, for they are masters of their acts through their own free decisions, of which they are capable by reason and will.²³

Knowledge as an end of human action is a basic good; we can choose to pursue or choose not to pursue knowledge and in pursuing it we can choose to pursue it with varying degrees of intensity. As is the case with all the basic goods, knowledge is a given insofar as it is an end. Whether or not we attain this end depends in part on whether, to borrow from Aquinas, we set ourselves in motion towards this end.

In the case of self-evident propositions we can choose to study, reason out and attempt to understand the terms of the proposition. But once we have understood the terms of the self-evident proposition we do not then engage in an act of the will to reason out the proposition as it is immediately known to us. This in any case is what I understand both Aquinas and Finnis to be suggesting.

Conclusion

Sayers, in order to mount his case that Finnis is at odds with Aquinas,

²³ *Ibid*, Vol XVI at 9.

seems to have been rather unnecessarily select in his appeal to the writings of both Aquinas and Finnis. A wider reading of both of these authors suggests that in the case of the immediacy of self-evidence they are in agreement.

In the Preface of his latest book *Aquinas Moral, Political, and Legal Theory*²⁴ Finnis points out that Aquinas' work is not ideological, rather it is theological and philosophical. In respect of that which is philosophical 'its presuppositions and premises are treated by him (Aquinas) as open to rational consideration and argument.'²⁵ Much of Finnis' work is just this, a rational consideration of the premises and presuppositions of Aquinas' work and it is this which makes it a valuable contemporary contribution to what is generally termed Thomistic thought. However, Finnis, to my knowledge, is not claiming to be or attempting to produce a modern day replica of Thomistic thought.

²⁴ John Finnis, *Aquinas Moral, Political, and Legal Theory* (Oxford: Oxford University Press, 1998).

²⁵ *Ibid*, at p vii.