Buddhism, Nature, and Law: Natural Law Thinking in Early Buddhism

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Natural law is a broad and ancient intellectual tradition united by a central concern to derive—from (supposedly) objectively existent higher principles—norms to guide human conduct. Nevertheless, the natural law tradition is sometimes regarded as narrow. Natural law theorists have disproportionately been Catholic scholars and their theories are often underpinned by Christian assumptions. Several scholars have argued that natural law thinking is identifiable in Jewish, Islamic, Hindu, and Confucian thought, on the grounds that thinkers within these traditions often conceive of morality as deeply intertwined with notions of human good. But, published works explicitly comparing Buddhism to natural law theories are very few indeed. The central question we explore—and ultimately answer in the affirmative—in this paper is: is it coherent to conceptualise the basic teachings of Buddhism as manifesting natural law thinking? By holding up these two schools of thought for comparison, and carefully exploring precisely where and to what extent they overlap and chafe, we seek to help advance a richer understanding of them both.

I. Introduction

Natural law is a broad and ancient intellectual tradition united by a central concern to derive—from (supposedly) objectively existent higher principles—norms to guide human conduct. Nevertheless, the natural law tradition is sometimes regarded as simultaneously narrow. It is true, for instance, that—notwithstanding attempts at secularisation—natural law theorists have disproportionately been Catholic scholars and their theories are often underpinned by Christian assumptions. For example, both ostensibly secular and overtly Christian natural law theories are often very congenial to, if not derived from, Christian ideals (eg, individual responsibility and a plural view of flourishing which reflects the variety of our God-given gifts).

However, several scholars have also argued that natural law thinking is identifiable in Jewish, Islamic, Hindu, and Confucian thought,[1] on the grounds that thinkers within these traditions often conceive of morality as deeply intertwined with notions of human good. On the other hand, published works explicitly comparing *Buddhism* to natural law theories are very few

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[1] See, eg, Anver M Emon, Matthew Levering, and David Novak (eds), *Natural Law: A Jewish, Christian & Muslim Trialogue* (Oxford University Press, 2014); Martin Ganeri, 'Natural Law and Hinduism' (2013) 8(2) *Journal of Comparative Law* 127; Norman P Ho, 'Natural Law in Confucianism' in Jonathan Crowe and Constance Youngwon Lee (eds), *Research Handbook on Natural Law Theory* (Edward Elgar, 2019) 164.

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indeed.[2] This is perhaps surprising, given it is not uncommon to see rather flippant references to Buddhism as endorsing a kind of 'natural law'.[3]

A problem with the existing literature on Buddhism and natural law, moreover, is that none of it has analysed, in any depth, the central question we explore—and ultimately answer in the affirmative—in this paper: is it coherent to conceptualise the basic teachings of Buddhism as manifesting natural law thinking? That is, we ask whether Buddhism's basic teachings manifest an understanding of ethics and law which is fundamentally congruent with the theories of ethics and law advanced by Western natural law theories.[4]

In asking and answering the question of whether early Buddhism manifests natural law thinking, our paper does not merely contribute to an under-explored corner of the history of ideas. Instead, by holding up these two schools of thought for comparison, and carefully exploring precisely where and to what extent they overlap and chafe, we seek to help advance a richer understanding of them both. Further, it is our belief that gaining an appreciation for the affinities and points of tension between natural law and early Buddhism has potential personal benefits for adherents of both traditions. Specifically, an adherent of either school of thought, having become aware of its deep affinity with the other, may find the other tradition mutually reinforcing of her prior beliefs. Additionally, she is likely to be more amenable to seeing the other tradition as having something of value to teach her than would be the case if she viewed it as an oppositional or alien worldview.

Before proceeding, three additional points of clarification are needed. First, in referring to 'Buddhism's basic teachings', we refer to the teachings found in the Pāli and Chinese early Buddhist texts—collectively, 'early Buddhism'—which are the doctrinal foundation of all Buddhist schools.[5] We have deliberately employed this narrow scope because it would be impossible to deal comprehensively with all Buddhist groups in an exploratory paper of this kind. We rely primarily on the Pāli Canon, whose discourses ('*sutta*s') have been entirely translated into English, unlike the equivalent Chinese texts. Accordingly, we also primarily use the relevant Pāli terminology and generally quote from translations (principally by Bhikkhu

[2] Rebecca Redwood French, 'On Buddhism and Natural Law' (2013) 8(2) *Journal of Comparative Law* 141; Damien Keown, *Buddhism and Bioethics* (Palgrave, 2001); Sallie B King, 'From Is to Ought: Natural Law in Buddhadasa Bhikkhu and Phra Prayudh Payutto' (2002) 30(2) *Journal of Religious Ethics* 275; Daisetz T Suzuki, 'The Natural Law in the Buddhist Tradition' (1953) 5 *Natural Law Institute Proceedings* 91; Chao-Hwei Shih, 'The Buddhist Viewpoint of Natural Law and Natural Moral Law' (2006) 33(3) *Philosophy & Culture* 83; Shohei Ichimura, 'Buddhist Dharma and Natural Law: Toward a Trans-Cultural, Universal Ethics' in Charles Wei-Hsun Fu and Sandra Ann Wawrytko (eds), *Buddhist Ethics and Modern Society: An International Symposium* (Greenwood Press, 1991).
[3] See, eg, Keown (n 2) 14; Damien Keown, *Buddhism: A Very Short Introduction* (Oxford University Press, 2nd ed, 2013) 112; Andrew Huxley, 'Positivists and Buddhists: The Rise and Fall of Anglo-Burmese Ecclesiastical Law' (2001) 26(1) *Law & Social Inquiry* 113, 115–16.
[4] Our inquiry is therefore fundamentally different from that in Redwood French (n 2), which defines natural law narrowly as either 'Thomism' or irreligious 'universalism'.
[5] See generally Stephen J Laumakis, *An Introduction to Buddhist Philosophy* (Cambridge University Press, 2012) ch 4.

Bodhi) of the Pāli texts.[6] However, we do cite from the Chinese texts and footnote relevant differences between the Chinese and Pāli versions.[7]

Second, in referring to the concept of 'natural law thinking', we acknowledge that the natural law tradition is a diverse one and that there is, therefore, a danger of obscuring that diversity in attempting to distil natural law into its supposed 'essentials'. Nevertheless, we believe there exists, among works widely recognized as important contributors to the natural law tradition, a clear family resemblance. At the highest level of generality, for instance, natural law theories seek to advance norms by which to guide human behaviour, so as to help human beings flourish and act in a morally upright way. However, to avoid a distorting flattening of natural law, we proceed by separating ethical natural law ('ENL') and jurisprudential natural law ('JNL') theories, and by identifying the core commitments that characterise these respective strands of natural law thought.

In our view, ENL theories can be identified by the following characteristics: (i) a belief that there exist inherently normative human goods whose normativity is accessible to humans, and which are the only intelligible reasons for action;[8] (ii) a rejection of both deontological and utilitarian ethics;[9] and (iii) an adoption, instead, of ethical principles based on a rational interaction with the goods identified in (i).[10] Similarly, we consider that JNL theories are characterised by: (i) the claim that law is necessarily a morally-laden, purposive enterprise;[11]

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[6] *The Long Discourses of the Buddha: A Translation of the Dīgha Nikāya*, tr Maurice Walshe (Wisdom Publications, 2nd ed, 1995); *The Middle Length Discourses of the Buddha: A Translation of the Majjhima Nikāya*, tr Bhikkhu Ñāṇamoli and Bhikkhu Bodhi (Wisdom Publications, 1995); *The Connected Discourses of the Buddha: A Translation of the Saṃyutta Nikāya*, tr Bhikkhu Bodhi (Wisdom Publications, 2000); *The Numerical Discourses of the Buddha: A Translation of the Aṅguttara Nikāya*, tr Bhikkhu Bodhi (Wisdom Publications, 2012). Pinpoints to these texts will be to the translations in the first instance with bracketed pinpoints in the conventional form to the *sutta* numberings and the Pali Text Society ('PTS') editions of the Pāli. Quotations of Pāli texts are from the Mahāsaṅgīti edition.

[7] Where we quote translations of the Chinese texts, unless otherwise stated, this is from the following translations published by the *Bukkyō Dendō Kyōkai* in America: *The Canonical Book of the Buddha's Lengthy Discourses*, tr Shohei Ichimura (BDK America, 2015–18); *The Madhyama Āgama: Middle Length Discourses*, tr Marcus Bingenheimer, Bhikkhu Anālayo, and Roderick S Bucknell (BDK America, 2013–23). Pinpoints to Chinese texts are to the available published translations with bracketed pinpoints to the conventional *sūtra* numberings and the *Taishō Tripiṭaka*. There is one instance where we cite from the partial translation of the *Ekottarika Āgama* by Thích Huyên-Vi, Bhikkhu Pāsādika, and Sara Boin-Webb published in the *Buddhist Studies Review*. Otherwise, as there are no complete published translations of the *Ekottarika* and *Saṃyukta Āgama*s, citations to these are to the originals only.

[8] See John Finnis, *Natural Law and Natural Rights* (Oxford University Press, 2nd ed, 2011) 66, 73, 97; Thomas Aquinas, *The Summa Theologica of St Thomas Aquinas*, tr Fathers of the English Dominican Province (Burns Oates & Washbourne, 2nd ed, 1927) pt I-II qq 91, 93, q 95 a 3. See also Germain Grisez, Joseph Boyle, and John Finnis, 'Practical Principles, Moral Truth, and Ultimate Ends' (1987) 32 *American Journal of Jurisprudence* 99, 103–109, 119–20; Robert P George, *In Defense of Natural Law* (Clarendon Press, 1999) 21, 45, 93, 233.

[9] For the standard ENL claim that fundamental human goods are incommensurable, see eg, Matthew Shea, 'Value Comparability in Natural Law Ethics: A Defence' (2024) 58 *Journal of Value Inquiry* 383; Ruth Chang, 'Value Incomparability and Incommensurability' in Iwao Hirose and Jonas Olson (eds), *The Oxford Handbook of Value Theory* (Oxford University Press, 2015) 205. For the claim that ENL theories cannot sustain utilitarian (cost-benefit) analyses, see Timothy Chappell, 'The Implications of Incommensurability' (2001) 76(1) *Philosophy* 137. And see Robert P George, 'Natural Law' (2007) 52(1) *American Journal of Jurisprudence* 55, 65–6 for the claim that ENL theories, since they insist that moral norms cannot be 'identified and justified' in the absence of careful consideration of 'what is humanly fulfilling and … what is contrary to human well-being' are also necessarily not deontological.

[10] Jonathan Crowe, *Natural Law and the Nature of Law* (Cambridge University Press, 2019) 23; Finnis (n 8) ch 5; Mark C Murphy, *Natural Law and Practical Rationality* (Cambridge University Press, 2001) ch 5.

[11] See Brian H Bix, 'Natural Law: The Modern Tradition' in Jules L Coleman, Kenneth Einar Himma and Scott J Shapiro (eds), *The Oxford Handbook of Jurisprudence and Philosophy of Law* (Oxford University Press, 2004)

and (ii) the claim that it is possible to evaluate laws, *qua* laws, by reference to normative criteria that laws must by and large satisfy in order for the legal system to serve its purpose.[12]

Third, it is not our intention to argue that early Buddhism—much less the entire Buddhist tradition—can or should be reduced to a mere variant of natural law theory. That is, we do not argue that the core claims of early Buddhism are 'just' those of Western natural law in another guise. We are open to the notion that the ultimate moral bases of all Buddhist traditions are best thought of as *sui generis*, and not fully cognisable within existing Western intellectual categories. Rather, our aim is to demonstrate that early Buddhism's core claims about ethics and law 'manifest natural law thinking'—a more generic phrase intended to indicate the basic similarities between early Buddhist and natural law modes of explaining ethics and law, without necessarily forcing a categorisation of early Buddhism as 'a natural law theory' per se.

Having clarified the scope of the ideas being compared in this paper, in Part II we examine whether early Buddhism and natural law thinking are incompatible, and conclude there is no incompatibility. Part III then investigates the extent to which early Buddhist texts in fact manifest natural law thinking.

II. Are Early Buddhism and Natural Law Incompatible?

Assessing whether early Buddhism and natural law thinking are incompatible is an important first step in view of the distinct cultural backgrounds and assumptions of these two traditions. In this Part, we discuss whether early Buddhism is incompatible with natural law thinking, in the sense that any of the key commitments of one must be rejected by the other. More specifically, we consider: (i) whether ENL's rejection of deontology and utilitarianism is incompatible with early Buddhism's ethical outlook, which appears at times to contain both deontological and utilitarian reasoning; and (ii) whether ENL's commitment to the reality of free will is incompatible with the apparently deterministic early Buddhist doctrine of 'dependent origination'.

A. *Deontology and Utilitarianism*

As noted, ENL rejects both deontology and utilitarianism. However, it is arguable that strands of both these moral systems can be seen within early Buddhist ethics. For instance, the basic ethical requirement prescribed for lay Buddhists in the early texts is apparently deontic, in that

61, 77; Jonathan Crowe, 'Natural Law Theories' (2016) 11(2) *Philosophy Compass* 91, 91; Jonathan Crowe, 'Law as an Artifact Kind' (2014) 40(3) *Monash University Law Review* 738; Lon L Fuller, *The Morality of Law* (Yale University Press, rev ed, 1965) 96.

[12] See Bix (n 11) 76–7; Finnis (n 8) ch 1, 359–60; Crowe, 'Natural Law Theories' (n 11) 91–2; Fuller (n 11) ch 2. This second claim that we identify as characteristic of JNL has deliberately been articulated in broad terms, so as to be ecumenical across two important distinctions within JNL. The first of these distinctions is that between the 'strong' JNL thesis (which holds that norms which do not satisfy specified criteria—typically, morality or rationality—are not 'laws' whatsoever) and the 'weak' JNL thesis (which, by contrast, claims that if such norms exhibit all the conventionally accepted trappings of legal validity, then they are technically 'laws', but are necessarily defective as law): see Crowe, 'Natural Law Theories' (n 11) 91–2. The second distinction relates to the specific normative criteria relevant to determining whether a putatively legal norm is invalid or defective. Specifically, while most JNL theorists focus on what we might call 'substantive' normative criteria, for 'procedural' JNL theorists like Lon Fuller, the legal validity of a norm turns on whether it satisfies certain procedural requirements, rather than, say, right reason or sound morality: Fuller (n 11) ch 2.

lay people are expected to strictly abstain from five proscribed actions ('the five precepts').[13] These actions are:

1. killing (any sentient being, including, for example, insects);
2. stealing;
3. committing sexual misconduct;
4. lying; and
5. consuming intoxicants.[14]

However, other texts suggest the moral quality of a given action depends on whether it reduces suffering for oneself and others (similarly to utilitarianism).[15] We must accordingly ask whether the early texts in fact endorse deontology or utilitarianism and therefore—in either case—are incompatible with ENL.

1. Deontology

Broadly speaking, deontological theories classify actions according to whether they are 'morally required, forbidden, or permitted'.[16] That is, they describe our moral duties (*deonta*). The five precepts certainly appear to be moral duties, and many Buddhists—lay and ordained—do view the precepts in this way. Indeed, early texts sometimes present their breach as impermissible even to save one's own life.[17]

However, deontology is not the focus of the early texts' moral outlook. Rather, consistent with early Buddhism's overall soteriological goal, their primary ethical concern is the elimination of suffering.[18] There are texts which state that fulfilling these 'moral duties' will benefit oneself,[19] or that the ultimate importance of doing so is to attain a good birth or *nibbāna*.[20] For example, the Buddha is recorded to have said that he did not prescribe anything which did not contribute to the elimination of suffering:

> If this abandoning of the unwholesome led to harm and suffering, I would not tell you to abandon it. But because the abandoning of the unwholesome leads to welfare and happiness, I say to you: '[Monks,] abandon the unwholesome!'[21]

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[13] See Christopher W Gowans, *Buddhist Moral Philosophy: An Introduction* (Routledge, 2014) 125–6; Sīlavādin Meynard Vasen, 'Buddhist Ethics Compared to Western Ethics' in Daniel Cozort and James Mark Shields (eds), *The Oxford Handbook of Buddhist Ethics* (Oxford University Press, 2018) 331–2.
[14] *Aṅguttara Nikāya* (n 6) 1174–5 (AN 8.39—A iv 245–7); *Dīrgha Āgama* (n 7) vol 2, 19 (DA 12—T1 i 59c12–14).
[15] *Majjhima Nikāya* (n 6) 524–6 (MN 61—M i 415–16), 724–6 (MN 88—M ii 114–15); *Madhyama Āgama* (n 7) vol 1, 80–3 (MA 14—T26 i 436c7–437b2), vol 4, 339 (MA 214—T26 i 798a22–798b4).
[16] Larry Alexander and Michael Moore, 'Deontological Ethics', *The Stanford Encyclopedia of Philosophy* (Winter ed, 2021) <https://plato.stanford.edu/archives/win2021/entries/ethics-deontological/>.
[17] *Aṅguttara Nikāya* (n 6) 1143 (AN 8.19—A iv 201). The Chinese equivalent says that disciples would not break a precept 'until the end of their lives': *Madhyama Āgama* (n 7) vol 1, 278 (MA 35—T26 i 476b28–c5).
[18] Peter Harvey, *An Introduction to Buddhist Ethics: Foundations, Values and Issues* (Cambridge University Press, 2000) 50–1.
[19] *Aṅguttara Nikāya* (n 6) 213 (AN 3.17—A i 114); *Saṃyukta Āgama* (SA 1245—T99 ii 341b17–24).
[20] *Majjhima Nikāya* (n 6) 116–17 (MN 6—M i 33–6); *Madhyama Āgama* (n 7) vol 2, 290–92 (MA 105—T26 i 595c12–596b7).
[21] *Aṅguttara Nikāya* (n 6) 150 (AN 2.19—A i 58). The Chinese parallel omits this section: *2nd Ekottarika Āgama* (EA2 41—T150A ii 881b18–22).

Further, the Buddha explicitly criticised excessive attachment to 'rules and observances' themselves rather than their underlying soteriology.[22] That is, forbearing from φ-ing because φ-ing is 'just wrong'—as is the deontological line—doesn't make sense within the context of the early Buddhist texts. Instead, if we have a moral duty not to φ, that is so because φ-ing causes suffering while not φ-ing reduces suffering (at least comparatively). In other words, the imperative force of moral duties only derives from their relevance to suffering. If that is so, they are not moral duties in the conventional deontological sense.

2. Utilitarianism

If early Buddhism has it that moral duties are only coherent in the context of suffering, this would suggest that early Buddhist ethics is in fact utilitarian.

In broad terms, utilitarianism considers that the only inherently normative phenomena are 'pleasure' and 'pain' (however broadly defined).[23] Further, an action's moral rightness or wrongness is determined solely by the extent to which it will (or can be expected to) maximise pleasure and minimise pain.[24]

Utilitarian theories are not monolithic, however, and differ in how moral agents are to assess an act's consequences. Act utilitarianism, for example, demands that moral agents assess each and every potential act for its possible consequences.[25] Rule utilitarianism, on the other hand, 'claims that an action is right just in case it conforms to a rule the general acceptance of which by humanity would have consequences at least as good for humanity as any alternative rule'.[26] These varieties of utilitarianism will be discussed within a Buddhist framework in due course.

For now, let us focus on the fundamental utilitarian ideas that: (i) 'pleasure' and 'pain' are inherently normative concepts and the *only* such concepts; and (ii) that an act's moral rightness or wrongness depends on whether it maximises pleasure and minimises pain.

In this context, the most basic question is whether early Buddhism considers pleasure to be intrinsically choiceworthy. On the classical Benthamite formulation of utilitarianism—which uses a rather hedonic definition of pleasure—the answer would seem to be 'no'. After all, the early texts consider so-called pleasure (other than the pleasure of *nibbāna*, of course) really to be suffering. Nevertheless, Charles Goodman has argued the Pāli *sutta*s *do* accept the intrinsic value of such pleasure by their frequent invocation of the heavenly rewards attributable to the kammic merit accrued for one's virtuous behaviour.[27]

However, while the *sutta*s certainly accept that some experiences are innately *pleasant*, they never accept their innate *goodness*. For example, both enlightened and unenlightened beings

[22] *Majjhima Nikāya* (n 6) 161–2 (MN 11—M i 66); *Madhyama Āgama* (n 7) vol 2, 269 (MA 103—T26 i 591b8–10); Rupert Gethin, 'Keeping the Buddha's Rules: The View from the Sūtra Piṭaka' in Rebecca Redwood French and Mark A Nathan (eds), *Buddhism and Law: An Introduction* (Cambridge University Press, 2014) 63, 66.
[23] See, eg, Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (1789) ch 1; John Stuart Mill, *Utilitarianism* (1863) ch 2.
[24] Walter Sinnott-Armstrong, 'Consequentialism', *The Stanford Encyclopedia of Philosophy* (Winter ed, 2022) <https://plato.stanford.edu/archives/win2022/entries/consequentialism/>.
[25] David O Brink, 'Some Forms and Limits of Consequentialism' in David Copp (ed), *The Oxford Handbook of Ethical Theory* (Oxford University Press, 2007) 383.
[26] Ibid 384.
[27] Charles Goodman, *The Consequences of Compassion: An Interpretation and Defence of Buddhist Ethics* (Cambridge University Press, 2009) 63–6.

experience ‘pleasant’, ‘painful’, and ‘neutral’ feeling.[28] That is, pleasure is not a figment of ignorance.[29] However, these sensations are also inherently ‘impermanent, suffering, and subject to change’.[30] Indeed, the Buddha went so far as to tell monks that they should be ‘repelled, humiliated, and disgusted’ with the proposition that they followed him ‘for the sake of rebirth in [heaven]’.[31] If there is any sense in which pleasure is desirable, it is simply that it entails freedom from pain;[32] while both are forms of suffering, the former is more subtle and therefore less easily perceptible to ordinary people than the latter.

Goodman’s claim also ignores the important fact that heavenly pleasures were typically only held up as a benefit of virtue when the Buddha was teaching new disciples.[33] Once a disciple learns about *kamma* and rebirth in heaven, the truths of suffering then follow, but only when the Buddha knows the disciple’s ‘mind [is] pliant, softened, [and] rid of hindrances’,[34] and ‘strong enough to receive the true teaching’.[35] By becoming inculcated in virtue by understanding *kamma*, a disciple’s wisdom would also have grown,[36] and they would then be ready to know that such pleasures are themselves suffering. That is, the use of heavenly pleasures to change the behaviour of new disciples—who do not (and are perhaps not able to) understand the true nature of suffering—was always premised on the idea that this would—or at least *should*—give way to motivations not premised on sensual pleasures. Consequently, we should reject the claim that the early texts reproduce the hedonic consequentialism of Benthamite utilitarianism.

Of course, Mill famously espoused a utilitarianism based on ‘higher pleasures’.[37] Accordingly, a utilitarian might wish to embrace a definition of ‘pleasure’ as non-suffering in the Buddhist sense—ie, *nibbāna*. In other words, a moral act would be that which most promotes (or is expected to promote) *nibbāna* for the greatest number of beings, or which conforms to a rule of action which does the same.

This view has some superficial support in early Buddhist texts. For example, it is said that one should not perform acts that ‘lead to [one’s] own affliction, or to the affliction of others, or to the affliction of both’.[38] However, utilitarianism simply cannot account for the decisive role that immoral intentions play in deciding one’s *kamma*.[39]

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[28] *Saṃyutta Nikāya* (n 6) 1263–5 (SN 36.6—S iv 207–10); *Saṃyukta Āgama* (SA 470—T99 ii 119c29–120a2).
[29] Indeed, one cannot become enlightened without understanding sensual pleasures’ gratification: *Majjhima Nikāya* (n 6) 182–3 (MN 13—M i 87–88); *Madhyama Āgama* (n 7) vol 2, 243 (MA 99—T26 i 585c13–17).
[30] *Majjhima Nikāya* (n 6) 185 (MN 13—M i 90); *Madhyama Āgama* (n 7) vol 2, 245 (MA 99—T26 i 586a22–3).
[31] *Aṅguttara Nikāya* (n 6) 213 (AN 3.18—A.i.115). See also *Saṃyutta Nikāya* (n 6) 226–27 (SN 5.6–7—S i 132–33); *Saṃyukta Āgama* (SA 1205—T99 ii 328b3–13).
[32] See Daniel Breyer, ‘The Cessation of Suffering and Buddhist Axiology’ (2015) 22 *Journal of Buddhist Ethics* 533, 541, 548–9.
[33] An exception is MN 129, addressed to monks (who might be expected to be rather advanced). However, monks are not always the best practitioners. See, eg, the various *sutta*s where monks espouse clearly heterodox views, including that there is no danger in sensual pleasures(!): *Majjhima Nikāya* (n 6) 224 (MN 22—M i 130); *Madhyama Āgama* (n 7) vol 4, 177 (MA 200—T26 i 763b3–5).
[34] *Dīgha Nikāya* (n 6) 124 (DN 3—D i 110); *Dīrgha Āgama* (n 7) vol 2, 176 (DA 20—T1 i 88a14–19).
[35] *Madhyama Āgama* (n 7) vol 1, 292 (MA 38—T26 i 479c22–480a2), vol 3, 36 (MA 133—T26 i 630b28–c8).
[36] On the reciprocal relationship between wisdom and virtue, see *Dīgha Nikāya* (n 6) 131 (DN 4—D.i.124); *Dīrgha Āgama* (n 7) vol 3, 46 (DA 22—T1 i 96b16–21).
[37] Mill (n 23) ch 2.
[38] *Majjhima Nikāya* (n 6) 524–6 (MN 61—M i 415–16), 724–6 (MN 88—M ii 114–15); *Aṅguttara Nikāya* (n 6) 213 (AN 3.17—A.i.114), 253 (AN 3.55—A i 159); *Madhyama Āgama* (n 7) vol 1, 80–3 (MA 14—T26 i 436c7–437b2), vol 4, 339 (MA 214—T26 i 798a22–798b4); *Saṃyukta Āgama* (SA 1245—T99 ii 341b17–24).
[39] Damien Keown, *The Nature of Buddhist Ethics* (Palgrave, 2001) 177.

As expounded in the early texts, the doctrine of *kamma* states that all mental, physical, and verbal actions have pleasant, unpleasant, or neutral results for their agent according to the moral quality of the agent's intention.[40] Intentions grounded in three 'unwholesome' immoral roots—greed, hatred, and delusion—have unpleasant results, while intentions grounded in their 'wholesome' moral opposites have pleasant results.[41] That an act reduces suffering, was intended to do so, or will generally do so, cannot render the act moral if it was rooted in hatred, for example; nor can an act's negative consequences render it immoral if it was rooted in love.[42]

Indeed, because kammic consequences necessarily reflect the relevant act's moral quality, it is impossible to foresee those consequences without first knowing that quality.[43] That is, an act's morality is metaphysically prior to its consequences. It is also said that unenlightened beings should not try to divine kammic consequences, as 'one who [does so] would reap either madness or frustration'.[44] Such ideas simply cannot co-exist with consequentialist ethics,[45] and in fact a careful reading of many if not all of the passages said to endorse utilitarianism reveals that they state that immoral conduct *necessarily* harms both oneself and others—rather than defining such conduct by reference to such consequences.

Of course, practical applications of Buddhist ethics might resemble utilitarianism very closely, and individual Buddhists might interpret Buddhist ethics to be something approaching utilitarianism.[46] However, we conclude that, strictly speaking, the early texts do not adopt either utilitarian or deontological ethics, and are thus far still theoretically compatible with natural law.

B. *Free Will*

We turn now to a different obstacle that might obstruct the harmonisation of early Buddhism and natural law thinking: divergent views on free will. Many natural law theorists seem committed—implicitly or explicitly—to a libertarian conception of free will. One example is Robert P George, who has stated: '[A] complete theory of natural law will include … a defense of free choice as a genuine possibility. This entails the rejection of [the view that] all phenomena are … caused.'[47]

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[40] *Aṅguttara Nikāya* (n 6) 963 (AN 6.63—A iii 415); *Madhyama Āgama* (n 7) vol 2, 310–311 (MA 111—T26 i 600a26–b3).
[41] *Majjhima Nikāya* (n 6) 1058–65 (MN 136—M iii 207–15); *Madhyama Āgama* (n 7) vol 3, 380–92 (MA 171—T26 i 706b14–708c28).
[42] Charles K Fink, 'The Cultivation of Virtue in Buddhist Ethics' (2013) 20 *Journal of Buddhist Ethics* 668, 687–8.
[43] Keown (n 39) 179.
[44] *Aṅguttara Nikāya* (n 6) 463 (AN 4.77—A ii 80). The Chinese equivalent does not refer to *kamma* explicitly, but rebirth (which, however, is inextricably linked with *kamma*): *Ekottarika Āgama* (EA 29.6—T125 ii 657a18–24).
[45] One *possible* exception is the Mahāyāna doctrine of 'skillful means', which holds that breaches of moral duty might be justified if suffering would be diminished overall: Harvey (n 18) 134–5; Keown (n 39) 150–63. For example, it is said that (in a previous life) the Buddha killed one robber to save 500 merchants: *The Skill in Means (Upāyakauśalya) Sūtra*, tr Mark Tatz (Motilal Banarsidass, 1994) 73–6. In doing so, he did not receive the normally disastrous consequences for killing but simply trod on a thorn. However, that an immoral act might ultimately be 'justified' necessarily presumes a basic immorality which *persists* even where its consequences make it all-things-considered permissible: cf Keown (n 39) 162.
[46] See generally Katsu Masaki and Jit Tshering, 'Exploring the Origins of Bhutan's Gross National Happiness' (2021) 16(2) *Journal of South Asian Development* 273.
[47] George (n 8) 66.

To George's name can be added those of Aquinas[48] and most natural law theorists of the 'new natural law' variety.[49] For such theorists, the concept of free and rational choice is 'essential to any natural law … theory worthy of the name', since natural law theories posit inherently choiceworthy goods, and since the concept of 'choice' would be incoherent if it were not free.[50]

Conversely, early Buddhism indeed views all phenomena (other than *nibbāna*) as caused (or at least 'conditioned'),[51] including all aspects of our so-called 'self'.[52] This relationship of 'dependent origination' is expressed in early texts by the formula: 'When this exists, that comes to be; with the arising of this, that arises. When this does not exist, that does not come to be; with the cessation of this, that ceases.'[53] Such determinism is clearly incompatible with Finnis and George's labelling of moral agents as 'uncaused causing[s]'.[54] If all phenomena are conditioned—in the way early Buddhism tells us they are—then surely there is no room for human beings to autonomously and rationally exercise truly free choice—as natural law theorists tell us we should.

However, it is an oversimplification to suggest that all natural law theorists embrace libertarian free will. Many natural law theorists make no specific claims about the nature of free will—including, for example, Aristotle, who does not appear to have viewed the so-called 'problem of free will' as a problem at all.[55]

To be sure, it would appear that natural law theory is irreconcilable with hard determinism, since natural law exhorts us to make free choices guided by rationality. That is, since 'ought' implies 'can', the natural law theorist is committed to the view that we can make (or refrain from making) such choices. As such, natural law's prescriptions only make sense if hard determinism—which denies the possibility of free will—is false.

However, none of the core natural law claims identified above imply the truth of libertarian free will and the falsity of the intermediate position known as 'soft determinism' or 'compatibilism'—which has it that human beings are free, morally responsible agents, notwithstanding that determinism is true.[56] In other words, natural law theory's claims are coherent provided that *either* libertarian free will *or* soft determinism is true. And since dependent origination appears incompatible with libertarian free will, early Buddhism will

[48] Aquinas (n 8) pt I q 83.
[49] Patrick Lee, 'The New Natural Law Theory' in Tom Angier (ed), *The Cambridge Companion to Natural Law Ethics* (Cambridge University Press, 2019) 73.
[50] John Finnis, 'Aquinas and Natural Law Jurisprudence' in George Duke and Robert P George (eds), *The Cambridge Companion to Natural Law Jurisprudence* (Cambridge University Press, 2017) 17, 31.
[51] *Saṃyutta Nikāya* (n 6) 575–6 (SN 12.37—S ii 64–65); *Saṃyukta Āgama* (SA 358—T99 ii 100a13–19). This does not imply a binary chain of cause and effect but, rather, a multiplicity of 'conditions', none of which might act as a direct 'cause': see Bhadantācariya Buddhaghosa, *Visuddhimagga: The Path of Purification*, tr Bhikkhu Ñāṇamoli (Buddhist Publication Society, 4th ed, 2010) 559–60.
[52] *Saṃyutta Nikāya* (n 6) 871 (SN 22.20—S iii 24); *Saṃyukta Āgama* (SA 12—T99 ii 2b4–14); *Saṃyutta Nikāya* (n 6) 1172–73 (SN 35.93—S iv 67–69); *Saṃyukta Āgama* (SA 273—T99 ii 72b25–73a1); *Majjhima Nikāya* (n 6) 1131–33 (MN 148—M iii 282–84); *Saṃyukta Āgama* (SA 304—T99 ii 86c23–87a26); *Saṃyutta Nikāya* (n 6) 979 (SN 22.151—S iii 181–82); *Madhyama Āgama* (n 7) vol 4, 183–84 (MA 200—T26 i 764c15–27).
[53] *Saṃyutta Nikāya* (n 6) 575–6 (SN 12.37—S ii 64–5); *Saṃyukta Āgama* (SA 358—T99 ii 100a13–19).
[54] Finnis (n 8) 386; George (n 8) 59.
[55] See Aristotle, *Aristotle's Categories and De Interpretatione*, tr John Lloyd Ackrill (Oxford University Press, 1963) ch 9. Whether Aristotle should be viewed as an outright natural law theorist is sometimes disputed: see Mark C Murphy, *Natural Law and Practical Rationality* (Cambridge University Press, 2001) 7.
[56] Michael McKenna and D Justin Coats, 'Compatibilism', *The Stanford Encyclopedia of Philosophy* (Winter ed, 2023) <https://plato.stanford.edu/archives/win2023/entries/compatibilism/>.

therefore only be incompatible with natural law theory if the former rejects soft determinism and embraces hard determinism.

It is true that several scholars of Buddhism have favoured a hard determinist interpretation, on the basis that dependent origination—together with certain exhortations to deal with wrongdoers compassionately—evinces a denial of moral responsibility grounded in hard determinism.[57] Charles Goodman supports such arguments by reference to, for example, Śāntideva's statement that '[w]hatever transgressions … there are, all arise through the power of conditioning factors.'[58] Similarly, Gregg D Caruso argues that Buddhists must be free will sceptics 'if they wish to take Buddhist ethics seriously'—referring to exhortations to be compassionate to wrongdoers because they act based on conditioning factors.[59]

However, to take these exhortations as definitively requiring Buddhists to be hard determinists would ignore the strong undercurrent of personal spiritual responsibility in the early texts.[60] One of the most fundamental aspects of Buddhist practice—'right effort'—is where a practitioner 'makes an effort, arouses energy, applies [the] mind, and strives' to destroy unwholesome states and cultivate wholesome ones.[61] Such exhortations would be pointless if there were not a real sense in which an agent can choose to make an effort, and a real sense in which those efforts might make a practical difference in that agent's spiritual life.

The Buddha also explicitly criticised those who adopted hard determinism's implications regarding our inability to author our own spiritual progress. For example, he argued that those who thought '[a]ll beings … are without mastery, power, and energy [and are] moulded by destiny, circumstance, and nature … [would] not see in unwholesome states the danger … nor [would] they see in wholesome states the blessing of renunciation'.[62] Indeed, at least one reason why the early texts refuse to posit God's existence is because one could write off one's actions as morally indifferent since they would all be due to God's act of creation.[63]

Goodman has addressed such passages by claiming that the Buddha did not criticise hard determinism itself but, rather, the 'fatalist' idea that things just happen for no reason and cannot be shifted by any cause.[64] Hard determinism, on the other hand, claims that all events are predetermined as part of an integrated causal network in which everything that happens is the causal outgrowth of antecedent events.

It is true that the Buddha criticised the quasi-fatalist view that '[t]here is *no* cause or condition for the defilement [or purification] of beings'.[65] But the true object of disavowal is the idea that one's spiritual progress is out of one's hands. And this idea is common to fatalism and hard

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[57] Goodman (n 27) 154–63; Gregg D Caruso, 'Buddhism, Free Will, and Punishment: Taking Buddhist Ethics Seriously' (2020) 55(2) *Zygon* 474, 481–5.

[58] Śāntideva, *The Bodhicaryāvatāra*, tr Kate Crosby and Andrew Skilton (Oxford University Press, 1995) 52–3. See also Buddhaghosa (n 51) 296.

[59] Caruso (n 57) 492.

[60] *Dīgha Nikāya* (n 6) 245 (DN 16—D ii 100); *Dīrgha Āgama* (n 7) vol 1, 88 (DA 2—T1 i 15b8–9).

[61] *Saṃyutta Nikāya* (n 6) 1709–12 (SN 49—S v 244–48); *Saṃyukta Āgama* (SA 875–9—T99 ii 221a9–c8). See also the preponderance of 'effort' in the 37 'aids to enlightenment': *Saṃyutta Nikāya* (n 6) 1488–9.

[62] *Majjhima Nikāya* (n 6) 513–14 (MN 60—M i 407–408). See also *Majjhima Nikāya* (n 6) 621–2 (MN 76—M i 517); *Saṃyutta Nikāya* (n 6) 995 (SN 24.7—S iii 210–11); *Saṃyukta Āgama* (SA 155—T99 ii 44a3–8).

[63] *Aṅguttara Nikāya* (n 6) 267 (AN 3.61—A i 174); *Madhyama Āgama* (n 7) vol 1, 75 (MA 13—T26 i 435b15–27).

[64] Goodman (n 27) 153.

[65] *Majjhima Nikāya* (n 6) 513–14 (MN 60—M i 407–408), 621 (MN 76—M i 516–17) (emphasis added); *Saṃyukta Āgama* (SA 157–8—T99 ii 44a22–b4).

determinism, which both hold that our futures are, ultimately, *inevitable*. In that context, surely one cannot take the Buddhist path seriously *without* some sort of free will. In short, if the Buddha rejected the fatalist thesis because it undermined his teaching that one could further one's wellbeing through effort—as he did—then he must have also rejected hard determinism.

The apparent commitment of the texts cited by Goodman and Caruso can, we think, be explained as a meditative technique. They are not—and were not intended to be—a comprehensive explanation of the Buddhist metaphysics of choice. Rather, they are simply a means of reducing the suffering one experiences due to others' poor behaviour. They certainly do so by drawing attention to the ultimate metaphysical unreality of human agents as uncaused, unified selves. However, just as determinism need not entail hard determinism, neither must the texts' appeal to conditionality.

We acknowledge that early Buddhism's espousal of the seemingly deterministic doctrine of dependent origination,[66] and its simultaneous emphasis on personal spiritual responsibility, gives rise to at least an apparent conflict. This conflict has resulted in the compatibilist explanation being the most popular among scholars of Buddhism. Proponents of the compatibilist view argue that, since the Buddha 'rejected the idea that we exist outside the causal nexus [of dependent origination]' but at the same time 'rejected the idea that the will is impotent' and instead 'advocated that by making the right choices, we can progress towards enlightenment', he must therefore be taken to have endorsed compatibilism.[67]

We agree with this view. While the Buddha was not moved to give an explicit defence of free will, what emerges from the early texts is the idea that the will is free in the sense of having causal efficacy, and that things can be 'choiceworthy' (and 'chosen' by the will) in the absence of *libertarian* free will. For example, just after an exposition on dependent origination, the Buddha said that '[c]onsidering your own good … is quite enough to strive for the goal with diligence'.[68] This statement evidences a belief not only that what is 'good' is choiceworthy, but also that one has a choice to 'strive … with diligence', *or not*, in pursuit of that good—and all in the immediate context of an affirmation of dependent origination and therefore a rejection of libertarian free will.

In summary, to the extent dependent origination bears on free will, it does not imply that free will is nonsense, but merely that *libertarian* free will does not exist. And, we argue, the opposing view that libertarian free will does exist is not essential to natural law thinking. So, early Buddhism and natural law remain compatible.[69]

III. NATURAL LAW THINKING IN EARLY BUDDHIST TEXTS

Thus far, we have encountered no reason to regard Buddhism and natural law as incompatible at the level of theory. As such, we can now examine the extent to which natural law thinking

[66] Whether dependent origination should be seen as analogous to Western conceptions of causal determinism has been disputed: see Karin Meyers, 'False Friends: Dependent Origination and the Perils of Analogy in Cross-Cultural Philosophy' (2018) 25 *Journal of Buddhist Ethics* 785.
[67] Riccardo Repetti, 'Recent Buddhist Theories of Free Will: Compatibilism, Incompatibilism, and Beyond' (2014) 21 *Journal of Buddhist Ethics* 279, 319–20 (citations omitted), citing Asaf Federman, 'What Kind of Free Will Did the Buddha Teach?' (2010) 60(1) *Philosophy East & West* 1.
[68] *Saṃyutta Nikāya* (n 6) 553 (SN 12.22—S ii 28–29); *Saṃyukta Āgama* (SA 348—T99 ii 98b1–2).
[69] Of course, if one viewed the whole natural law outlook as necessarily committed to libertarian free will, then dependent origination *would* appear to make early Buddhism incompatible with natural law so understood.

in fact exists within early Buddhist texts by digging deeper into their substantive views on ethics and jurisprudence.

To avoid unreasonably shoehorning early Buddhist texts into a natural law framework, we will first expound what we take their fundamental positions on ethics and jurisprudence to be, and only then evaluate whether they evidence natural law thinking.

A. *Ethics*

1. Buddhist Metaethics

We have already noted the tension between deontological and utilitarian strands in early Buddhist metaethics: we have seen that early texts take a strict stance towards compliance with their moral precepts, but we have also seen that these exhortations are only binding because they help eliminate suffering. Clearly, there is a tension here—one the early texts themselves never explicitly resolve. However, we think one solution is to examine the relationship between the *dhamma*, the moral duties it imposes, and suffering.

Let us consider the paradigmatic example of ethical conduct in early Buddhism—the Buddha.[70] What makes him paradigmatic is of course his perfect enlightenment regarding the *dhamma*.[71] This is not just the Buddha's *dhamma* (ie, his teachings), but the broader *dhamma* that is 'the natural order … that underpins the operation of the universe [including] in the … moral spher[e]' (let us call this '*dhamma*-as-natural/moral-order').[72] This order exists independently of the Buddha, and all Buddhas know the same *dhamma*.[73] In short, the Buddha 'discovered' rather than 'invented' the *dhamma*.

The most plausible inference, therefore, is that ethical behaviour is defined as what someone with perfect knowledge of the *dhamma*-as-natural/moral-order would do in acting on this knowledge. Indeed, a frequently endorsed scriptural definition of ethical conduct is that it is synonymous with the behaviour of the wise or which is praised or taught by the wise (ie, those with knowledge of the *dhamma*-as-natural/moral-order).[74]

From this—and when one considers that the Buddha taught the *dhamma* (including its moral duties) solely because it would reduce suffering—it follows that the *dhamma*-as-natural/moral-order and suffering simply cannot be conceptually separated. That is, the moral duties prescribed by the *dhamma*-as-natural/moral-order alleviate suffering *by definition*, and this is precisely *because* they accord with the true nature of the universe.[75] To paraphrase a line from Finnis: were the universe's nature different, so would be a Buddhist's duties.[76]

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[70] *Saṃyutta Nikāya* (n 6) 233–5 (SN 6.2—S i 138–40); *Saṃyukta Āgama* (SA 1188—T99 ii 321c18–322a27); Keown (n 39) 31.
[71] *Majjhima Nikāya* (n 6) 263 (MN 26—M i 171); *Madhyama Āgama*, vol 4, 243 (MA 204—T26 i 777b16–19).
[72] Damien Keown, *A Dictionary of Buddhism* (Oxford University Press, 2003) '*Dharma*'.
[73] *Saṃyutta Nikāya* (n 6) 235 (SN 6.2—S i 140); *Aṅguttara Nikāya* (n 6) 363–4 (AN 3.136—A i 286); *Dīgha Nikāya* (n 6) 403–4 (DN 26—D iii 75–6); *2nd Saṃyukta Āgama* (SA2 101—T100 ii 410b4–8); *Saṃyukta Āgama* (SA 1188—T99 ii 322a22–7); *Dīrgha Āgama* (n 7) vol 1, 7–61 (DA 1—T1 i 1b12–10c29), 240 (DA 6—T1 i 41c29–42a7).
[74] *Majjhima Nikāya* (n 6) 1016–28 (MN 129—M iii 163–78); *Madhyama Āgama* (n 7) vol 4, 159 (MA 199—T26 i 759a19–763a22).
[75] Cf Keown (n 2) 177. It is worth noting that, because of rebirth, this is so even if one sacrifices one's life for a moral precept.
[76] Cf Finnis (n 8) 33.

Of course, natural law theorists may still regard early Buddhism's ethics as retaining an uncomfortably consequentialist flavour, given its soteriology—ie, given its *telos* of *nibbāna*.[77] However, virtue ethics—which, although not coextensive with ENL per se, is highly congenial to it—is also strongly teleological.[78] Indeed, the positing of *eudaimonia* (roughly, 'flourishing') as the *summum bonum* of human existence by Aristotle—whose theory of virtue ethics has profoundly influenced contemporary virtue ethicists—is routinely analogized to *nibbāna* by scholars attempting to tease out Buddhism's metaethical commitments.[79] In any case, however, early Buddhist ethics clearly does *not* manifest the utilitarianism—with its single-minded prescription to maximise happiness without special regard for virtue—that ENL rejects.

2. Buddhist ENL Thinking

The question can and should now be asked: does early Buddhism's ethical outlook recognisably manifest ENL thinking? In taking up this question, we should first recall the key characteristics ascribed to ENL theories, namely: (i) a belief that there exist inherently normative human goods whose normativity is accessible to humans, and which are the only intelligible reasons for action; (ii) a rejection of both deontological and utilitarian ethics; and (iii) an adoption, instead, of ethical principles based on a rational interaction with the goods described in (i). We have dealt with early Buddhism's approach to deontology/utilitarianism in Part II. We turn now, then, to the question of whether early Buddhism considers anything to be inherently choiceworthy and cognisably so.

Damien Keown has proposed three goods of this kind within Buddhism: life, knowledge, and friendship.[80] However, we believe this view is misguided, or at least misleading. Although Buddhism does hold these to be good, this goodness is always qualified in a manner that is at odds with the paradigmatic ENL claim that fundamental human goods have intrinsic value.

For example, all forms of Buddhism indeed highly value life, as is clear from the first precept. Nevertheless, one clear and immediate objection is that Buddhism could hardly conceive of life as inherently choiceworthy given its emphasis on the suffering inherent in most beings' lives. Keown responds to this point with two arguments: first, 'the negative statements one finds in Buddhist sources about life are usually in the context of life when it is lived wrongly';[81] and, second, 'when Buddhism points to the inherent unsatisfactoriness of life … it is not saying that life as we now know it is not good, but only that it is *less* good than the more perfect form of life attained in final nirvana.'[82]

[77] This is the more so if focusing on Mahāyāna ethics, which 'tend[s] to emphasize … the consequences of actions for the suffering of all living beings': Abraham Vélez de Cea, 'The Criteria of Goodness in the Pāli Nikāyas and the Nature of Buddhist Ethics' (2004) 11 *Journal of Buddhist Ethics* 123, 139.
[78] The key difference between virtue ethics and consequentialist ethical theories, therefore, is not that the former lacks a *telos* but, rather, that it specifically posits virtue as the path to that *telos*.
[79] See, eg, Keown (n 39) 22, 195–9; Seth Zuihō Segall, *Buddhism and Human Flourishing: A Modern Western Perspective* (Palgrave, 2020) 33–61.
[80] Keown (n 2) 42–3.
[81] Ibid 49.
[82] Ibid (original emphasis).

Two things should be said here. First, while Buddhist texts do criticise life largely when it is lived wrongly, they also utterly reject the choiceworthiness of rebirth wholesale.[83] Certainly, life may have 'good' moments, but their impermanence is precisely why Buddhism considers non-nibbānic existence to be unsatisfactory. In the usual definition of suffering, '[re]birth' heads the list.[84] Second, both of Keown's arguments assume that life is only good insofar as one is on the path to *nibbāna*.[85] Respectfully, however, something cannot have 'intrinsic' value only insofar as it is a means to something else.[86]

As to friendship, Keown relies on the Buddha's statement in the Pāli Canon that 'good' friendship is 'the whole of the holy life'.[87] However, the word translated as 'good' here—*kalyāṇa*—is more specifically associated with virtue and spiritual progress than that broad translation suggests.[88] Further, the fact that 'friendship' constitutes 'the holy life' implies its subordinance to that life's ultimate goal—*nibbāna*—as is, in fact, indicated by the *sutta* Keown cites.[89] Indeed, rather than extolling the virtue of friendship per se, the Buddha instructed monks only to discuss the *dhamma*—when not doing so, they should keep 'noble silence'.[90] And, as to knowledge, the Buddha explicitly criticised the pursuit of purely speculative knowledge which does not lead to the elimination of suffering.[91] So, Keown's goods are not '*inherently* choiceworthy' in the relevant sense.

The above analysis might, however, appear to indicate that *non*-suffering (ie, *nibbāna*) is a fundamental good in the ENL sense. As we have noted, the *dhamma*'s normative force derives from its relationship to suffering. That is, the most basic oughts in the Buddhist vocabulary can only be suffering and its opposite of *nibbāna*.[92] It is only there that the regression stops, since early Buddhism's soteriology simply assumes both that suffering is something all sentient beings *ought* to avoid, and that all beings in fact desire to avoid it. In other words, suffering and its escape are inherently normative, and this normativity is accessible to humans.

A problem, however, is that the goodness of *nibbāna* itself (as opposed to the evilness of suffering) is not readily cognisable, since *nibbāna* is incomprehensible to the unenlightened.[93] For this reason, *nibbāna* is typically only presented as choiceworthy insofar as it is the *absence* of suffering.[94] This causes an additional problem for the notion that *nibbāna* might be not only

[83] *Saṃyutta Nikāya* (n 6) 226 (SN 5.6—S i 132–33); *Saṃyukta Āgama* (SA 1205—T99 ii 328b3–5); *2nd Saṃyukta Āgama* (SA2 221—T100 ii 455c11–12).
[84] *Saṃyutta Nikāya* (n 6) 1844 (SN 56.11—S v 421); *Madhyama Āgama* (n 7) vol 3, 229 (MA 153—T26 i 673a6–7).
[85] See also Keown (n 2) 46.
[86] Of course, as Keown points out, *nibbāna* is enjoyed as part of life in a formal sense, even after death (the idea of *nibbāna* as annihilation is utterly denied): ibid 49. However, substantively, *nibbāna* is starkly distinct from unenlightened existence—'life' in its usual sense.
[87] Keown (n 2) 52, citing SN 45.2—S v 2–3.
[88] See *The Pali Text Society's Pali English Dictionary* (1921) '*kalyāṇa*'; Keown (n 72) '*kalyaṇa-mitra*'. The Chinese equivalent '善' is again more typically used to refer to goodness in terms of virtue.
[89] See also *Saṃyukta Āgama* (SA 768; T99 ii 200c3–10).
[90] *Majjhima Nikāya* (n 6) 254 (MN 26—M i 161); *Madhyama Āgama* (n 7) vol 4, 236–7 (MA 204—T26 i 775c29–776a1).
[91] *Aṅguttara Nikāya* (n 6) 463 (AN 4.77—A ii 80); *Saṃyukta Āgama* (SA 407—T99 ii 108c28–109a26).
[92] *Saṃyutta Nikāya* (n 6) 984–5 (SN 23.1—S iii 188–89); *Madhyama Āgama* (n 7) vol 4, 301 (MA 210—T26 i 789c22–790a18).
[93] See generally Peter Harvey, *An Introduction to Buddhism: Teachings, History and Practices* (Cambridge University Press, 2nd ed, 2013) 74–6.
[94] *Majjhima Nikāya* (n 6) 255–6, 260 (MN 26—M i 162–63, 167); *Madhyama Āgama* (n 7) vol 4, 241–2 (MA 204—T26 i 777a13–17). See Harvey (n 93) 74–5.

an inherent good and cognisably so, but—in accordance with a Finnissian understanding of the nature of basic goods—also *self*-evidently good.

The best conclusion instead seems to be that for Buddhism suffering is a fundamental evil.[95] Of course, natural law theorists might want to insist on a fundamental good rather than an evil. However, like conventional fundamental goods, suffering is inherently and cognisably normative, and is the only intelligible reason for action. Accordingly, we consider that early Buddhism's fundamental evil serves an equivalent function to fundamental goods, and therefore allows for natural law analysis.

The next question, then, is whether early Buddhism posits an objectively rational way of interacting with suffering which informs the content of morality. For this to be the case, it seems early Buddhism must: (i) impose relevant rational requirements on agents; (ii) prescribe an objective way of responding to such requirements; and (iii) hold that such a response frames the content of morality.

This appears to be precisely what is the case. First, because early Buddhism assumes both that suffering ought to be avoided *and* that all beings in fact desire to avoid it, it must also assume that all beings are rationally required to do so. Indeed, those who have attained enlightenment are said to have done 'what had to be done'.[96] Second, because, as noted, the *dhamma* is the objective means to escape suffering, it is the objectively correct way to act rationally. Third, as we have seen, moral duties gain their 'moral' quality precisely because of their relationship to the *dhamma*. That is, what is *dhamma*-conforming action (ie, rational) is what is moral.

Of course, natural law theorists might object that there simply cannot be only one fundamental form of flourishing (in this case, *nibbāna*), and that this precludes early Buddhism from manifesting ENL thinking.[97] However, we think there are at least three reasons to reject such a claim. First, the Buddhist good of *nibbāna*—as the complement to the evil of suffering—seems sufficiently capacious as a form of human flourishing that natural law theorists should be able to embrace it without abandoning their fondness for fundamental categories of human good. Second, although early Buddhism certainly holds the *goal* of human existence to be singular, it does not expect everyone to approach that goal in exactly the same way or at the same time. One example of this is the teaching of *kamma* first to new disciples and suffering last. The Buddha, that is, was aware of sentient beings' different capacities and knew that some would not be able to fully pursue *nibbāna* with their present abilities. However, he taught something they would understand so they could alleviate suffering (at least relatively) either in this lifetime or future lifetimes.[98] So, the singularity of the *telos* of *nibbāna* is consistent with a variety of human pursuits at any given time.[99] Thirdly and finally, the chief concern with unidimensional flourishing appears to be that this collapses into a consequentialist commensuration of human goods.[100] But as we argued above, early Buddhism does not sustain utilitarian analysis.

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[95] Cf Breyer (n 32).
[96] *Saṃyutta Nikāya* (n 6) 548 (SN 12.17—S ii 22); *Madhyama Āgama* (n 7) vol 2, 263 (MA 182—T26 i 589c21).
[97] See, eg, Finnis (n 8) 113.
[98] See n 34 and text. Cf the early texts' segmentation of progress along the path into four stages: *Dīgha Nikāya* (n 6) 491 (DN 33—D iii 227); *Dīrgha Āgama* (n 7) vol 1, 312 (DA 10—T1 i 53b22–24). One who has reached the first stage and become a 'stream-enterer'—itself a great accomplishment—will nevertheless not achieve *nibbāna* for up to seven more lifetimes: *Aṅguttara Nikāya* (n 6) 319 (AN 3.87—A i 233); *Saṃyukta Āgama* (SA 820—T99 ii 210b27–29).
[99] Breyer (n 32) 549.
[100] See, eg, Finnis (n 8) 112–18.

In sum, early Buddhism holds that suffering is an inherently normative, fundamental evil whose normativity is cognisable. It should therefore be understood to see suffering as—to paraphrase Finnis once more—the only thing 'one could reasonably want [not] to do, to have, and to be'.[101] Further, early Buddhism also asserts that the *dhamma* provides an objectively rational/moral way of interacting with the evil of suffering. This certainly sounds like an ENL outlook, if a slightly unorthodox one.

B. *Jurisprudence*

1. Buddhist Jurisprudence

In the West, Buddhism's 'transcendental' qualities have contributed to the view that it is apolitical (or even anti-political).[102] However, in early texts, not only do the Buddha and his disciples regularly give kings advice,[103] they collectively endorse a particular view of what legal institutions (such as kingship) are meant to achieve.

For example, it is said that, when the current cosmos first expanded, the beings which populated it were morally pure.[104] However, they steadily grew attached to sensual pleasures, which caused suffering, moral decline, and eventually anarchy.[105] Seeing this, the beings elected one who would 'censure those who deserved it, and banish those who deserved banishment'.[106] This being became king, a title the Pāli version defines as 'He [Who] Gladdens Others With Dhamma'.[107] In other words, the very existence of rulers is premised on their ability to keep order, subject human conduct to the *dhamma*, and thereby reduce suffering.[108]

That picture is reinforced by the model of the *cakkavatti* ('wheel-turning [monarch]'): the ideal king who rules according to the *dhamma*, 'depending on the Dhamma, honouring it, revering it, cherishing it, doing homage to it and venerating it, having the Dhamma as [his] badge and banner, [and] acknowledging the Dhamma as [his] master.'[109] Such a king promotes the *dhamma* and guides his subjects towards dhammic conduct,[110] leading the kingdom to prosper

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[101] Cf ibid 97.
[102] See, eg, Max Weber, *The Religion of India: The Sociology of Hinduism and Buddhism*, tr Hans Gerth and Don Martindale (Free Press, 1958) 207.
[103] *Dīgha Nikāya* (n 6) 91–109 (DN 2—D i 47–86), 231–32 (DN 16—D ii 72–75); *Dīrgha Āgama* (n 7) vol 1, 63–6 (DA 2—T1 i 11a8–11b19), vol 3, 107–22 (DA 27—T1 i 107a21–109c21).
[104] *Dīgha Nikāya* (n 6) 409–10 (DN 27—D iii 84–5); *Dīrgha Āgama* (n 7) vol 1, 216 (DA 5—T1 i 37b27–c6); *Madhyama Āgama* (n 7) vol 3, 235–6 (MA 154—T26 i 674b15–c1).
[105] *Dīgha Nikāya* (n 6) 410–12 (DN 27—D iii 85–92); *Dīrgha Āgama* (n 7) vol 1, 216–21 (DA 5—T1 i 37c6–38b20); *Madhyama Āgama* (n 7) vol 3, 236–42 (MA 154—T26 i 674c4–676a8).
[106] *Dīgha Nikāya* (n 6) 413 (DN 27—D iii 92); *Dīrgha Āgama* (n 7) vol 1, 221 (DA 5—T1 i 38b21–c2); *Madhyama Āgama* (n 7) vol 3, 242–3 (MA 154—T26 i 676a8–22).
[107] *Dīgha Nikāya* (n 6) 413 (DN 27—D iii 93). The Chinese equivalents lack this definition but contain similar sentiments: *Dīrgha Āgama* (n 7) vol 1, 221 (DA 5—T1 i 38c1–2); *Madhyama Āgama* (n 7) vol 3, 242–3 (MA 154—T26 i 676a19–21).
[108] Peter Harvey, 'The Buddhist Just Society' in Daniel Cozort and James Mark Shields (eds), *The Oxford Handbook of Buddhist Ethics* (Oxford University Press, 2018) 391–2; Balkrishna G Gokhale, 'Early Buddhist Kingship' (1966) 26(1) *Journal of Asian Studies* 15, 18; Balrkishna Govind Gokhale, 'The Early Buddhist View of the State' (1969) 89(4) *Journal of the American Oriental Society* 731, 733.
[109] *Dīgha Nikāya* (n 6) 396–7 (DN 26—D iii 61); *Dīrgha Āgama* (n 7) vol 1, 227 (DA 6—T1 i 39c5–7).
[110] *Dīgha Nikāya* (n 6) 397 n 789 (DN 26—D iii 61); *Dīrgha Āgama* (n 7) vol 1, 125–6, 227–8, 230–1 (DA 6—T1 i 22a10–11, 39c5–9, 40a16–18, 40a22–3); *Madhyama Āgama* (n 7) vol 1, 484 (MA 70—T26 i 520c8).

and the king's enemies to submit peacefully to his rule.[111] Conversely, an unprincipled king who 'rule[s] the people according to his own ideas'[112] leads his kingdom into ruin and suffering.[113]

The relationship of just governance to the *dhamma* and suffering is further emphasised by the strong analogy of the *mahāsammata* and *cakkavatti* to the Buddha.[114] In later texts, the *mahāsammata* is said to be one of the Buddha's past lives or ancestors.[115] As for the *cakkavatti*, the descriptor 'wheel-turning' reflects the fact that, when the Buddha began teaching, he is said to have set the 'wheel of *dhamma*' in motion.[116] A Buddha's funeral is also supposed to be conducted like a *cakkavatti*'s,[117] and the 32 'marks of a great man' with which the Buddha was born are said to have indicated he would become either a *cakkavatti* or a Buddha.[118] In the Pāli Canon, moreover, a *cakkavatti*'s use of the *dhamma* for his subjects' benefit is explicitly equated with the Buddha's ministry.[119]

In sum, early texts argue that legal institutions exist to keep order and reduce suffering, and that only institutions which rule according to the *dhamma* can do so.[120]

2. Buddhist JNL Thinking

In light of our earlier exposition of JNL, determining whether the preceding sketch of Buddhist jurisprudence manifests JNL thinking requires us to ask whether early Buddhism claims that: (i) law is necessarily a morally-laden, purposive enterprise; and (ii) it is possible to evaluate laws, *qua* laws, by reference to normative criteria that laws must by and large satisfy in order for the legal system to serve its purpose.

First, the tale of the *mahāsammata* indeed indicates that legal institutions are purposive by their nature. Before beings had become corrupted, they simply did not need laws. It was only when their moral decline led to a collapse of social order and a concomitant increase in suffering that it became necessary to invent such things. That is, kingship only exists—both conceptually and empirically—for the *purpose* of keeping order and decreasing suffering. More specifically, because of the relationship between suffering and the *dhamma*, the purpose of legal institutions like kingship is to subject human conduct to rules in accordance with the *dhamma*.

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[111] *Majjhima Nikāya* (n 6) 1023–4 (MN 129—M iii 172–3); *Dīgha Nikāya* (n 6) 397–8 (DN 26—D iii 63); *Dīrgha Āgama* (n 7) vol 1, 124–6 (DA 1—T1 i 21c23–22a13), 229–31 (DA 6—T1 i 40a7–26).
[112] *Dīgha Nikāya* (n 6) 398 (DN 26—D iii 64); *Dīrgha Āgama* (n 7) vol 1, 232 (DA 6—T1 i 40b15); *Madhyama Āgama* (n 7) vol 1, 488ff (MA 70—T26 i 521b27).
[113] *Dīgha Nikāya* (n 6) 398–402 (DN 26—D iii 64–73); *Dīrgha Āgama* (n 7) vol 1, 232–6 (DA 6—T1 i 40b14–41a29); *Madhyama Āgama* (n 7) vol 1, 488–96 (MA 70—T26 i 521b23–523b6).
[114] See generally *Saṃyutta Nikāya* (n 6) 1594–5 (SN 46.42—S v 99); *Madhyama Āgama* (n 7) vol 1, 359 (MA 58—T26 i 493a11–22); *Ekottarika Āgama* (EA 39.7—T125 ii 731b14–25); *Saṃyukta Āgama* (SA 721–2—T99 ii 194a5–10); Uma Chakravarti, *The Social Dimensions of Early Buddhism* (Oxford University Press, 1987) 176, 181; Keown (n 72) '*cakravartin*'.
[115] See, eg, Buddhaghosa (n 51) 412; Stanley J Tambiah, 'The King Mahāsammata: The First King in the Buddhist Story of Creation, and His Persisting Relevance' (1989) 20(2) *Journal of the Oxford Anthropological Society* 101, 108.
[116] *Saṃyutta Nikāya* (n 6) 1846 (SN 56.11—S v 423); *Madhyama Āgama* (n 7) vol 4, 243 (MA 204—T26 i 777b27).
[117] *Dīgha Nikāya* (n 6) 274 (DN 16—D ii 161); *Dīrgha Āgama* (n 7) vol 1, 115 (DA 2—T1 i 20a24–26).
[118] *Majjhima Nikāya* (n 6) 744 (MN 91—M ii 134); *Dīrgha Āgama* (n 7) vol 1, 24 (DA 1—T1 i 4c27–5a1).
[119] *Aṅguttara Nikāya* (n 6) 208–10 (AN 3.14—A i 109–10).
[120] For completeness, we note that later Mahāyāna texts present similar views: see Matthew J Moore, *Buddhism and Political Theory* (Oxford University Press, 2016) ch 3.

The texts are perhaps more equivocal on whether they support the claim that legal institutions can be assessed—*qua* legal institutions—based on whether they fulfil this purpose. In the tale of the *cakkavatti*, for instance, although the overall moral is that kings should rule in accordance with the *dhamma* and that failing to do so will lead to suffering for the king's subjects, it is never explicitly stated that a king who does not fulfil this ideal is defective precisely as a king. However, that is certainly implicit. For one thing, the king who fails to rule according to the *dhamma* loses the 'wheel-treasure'—the most important of the seven treasures a *cakkavatti* possesses that distinguish him from a regular (and, we must infer, lesser) king.[121] But we also think that something very like claim (ii) arises when one reads the *mahāsammata* and *cakkavatti* texts together. That is, when one considers the purposive interpretation of the concept of legal institutions in the former, together with the disastrous consequences which arise from non-dhammic governance in the latter, the only reasonable inference is that non-dhammic legal institutions are simply not functional as such, and can therefore be deemed defective as such. In the *cakkavatti* story, for example, the ultimate result of non-dhammic governance is a complete breakdown of the legal and social order.[122]

Our view is that these ideas can easily be translated to modern conceptions of JNL. For instance, while it must be conceded that the early texts do not explicitly address the question of whether non-dhammic laws are no laws at all, or are merely defective as laws—and therefore do not explicitly endorse either the strong or the weak JNL thesis[123]—we nevertheless think the weaker interpretation emerges from a close reading of the texts. This is because unprincipled kings are always still 'kings',[124] and—more specifically—'anointed kings of the aristocrat class'.[125] That is, provided a non-*cakkavatti* king exhibits all the conventionally accepted trappings of royal authority—such as ceremonial anointment and being of the proper class—he is still technically a 'king', but necessarily a defective one.

The strong interpretation is undermined by the fact that the *cakkavatti*'s semi-mythical status indicates it is extremely difficult to become one. If many, or even most, epochs of history lack a *cakkavatti*, then, in line with the strong natural law thesis, this would mean that very few 'legal' systems would in fact be legal. Such a view is extremely pessimistic about the possibility of genuine legal authority and does not seem to accord with other texts. For example, on one occasion, the Buddha endorsed the authority of existing customs as binding on a particular community.[126] If no *cakkavatti* meant no legal authority then this would be incoherent, since the *cakkavatti* story clearly implies there can be no *cakkavatti* contemporaneous with the Buddha.[127]

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[121] *Dīgha Nikāya* (n 6) 398 (DN 26—D iii 64); *Majjhima Nikāya* (n 6) 1023–6 (MN 129—M iii 172–73); *Dīrgha Āgama* (n 7) vol 1, 229 (DA 6—T1 i 40a1–6); *Madhyama Āgama* (n 7) vol 1, 485 (MA 70—T26 i 520c22–26).
[122] *Dīgha Nikāya* (n 6) 402 (DN 26—D iii 72–73); *Dīrgha Āgama* (n 7) vol 1, 236 (DA 6—T1 i 41a21–29); *Madhyama Āgama* (n 7) vol 1, 496 (MA 70—T26 i 523b1–3).
[123] On the distinction between these two theses, see n 12.
[124] *Dīgha Nikāya* (n 6) 398–400 (DN 26—D iii 64–69); *Dīrgha Āgama* (n 7) vol 1, 232–4 (DA 6—T1 i 40b14–41a1); *Madhyama Āgama* (n 7) vol 1, 488 (MA 70—T26 i 521b24–522c12).
[125] Translated by Oscar Kawamata for '*rājā khattiyo muddhābhisitto*'. Cf the rendering simply as 'King' in the Walshe translation: *Dīgha Nikāya* (n 6) 398 (DN 26—D iii 65). See also *Madhyama Āgama* (n 7) vol 1, 488 (MA 70—T26 i 521b24–522c12).
[126] *Dīgha Nikāya* (n 6) 232 (DN 16—D ii 74); *Dīrgha Āgama* (n 7) vol 1, 64 (DA 2—T1 i 11b1–4).
[127] *Dīgha Nikāya* (n 6) 401 (DN 26—D iii 70–71); *Dīrgha Āgama* (n 7) vol 1, 235 (DA 6—T1 i 41a10–12); *Madhyama Āgama* (n 7) vol 1, 495 (MA 70—T26 i 523a11–12).

Of course, the Buddha would probably not have said the same if the customs were sufficiently wicked. So, the early Buddhist stance seems something close to that of natural law theorist Robert Alexy, who argues that while some laws may be defective but still law, putative 'laws' that exceed a threshold level of injustice simply cannot, for that reason, amount to law.[128]

IV. CONCLUSION

In this article, we asked whether it is coherent to interpret the basic teachings of Buddhism as manifesting natural law thinking. We believe the foregoing analysis reveals the answer to be 'yes'.

It is true that early Buddhism and conventional natural law can appear to chafe considerably in some respects—specifically, relating to freedom of the will and monism about the good. But we contend that, notwithstanding these possible tensions, their ways of looking at both ethics and law are basically the same or very similar. This is revealed by the following conclusions reached throughout the article.

First, ENL is characterized by the vaunting of ethical principles based on rational interaction with categories of human good, and a rejection of deontological and utilitarian ethics. Early Buddhist ethics accords very well with this picture, since it is best viewed as also rejecting both deontology and utilitarianism. Further, early Buddhism's derivation of morality's dictates from correct interaction with the *dhamma* to solve the problem of suffering is analogous to ENL's derivation of morality's dictates from the concepts of rationality and human good. Second, JNL is characterized by a commitment to law as a purposive concept which can be assessed against criteria that are, in some sense, 'moral'. The conception of law adopted by early Buddhist texts—which has it that law is purposive, morally-laden, and ideally *dhamma*-conforming—is in that regard of a piece with JNL conceptions of law.

These conclusions, we think, make it appropriate, and clarifying, to view early Buddhism as manifesting natural law thinking.

[128] Robert Alexy, 'The Dual Nature of Law' (2010) 23(2) *Ratio Juris* 167, 176–7; Robert Alexy, 'On the Concept and the Nature of Law' (2008) 21(3) *Ratio Juris* 281, 287–90.