

MACINTYRE'S PROBLEM OF ARISTOTELIAN
ENTELECHY AND WINTER'S NOTION OF THE
TRANSFORMATIVE POTENTIAL OF LAW¹

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In Alasdair MacIntyre's view, the collapse of morality is not a mere modern event but the culmination of a very long decline. The most serious event in this demise was the Enlightenment's rejection of Aristotelian science, for without the metaphysical framework within which the project of Western ethics has been developed and given its meaning, morality has become fragmented and seems to be based only upon arbitrarily chosen principles. Deprived of an objective grounding in metaphysics or theology, ethics appears doomed to emotivism.

Steven Winter, in his work on legal objectivity, suggests a replacement for abstract, universal objectivity as grounding. He claims that much of legal *theory* of adjudication needs to be revised in light of current cognitive models of its *actual practice*. He contends that recent studies point toward a more *metaphorical* structure of thought than has been generally recognized. In this metaphorical structure Winter sees the potential for transforming our conception of law such that, beyond *preserving* our way of life, law can actively contribute to the *realization* of the way we *envision* our lives.

I want to use Winter's transformative notion of law as a model from which to construct a replacement for Aristotelian metaphysical entelechy as it functions within the framework of Aristotelian ethics. My claim is that, even in the absence of a pre-given natural entelechy, it is both possible and fruitful to utilize the general structure of Aristotelian ethics. However, before this project can be further elucidated, it will be necessary to have a clearer view of what MacIntyre sees as the problem, from whence that problem arises, how Winter sees metaphorical reasoning as the solution to the problem of *legal* objectivity, and how this solution might be translated into the realm of *moral* objectivity as well.

In *After Virtue* (hereafter cited as *AV*),² MacIntyre argues that the confusion of contemporary morality results from the collapse of the cultural context that provided the basis for the original ethical framework of which we are the heirs. Further, he contends, the Enlightenment rejection of Aristotelian science and metaphysics has left will as the only possible ground of ethics.

Central to MacIntyre's argument is Aristotle's threefold metaphysical scheme in which we are given a picture of: 1) who the human creature *is*, 2) who the human has the *potential* to be, and 3) *how* to move from the original state to the actualized one. The original state, the "human-nature-as-it-happens-to-be," is intended to describe the human condition in its raw state, while the actualized condition, the "human-nature-as-it-could-be-if-it-realized-its-*telos*," presents a view of human nature fulfilled, of human life flourishing. Thus, for Aristotle, ethics has a clear function: we strive to *become* what by nature we are *supposed* to be, and we do this because human beings, as all other natural beings, develop this way, according to our given natures.

Crucial to understanding MacIntyre's view of the role that ethics plays in this system is understanding that, although humans have a *telos* (an "end" or "goal"), for Aristotle this *telos* cannot be realized outside of the bounds of human community; human cultivation is a necessary factor for the realization of the human *telos*.³

Given this framework—that human beings in their raw state cannot attain the true condition for which they are intended without the cultivation or intervention of human culture—the role of ethics is readily understood as the *art* of that cultivation.⁴ Ethics becomes the training, the education by which one goes from the untutored state of nature to the cultivated state of one's *true* nature. Thus, for MacIntyre, "Ethics is the science which . . . [enables people] to understand how they make the transition from the former state to the latter" (*AV* 52).

If ethics is the path or the link between the two human conditions, it is so only in light of a teleology. This teleology,

this account of what it means to be human, provides an objective standard of what it takes to be a *good* human. Indeed, within the Aristotelian tradition, normative evaluation is only intelligible given a picture of the *purpose* or *function* of a thing. Thus, personal preference cannot be the ultimate arbiter of morality because, given this *telos*, it is possible to make factual, truth-functional judgments about ethics.

The very close connection between the three parts of the structure—the two conditions of humanity and the ethics of getting from the given to the fulfilled—reveals Aristotelian ethics and metaphysics as a fairly unified world view. Like the sound of one hand clapping, the notion of "as is" can only be intelligible against an "ought to be" or a "could be." Similarly, an isolated view of "changing" is incomprehensible. MacIntyre notes that "Each of the three elements of the scheme . . . requires reference to the other two if its status and function are to be intelligible" (AV 53). As long as the system stayed intact, Aristotelian metaphysics provided the ground for ethics in a coherent and cohesive framework.

However, that system did not stay intact. MacIntyre claims that the Enlightenment redefined the concept of reason such that it was no longer able to "comprehend essences or transitions from potentiality to act" (AV 54) as is required within a teleological scheme. Reason is thus impoverished, becoming mere calculation or reckoning: "In the realm of practice therefore it can speak only of means," and yet "About ends it must be silent" (AV 54).

The inability of reason to deliberate about ends (the most important of which is the human *telos*) radically alters the structure of ethics. As MacIntyre clearly puts it:

Since the whole point of ethics—both as a theoretical and a practical discipline—is to enable man to pass from his present state to his true end, the elimination of any notion of essential human nature and with it the abandonment of any notion of a *telos* leaves behind a moral scheme composed of two remaining elements whose relationship

becomes quite unclear. (AV 54)

We are left with a moral structure that gives a picture of human-nature-as-it-happens-to-be and an ethics that exhorts us to change—but without any unified view of *what* we are to become or *why* we ought become it.

If Aristotle's ethical structure is to have any hope of renewed success, it needs to be regrounded. If this task proves impossible, then MacIntyre feels that a rational basis for ethics fails and we are left with modern emotivism and, more particularly, with Nietzsche's irrational individualism. MacIntyre recognizes that "The problems of modern moral theory emerge clearly as the product of the failure of the Enlightenment project" (AV 62), and he makes a very strong case for the desirability of finding a new foundation for Aristotelian ethics. He says:

Aristotelianism is *philosophically* speaking the most powerful of pre-modern modes of moral thought. If a pre-modern view of morals and politics is to be vindicated against modernity, it will be in *something like* Aristotelian terms or not at all. (AV 118)

With this thought and at this point I leave MacIntyre's assessment of the collapse of "the moral scheme which was the historical ancestor" of modern Western ethics (AV 52) to pick up Winter's thoughts on legal objectivity. This rather abrupt transition does not indicate that I abandon modern morality to go down in flames, but instead I look in a somewhat unlikely direction for the cavalry to come charging to the rescue.

In *Transcendental Nonsense, Metaphoric Reasoning, and the Cognitive Stakes for Law* (hereafter cited as *TN*),⁵ Steven Winter questions the notion of objective adjudication. While many judges *believe* that they only objectively determine whether a given case falls within the boundaries of a pre-given and already defined law, Winter notes their actual arguments show their decisions to be primarily based in a more

