NATURAL LAW:

RELIGION AND INTEGRITY

By

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Abstract:

This thesis examines the contemporary debates over the meaning of natural law. Kent Greenawalt and Ronald Dworkin weigh in on this debate and oppose the theory of natural law with some theories of law that they have developed themselves. Greenawalt argues that citizens in a liberal democracy are not to rely on their religious convictions but rather on publicly accessible reasons. The religious convictions that these citizens have are to be a secondary reliance but can be used in situations where publicly accessible reasons are absent such as abortion. Dworkin develops his theory of Integrity as Law which he explains as a "chain novel." Law is like a novel being written in which the judges must continually add chapters. The goal is integrity. Judges must treat the law that is in place as part of the novel that has already been partly written. It is a way to improve upon the existing laws and precedents. In order for a unifying acceptance of law and development of law, theories of law must be developed. Greenawalt and Dworkin each offer alternative approaches to natural law, and in this thesis, I compare how these theories apply to legal debates concerning abortion and pornography.

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Natural Law: Religion and Integrity

What is Natural Law?
and
a Summery of Terms

What is natural law? Does it exist? And if it does, is it definable? Or what if it is definable but actually does not even exist? Would it be acceptable to use either way? Is the theory of natural law workable? What other concepts of law, such as liberty and equality are needed to understand the true conception of natural law? How does religion fit in with the idea of natural law? These questions have been raised throughout history. These questions are extremely important because the answers will ultimately guide the course of law. Today, lawyers and judges and politicians base their decisions off of their convictions. If they are all on the same page in respect to how to define law and develop law today, then all the laws being made and cases being decided will connect together in one unifying purpose. This paper will explore some of these questions and some of the concepts of law relating to natural law through the ideas and arguments of Kent Greenawalt and Ronald Dworkin.

Judges will interpret laws differently. This is just the mater-of-fact understanding to which this entire paper rests. Judges might even agree on how to interpret law, yet come to completely different interpretations of the same law. They may disagree on the outcome of certain cases too. The question raised, then, is why exactly does this happen? If there is natural law, it seems as though there would not be as much disagreement between judges as we see today. Kent Greenawalt and Ronald Dworkin discuss many different concepts and theories of

law in their books. Greenawalt tends to focus primarily on the idea of how religious convictions should be viewed in light of living in a liberal democracy. Many religious believers would claim their beliefs rest on some sort of natural law. Greenawalt would claim that if that were true, why is this natural law only given to the religious believers? He says that the only decisions that should be made in a liberal democracy are those with publicly accessible reasons which may or may not include religious convictions. Dworkin says that morality is separate from law but yet there is a way to find the correct answer and for judges to make the right decision apart from a theory of natural law. Dworkin tends to favor the term integrity as law instead of attributing judges' decisions to some sort of conviction, religious or otherwise. His idea of integrity as law is somewhat similar to the theory of natural law, but the major difference between these two theories of law is that Dworkin argues that integrity as law is more flexible than natural law and that concepts and laws can actually be added to the law that is currently in use in order to change it, possibly for the better.

Before the ideas of Greenawalt and Dworkin are presented it is important to discuss the basic definition of natural law. Natural law is law that claims to have been set in place by nature. It is not a man made law. It is law that would be found out or discovered by man, but definitely not created by man. It is a theory of law that argues there is a fundamental uniformity in nature and therefore man must adhere to the law that it has set in place from the beginning of time. It is still possible for man to create its own law and because of this there can be law that is in disagreement with natural law.

Greenawalt

Greenawalt focuses on how religious convictions figure in political judgments. Greenawalt argues that the religious convictions that individual citizens of the liberal democracy of the United States have are resting on some sort of natural law. He, however, would claim that there may be multiple natural law theories since people have very different religious convictions. He wants to know how people actually make their moral evaluations and if they should rely on their religious convictions as a good member in a liberal society (Greenawalt 1988). It is important to understand, first off, that Greenawalt does not try to argue for or against people having religious convictions. He argues that it is part of human nature to have some sort of religious conviction and belief system. What he is explaining, however, is whether or not people should use, or adhere to, or rely on, there religious convictions. He says that the idea of religion in political life is based on the premise of liberal democracy (Greenawalt 1988). He does not agree that people should ultimately rely on their religious convictions in order to make political judgments. He states that the citizens in a liberal democracy are basically just allowed to have religious convictions but should not be ruled by them in their political decision making.

He debates whether the authority of a liberal democracy should be secular in nature or include religious convictions. His conclusion is that the government should be secular but when the voters, representatives, and even judges cannot determine fact then they can fall back on their religious convictions. The religious convictions, to which the people hold to, should be secondary. This is the one of the most important clarifications Greenawalt makes in his argument. Greenawalt believes in a difference between rationality and religious convictions. He states, "the argument against reliance on religious convictions often comes down to an argument for reliance on premises that are deemed rational in some way that excludes religious

convictions" (23). Greenawalt then goes on to explain what a reliance on religious convictions actually means. He believes that if one were to abandon religion altogether and after they have abandoned their religion and all the beliefs to which that religion adheres, and if their position on any one subject would change because of the fact that an abandonment of their religion took place, then that person had relied on his or her religious conviction in the first place (Greenawalt 1988).

Greenawalt believes that what is morally right can be determined apart from religion or God (Greenawalt 1988). All that is written in religious books and sources just confirm a morality that can be determined apart from the foundations of that religion or even from God himself. Humanity is therefore capable to successfully judge something moral or immoral apart from any religious convictions. Here Greenawalt is placing humanity on a very high bar. He might be claiming that the ability for man to reason and create is infinite, since, ultimately, humanity will come up with law that is perfectly moral and right. The other side of the argument is that a revelation from God is needed for humanity to even know what is moral and immoral. An intermediate position on whether morality can be figured by humanity apart from God is that humans can, but only up to a certain point. It appears as though Greenawalt might fall into this intermediate position more so than either of the extreme positions though since he does argue that religious convictions should not be relied on, therefore he is not agreeing with Barth or Edwards, but that they can be used only if fact cannot be determined, which means human rationality can only reach a certain point in the spectrum of morality.

Greenawalt then further clarifies what he believes based on living in a liberal democracy. He says that religious convictions are not appropriate bases for political judgments in a liberal democracy (Greenawalt 1988). He says that political morality is what is "accessible to all

persons" (50). The reason people should not rely on their religious convictions is because people have different religious convictions based on their different religions and therefore would "violate the spirit of liberal democracy if they make political arguments or press political objectives on religious grounds" (50). All decisions should be made on publicly accessible grounds. Greenawalt quotes Ackerman in his book to further explain his argument. Ackerman says that he believes the liberal state is "deprived of divine revelation" (55), therefore an individual should not rely on their religious convictions since, in a way, they are, or at least act, as divine revelation to an individual.

Publicly accessible reasons are the way judgments should be made in a liberal democracy according to Greenawalt. He says that equalitarian premise is the starting point for liberal democracy. Greenawalt says, "accessible reasons cannot establish the soundness of any particular religious perspective" (72). He also says that religious truths are "outside the domain of publicly accessible reasons" (75). So, not only does he oppose religious "truths" or convictions because they are outside of any publicly accessible reasons since not all of the public holds to those convictions, but that the publicly accessible reasons cannot ever support religious convictions since there are too many different types of religious morality. In a sense, he is saying that there can never be a uniform agreement on any one set of religious convictions; therefore, it is actually impossible for religious convictions to be supported by publicly accessible reasons.

Greenawalt then considers consenting sexual acts and how they relate to that of publicly accessible reasons versus religious convictions or religious truths. Some of the religious beliefs, Greenawalt claims, restrain liberty (Greenawalt 1988). Greenawalt goes into three ideas about liberty and prohibitions against restricting certain acts that are consenting sexual acts. John

Locke says that these types of things are not the state's business at all. John Stuart Mill claims that people should live their own lives as they wish as long as they do not harm others. He bases his morality off of the harm principle. This is a strict utilitarian approach to the subject matter. And the last idea is that it is just hard to enforce and therefore if the state tried to enforce these acts, there would be an ineffectiveness of the enforcement (Greenawalt 1988). There are reasons for prohibition, however, that can be publicly accessible reasons. These secular reasons include a paternalistic approach for the state to protect the individuals, the protection of family life, from AIDS, and from the "general moral tone of the community" deteriorating (90). Greenawalt claims that the arguments against prohibition are outweighed by the arguments for prohibition (Greenawalt 1988). He believes that liberty surpasses that of protection and that any protection that impedes upon an individual's liberty is, in fact, against the concept of liberty. When religious convictions figure in to the subject of liberty the religious person will claim that the protection and paternalistic approach is beneficial because it includes that of the individual's life after death. Greenawalt claims this is not for the state to be deciding and that it is completely against the institution of a liberal democracy (Greenawalt 1988). Some religious figures will say that the actions are sinful and that the sinfulness of the acts will cause unhappiness and because of that the paternalistic approach is necessary. Nowhere in this reasoning is there found how that would affect a liberal democracy. The people may be unhappy because of their vice, but the institute of liberal democracy is not known to be affected because of this. Greenawalt is primarily concerned about how religious convictions should or should not be used when involved in a liberal democracy.

Animal rights and the environment can be a problem between religious convictions and publicly accessible reasons as well. The status of the animals and the environment and the

reasoning behind what their status is, is accessible to all (Greenawalt 1988). The question of whether or not animals and other non-human entities deserve protection is an important issue. There is a religious conviction that says humans are better and have dominion over the animals. Kant and Aristotle argued this (Greenawalt 1988). Bentham, a utilitarian, asked whether or not animals can suffer. Their moral considerability is an important aspect to the rights that humans will give them. There is a difference between moral consideration and legal protection, however (Greenawalt 1988). People need to go beyond publicly accessible reasons in order to support legal protection for animals (Greenawalt 1988). The reason for this is because, as humans, people in a liberal democracy do not actually have the publicly accessible reasons to support the protection of the animals. Greenawalt claims that there is a place for religious convictions but that it must come secondary to publicly accessible reasons. He says that relying on religious convictions are, in fact, necessary with respect to animal rights and environmental issues since publicly accessible reasons do not provide adequate information and are not enough to come to an answer on the subject.

Greenawalt claims that actions that an individual commits by themselves and do not effect anyone else should not be prohibited. He says that if the state could prohibit actions that society, based on religious convictions, deems wrong or morally bankrupt liberal democracy would be violated. If this is the view that someone takes, Greenawalt says, "masturbation and cursing to oneself would potentially involve matters of public concern" (114). Greenawalt, however, does not look in the aggregate. If this was taking place in the aggregate, then it could be of public concern; the character of the individual is created and established with the actions one does in private and by themselves. The characters of the individuals will be affected by what they do in private. If these actions are done by everyone in society, there will be a greater amount

of people whose true character will be presented to the public in a way that reflects what the individual does or reckons acceptable when they are alone in their own houses. Again, Greenawalt is not concerned with this, however, but whether or not liberal democracy should even allow for such things to take place.

Abortion is a major topic that deals with religious convictions as well. The main issue raised by Greenawalt is whether or not the fetus has any moral status. If so, then it would be wise not to permit abortions. If the fetus does not have moral status the state should take a permissive approach (Greenawalt 1988). The quality of life argument gives a moral status to a fetus yet is permissive to abortion. How can this be if the permissiveness of abortion seems to depend on the moral status of the fetus? Two arguments are used for the permissive approach even when moral status is given to the fetus. The first is that a women's body should not be used in a way to support the life of another being, if so, it would be like that decision is forced against her will to act contrary to that life support. The other argument is that people "are not required to be good Samaritans" (122) so why a women should be required to be one with respect to her unborn child? Greenawalt also says that it is "unfairly harsh" to require abstinence (Greenawalt 1988). Greenawalt also claims that abortion is less safe when illegal therefore it is wise to make it legal so the procedure can be done correctly and without many problems (Greenawalt 1988). Greenawalt claims that the moral considerabilty of the fetus cannot be determined by publicly accessible reasons. He then says, "if a fetus is destroyed, another fetus does not experience fear to distressing anxiety" (Greenawalt 1988). Because of this, it may seem that Greenawalt is holding publicly accessible reasons only to the people involved in the matter at hand, but he is not. He does argue that publicly accessible reasons can be made about abortion.

Greenawalt claims that there are limits on publicly accessible reason and that is why he has said that moral convictions should only be used when someone comes to the limits of the publicly accessible reason; religious convictions should only act as a secondary resource to making judgments in a liberal democracy, both for the judges and representatives as well as the citizens of the democracy. Greenawalt has five reasons against reliance on religious convictions as appropriate. The first is that animal rights, the environment, and abortion can all be decided based on publicly accessible reasons and religious convictions are, therefore, not necessary. The second is that some people will have "personal" reasons for coming to a decision and these reasons may be proper even while religious convictions are improper. The third is that implicit reliance on religious convictions is tolerable but explicit reliance should not be adhered to. The fourth is that consensus is needed if people do end up relying on their religious convictions. And the last reason is that when there is a conflict between decisions, the publicly accessible reasons should override any reliance on religious convictions. Greenawalt, himself, tended to disagree with the first reason saying that sometimes it is difficult to have publicly accessible reasons when finding answers to animal rights, environmental rights, and abortion. Daniel Callahan says, "We share no single, coherent, value system" (147). If this is true, then publicly accessible reasons could never decide any issue dealing with some sort of value. Society's value system is not common and there is no consensus so how do publicly accessible reasons fit in to this equation? The last reason is the most important. Since it is obvious that there is no consensus on religious conviction then publicly accessible reasons should win out every time a decisions needs to be made where this conflict arises since publicly accessible reasons will have more agreement than any religious convictions.

The most important conclusion Greenawalt comes to in his book deals with the third reason against reliance on religious convictions. He says that it is impossible for people to disentangle the threads of publicly accessible reasons with religious convictions. If this is true, the implicit reliance on religious convictions is alright since this implicit reliance will always be there. The next important question that arises is when does the force of the publicly accessible reasons run out? Greenawalt says it is actually impossible to know and that it is difficult when these publicly accessible reasons are embedded in different perspectives (Greenawalt 1988). Overall, it seems like Greenawalt only likes religious convictions if they are linked to publicly accessible reasons.

Greenawalt says that the premises of a liberal democracy do not entail exclusion of religious convictions but the decisions about justice in liberal democracy should not involve reliance on controversial ideas of the good (Greenawalt 1988). The discussion about Church and state is important when talking about publicly accessible reasons and religious convictions. With respect to school prayer, citizens can still attempt to resolve the problems with religious convictions (Greenawalt 1988). It is illiberal, however, when a person imposes or promotes his or her religious convictions and religious views on another citizen. Overall, a good citizen does not need to disregard his or her religious convictions, but a good citizen will not disregard reason either.

Greenawalt believes it necessary for people to conceal their religious convictions. If a decision is made based on religious convictions, however, then the person should state their religious convictions in order for the rest of the public to know why the decision was mad the way it was. Because of these beliefs, Greenawalt then claims that religious leaders should not support political candidates because it would be unwise. The political candidate would then have

to express his religious convictions to the full in order for the citizens of the liberal democracy to understand where he is coming from and why he is making the decisions he is making. The dialogue is what is concerning when decisions are made rather than the actual reason behind the decision.

Greenawalt then asks the question of how legislative representatives should view their religious constituency. Should the representatives show deference to their religious constituency? The representative has many different constituents with different religious convictions. If the representative relied on the religious convictions there would be serious consequences. The constituents would not be able to relate to what the representative has decided since it was based on his religious convictions and not the religious convictions of the constituents. There are too many different religions and therefore religious convictions in one district for a representative to rely on his own religious convictions. It is important, however, that the representative not disregard the constituents' religious convictions. This is the other side of the coin. If the representative does not respect all the different types of religious convictions in his district, then the constituents would not be accurately represented. Overall, it would be up to the representative to find some common ground or publicly accessible reasons to make his decisions which would then be based on the religious convictions of his constituents.

With respect to the Judiciary, Greenawalt says they too should not rely on their religious convictions. Occasional reliance is not improper though since religious convictions may have been built into a law to begin with (Greenawalt 1988). It is important that they go into a decision knowing that they should not rely on their religious convictions. They should then try to avoid relying on their religious convictions throughout the decision process. If, for some reason, however, they fall back to some religious conviction it would be acceptable to Greenawalt as

long as that fall back was implicit. Some terms are outside of the law and could be dealt with by using religious convictions such as "cruel and unusual" and "good moral character". Sometimes answers that judges come to cannot be derived from already existing legal material. In these type of cases, the judge can fall back on his religious convictions since it might be all he or she would have left to make a decision on the subject at hand.

The constitutionality of reliance on religious convictions is the last area of exploration by Greenawalt. He says that certain legislation prohibiting bad behavior that is reasoned by religious convictions should be held in violation of the establishment clause if there is no belief that these bad behaviors cause secular harm. A rational basis test is lacking unless secular harm is found. Greenawalt uses the Supreme Court Case of *Bowers v. Hardwick* which dealt with homosexual sodomy laws in order to prove his point. The enforcement of that law should be unconstitutional. Religious convictions standing alone cannot support legislation (Greenawalt 1988). The Supreme Court case of *Lawrence v. Texas* officially overturned *Bowers v. Hardwick*. With this new understanding of the 14th Amendment regarding Homosexual rights, Greenawalt's reasoning behind using publicly accessible reason is seen in action. Greenawalt concludes his entire argument about religious convictions and publicly accessible reasons by saying that people cannot only focus on secular reasons either. It is wrong for them to do so since they are so deeply entrenched with their religious convictions and beliefs. It is impossible for an individual to lose his religious convictions. Liberal democracy calls for tolerance for religious convictions in serious believers. Dangers result if discourse overwhelms the "common dialogue of rational secular morality," however (258). What exactly is "rational secular morality"? Greenawalt ends his book with this phrase. He obviously would be against any kind of natural law since "rational secular morality" gives the understanding that there is in existence a way for humans, by way of

logic and reasoning and "publicly accessible reasons," to discover the correct answer. Does he honestly believe humans are that intelligent and capable? He must clearly believe he is. Natural law would say the opposite of a "rational secular morality" approach. It would claim that humans are incapable of coming to the right conclusion unless there is some sort of natural law to follow, one that has been set in place by nature from the beginning of time. The problem is, though, how do we know what that natural law is? And an even more important question might be: what if the rational secular morality is, in fact, the natural law – just that it was discovered through human logic and reason and not created by human logic and reason?

Dworkin

Ronald Dworkin approaches the question of natural law in a slightly different way. He gives the broad understanding of law and some of the features of law itself in order to present that there is also, what Greenawalt would claim to be, "rational secular morality." Dworkin believes there is a right and wrong way to go about judging law and that he does not get the answer from some sort of religious conviction or heavenly morality or natural law. Instead, the answer comes about by human reason and logic.

Dworkin says that people have different methods for deciding what the law says but he finds it very important to let everyone know that there is a correct way to do so, and if the judge is not doing it that way, then he is using the wrong method. He places the way to finding the correct methods in different stages. The first stage is the semantic stage where critical concepts, natural kind concepts, and interpretive concepts are important (Dworkin 2006). Critical concepts are concepts where the people agree with the same definition of the criteria used to determine a certain law. Natural kind concepts are that people agree on the physical or biological structure of

something. The interpretive concepts are where people agree on the end or goal, but may disagree on how to get there. The next stage is the jurisprudential stage where the theory of law is put together based on the agreements in the semantic stage. Then the doctrinal stage comes next. Dworkin says that in this stage people "construct an account of the truth conditions of propositions of law" (13). Dworkin then goes on to say that "it would not be competent justification of contemporary legal practice to say that it serves the value of enforcing god's will as this is revealed in some specified biblical document" (15). Here Dworkin agrees with Greenawalt in saying that the religious convictions are not competent in today's society, which Greenawalt makes clear is a liberal democracy and Dworkin states, in general, as contemporary legal practice. The last stage to decide the proper method of determining the meaning of law is the adjudicative stage. This is when or if judges act independently to the law. It might be a good idea for the judge to act independently from the law and ignore the law based on some moral obligation the judge has in deeming the law unjust or unwise.

Dworkin then goes on to talk about theories of law which include legal pragmatism, moral pluralism, and political doctrinal positivism. Legal pragmatism is a theory of consequentialist morality and utilitarian in approach. The judges who follow and adhere to this theory of law "use political power to try to make things better" (26). The judge Richard Posner decided cases based on best possible consequences. He is a legal pragmatist. Dworkin disagrees with this approach and is against Posner's method for deciding cases. The major issue with deciding cases this way is that it is hard to determine what the best consequences are and there really is no way to know for sure. The approach is subjective and based on the judges own personal opinions on the matter. Dworkin says foundationalism is the "cardinal enemy" of pragmatism. His definition of foundationalism goes like this: "any attempt to ground inquiry and

communication in something more firm and stable than mere belief or unexamined practice" (44).

The theory of moral pluralism was developed by Isaiah Berlin. It claims that there are equal and opposite values that taken separately may be correct, but taken together hold some form of contradiction. Isaiah Berlin says that "total liberty to the wolves is death to the lambs" (105). He then goes on to say a "perfect whole" is not merely unobtainable, but "conceptually incoherent" (105). Berlin actually believes that morality is objective but that there are "irresolvable conflicts among true values" (107). The story of Abraham and Isaac is used to show that there is some sort of moral pluralism. Abraham is said that if he holds to the convictions of having an absolute religious duty to God and an absolute moral duty not to injure his child then he is "certain that he cannot avoid doing wrong" (110). Berlin uses this moral pluralism to describe the concept of liberty. He says that liberty and equality are in contradiction of each other unless the concept of liberty is changed.

Political legal positivism is the separation of any moral reasoning with legal reasoning. Dworkin says, "Sociological positivism holds that moral tests do not figure among the proper tests for distinguishing law from other forms of social or political organizations" (26). Dworkin then says that this theory has legal constraints in the constitution with the phrasing of "cruel and unusual" punishment. This must be read as moral constraints rather than legal restraints. The law and morals should be separate by the very nature of the law according to Dworkin. This theory of positivism, developed by H.L.A. Hart has some objections. Dworkin raises the matter that the "identity, character, weight of principles… depend on a judge's own conviction of person and political morality" (32). Here, Dworkin starts using morality as a synonym with Greenawalt's religious convictions. Both tend to say that morality or religious views are present but should

ultimately be secondary in the decision making of judges. John Rawls says that the law is "not separate from, but as a department of morality" (34). Dworkin says there are different types of positivism. There is a pickwickian positivism where, Jules Coleman claims, there is a convention of how to identify what law requires even when people disagree about what it requires (Dworkin 2006). This positivism is essentially anti-positivism because Coleman tends to abandon or change definitions of the traditional articles of positivism. This has the affect of undermining the original title to what he believes. Joseph Raz has another form of positivism called Ptolemaic positivism. This type of positivism says about religion that, "religion tells how to avoid what is unfair, not avoid what he judges to be unfair" (207). And another form is doctrinal positivism. Dworkin says of this that "we cannot understand legal argument and controversy except on the assumption that truth conditions of propositions of law include moral considerations" (234). Here Dworkin uses the term moral consideration to mean something similar to Greenawalt's religious conviction. Overall, the theory of positivism is in contrast to that of natural law. Both H.L.A Hart and John Austin subscribe to the theory of positivism. They believe that, ultimately, judges should not be involved in moral decision making. Judges are there just to say what a law means. The example of the speed limit set at 55 M.P.H is used. Hart would say that the limit is true because the people have accepted it, while Austin would say it is true because the legislators have authority and set that limit. Either way, though, both Hart and Austin would say that the speed limit is indeed 55 M.P.H. They would not say it is acceptable for a judge to question whether the actual number set for the speed limit is right or wrong.

The challenge to positivism theories are natural law theories. Dworkin says in *Law's Empire,* that the school of natural law has many theories grouped under it and that they all are "remarkably different from one another and the name suits none of them" (35). The extreme

theory of natural law, according to Dworkin is the one that says law and justice are identical. Dworkin clearly believes this is absurd. He states later in *Law's Empire*, "Law is also different from justice. Justice is a matter of the correct or best theory of moral and political rights, and anyone's conception of justice in his theory, imposed by his own personal convictions, of what these rights actually are" (97). To the positivist, law and morality are separate; to the natural law adherer, law and morality are united.

Dworkin begins with his discussion of different theories of law, in *Law's Empire*, by going over semantic theories. He claims that there is "no general agreement or disagreement about law at all, but only the idiocy of people thinking they disagree because they attach different meanings to the same sound" (45). Another way to say this is that people have the same words but use different dictionaries to define them. This makes communication extremely difficult. Dworkin underlines the concept of law, however, with the idea that semantics is important. He calls it the "semantic sting."

Dworkin says that "people… impose meaning on the institution – to see it in its best light – and then to restructure it in the light of that meaning" (47). Down to the core, this basically is just relating to interpretation. Society has set rules, then people will try to find some sort of meaning for the rules and once they create this meaning, they add more rules to fit that meaning and take away some rules to fit that meaning too. Law is an interpretive concept, Dworkin says, and therefore it is important to understand interpretation. He gives the definition of interpretation to be that "the purposes in play are not (fundamentally) those of some author but of the interpreter" (52). Since law is a continuous notion in society, there is no way law could not be considered an interpretive concept. The purposes of the original author of a law or original author of a precedent being followed today are not in play, Dworkin says. They are not in play

since that person is not here to make some sort of decision for the current case. The judge or interpreter now holds in their hands the purpose of the law or precedent that the original author may or may not have had. Dworkin says that, "All interpretation strives to make an object the best it can be, as an instance of some assumed enterprise, and that interpretation takes different forms in different contexts only because different enterprises engage different standards of value or success" (53). How can there be any sort of natural law if this is true? Could natural law be law that just conforms to the different enterprises people belong?

Dworkin further explains the importance of interpretation by saying that "interpretations must apply an intention" (55). He says that it is the interpreter's necessity to interpret "someone else's motives and purposes" (62). If they do not do this then the interpretation would not be neutral. Intention is a major factor in interpretation. If there is natural law, then it would be fitting to say that at some point in time, interpretation would be unnecessary since the intentions would be remarkably consistent. The evolution of law may end up at this utopian conception, but how can all people ever agree if all people have different values, as Dworkin states earlier? The interpreters and the original authors "must understand the world in sufficiently similar ways and have interests and convictions similar to recognize the sense in each other's claims" (63). The times are changing, however, and this sufficiency seems to be decreasing more and more. If this is the concept of law most people adhere to, an interpretation concept of law, then the future seems pretty bleak. How will there ever be any consistency or objectivism in law without a consistent and objective source of law called natural law?

Dworkin explains the link between law and morals. He says that past laws were based on a form of popular morality of the time. According to Dworkin, "Law is different from Justice. Justice is a matter of the correct or best theory of moral and political rights, and anyone's

conception of justice is his theory, imposed by his own personal convictions, of what these rights actually are" (97). Earlier, the contrast between positivism and natural law was brought up. Positivism separates morality and law and natural law brings them together. If everyone has different moral convictions, however, why would it be better, as a positivist would argue, to separate them completely from law and public debate? It seems to make more sense to encourage people to follow their moral convictions. Greenawalt would be terrified at this suggestion. He said that people should only rely on publicly accessible reasons and not on religious convictions. What is the purpose of having these intrinsic moral and religious convictions if it is not recommended to use them with respect to law? They are used in people's conception of Justice so why should people not use them in their conception of law? Dworkin narrows his discussion to three types of conception of law from here on out in his book. These three conceptions of law "begin in some broad thesis about whether and why past political decision do provide such a justification [for coercion], and this thesis then provides a unifying structure for the conception as a whole" (109). Dworkin now begins to place law in a distinct role apart from morality.

Conventionalism is the first conception of law that Dworkin discusses. Basically the premise behind conventionalism is that the law is the law and therefore it should be enforced. Conventions are governing bodies that make the laws or interpret the laws. In the United States the convention is the Congress or other state and local legislation or courts. Since these conventions are respected and enforced, the laws they make should also be respected and enforced. Dworkin says that "rules sanctioned by convention grows steadily" (115). This means that the laws that are put in place can either be formal or precedent. The courts can form opinions that will be considered the law and if that is the case, that new law should be enforced. Dworkin uses *Plessy v. Ferguson* as an example to how conventionalism fails. The United States would

have had to uphold this decision just for the fact that it was made by a convention. Dworkin says that conventionalism "seems to be reflected in ordinary experience" (121). He says that an outside look on the legal system in America, that it appears as though conventionalism is the reigning conception of law. The political and moral convictions of conventionalism differ since they adhere to the law no matter.

The two kinds of conventionalism Dworkin writes about are strict conventionalism which uses explicit extensions of the law and soft conventionalism which uses implicit extensions of the law. The implicit extension is "everything within" the law and judges may actually disagree about what content can even be used. Soft conventionalism "instructs judges to decide according to their own interpretation of the concrete requirements of legislation and precedent" (125). Basically, Dworkin is saying that soft conventionalism is not even really conventionalism in the first place. They do not rely on precedent as much. Strict conventionalism takes the other side of the coin. They, however, can be "liberated from legislation in hard cases because the explicit extension of these legal conventions is not sufficiently dense to decide those cases" (129). The strict conventionalists do not exhaust the convention's laws when they feel there is too little information about the law. They will then step in and make a new law when deciding certain cases, which will then be required to be followed by conventionalist judges in the future. Dworkin says that this type of conception of law "differs from law as integrity" (134) which will be described later. Dworkin asks whether or not conventionalism can even provide for a justification of its legal practices. There is the idea of protected expectation which conventionalists say that only conventionalism can provide for. It does not allow for any law beyond convention which means that there is an expectation for protection in this conception of

law only. Dworkin obviously disagrees and gives two other conceptions of law that he deems even better than the conception of law called conventionalism.

Dworkin claims that pragmatism is a better conception of law than conventionalism is, but he does not quite support it either. Pragmatism "encourages judges to decide and act on their own views" (152). Pragmatism looks to the future and decides whether or not a person should be entitled to some legal right if it is harmful to others for them to actually have that legal right. Dworkin, therefore, says that pragmatism "denies that people ever had legal rights; it takes the bracing view that they are never entitled to what would otherwise be worse for the community just because some legislature said so" (152). This means that the pragmatist judge can deem which precedent to use and which ones to dismiss as ill-advised. Te do not follow precedent as strictly as a conventionalist or any law from a convention as a conventions would. Dworkin uses the term "prospective-only" for the technique that the pragmatist judge uses in decided certain cases. They look beyond just the law or the situation even. They look ahead as a utilitarian and decide if the decision they will make is best for the community. If it could be worse for the community as a whole, they will not decide in that direction. This type of conception of law is a "skeptical conception of law because it rejects genuine, non-strategic legal rights" (160). Since this is the case, pragmatists are most definitely consequentialist in their reasoning. Pragmatist are not as subjective, however, as they might come across. They decide their cases in order to have the best outcome for the community and they say that the best outcome for the community would be having the least amount of injustice present. Dworkin then asks, "How can that goal itself be unjust?" (163). Because of their idea of the community, there is a community personification that a pragmatist judge holds. They are able to say that the community as a whole is able to stand for principles of justice just like individuals are able to do. When the pragmatist judge does this and

takes the community "seriously as a moral agent" (171), then the responsibilities fall on the community itself and not the individuals that make up the community. Dworkin calls this the "working personification". For elected office holders, they too respect the community this way and are a representative of the entire community as a whole. Because of this, as a community, the people look at the elected office holder as that working personification. The elected official then "reinforces and sustains the character of collective guilt, our sense that we must feel shame as well as outrage when they act unjustly" (175).

Integrity as Law is the third conception of law that Dworkin explains in the book. He begins to develop the idea of integrity first in order to make his understanding of Integrity as Law in a more understandable way. The first thing that Dworkin discusses is the difference between fairness and justice. He says that "fair institutions sometimes produce unjust decisions and unfair institutions just ones" (177). Then the biggest statement that Dworkin makes relates to integrity. He says that "fairness or justice must sometimes be sacrificed to Integrity" (178). How does that make sense? Dworkin explains the "checkerboard theory. He uses the example of zoning laws. Sometimes the zoning laws are arbitrary, especially with relation to parking. He says that sometimes people can park on one side of the road but only on certain days. This is the main concept of the checkerboard theory of law. With relation to more important laws such as abortion, a checkerboard strategy would be that only on certain days of the week could women get an abortion. He then says that there is "no reason of justice for rejecting the checkerboard strategy in advance, and strong reasons of fairness endorsing it. Yet our instincts condemn it" (182). Integrity is very important. Dworkin explains that it hasn't quite been discovered exactly what it is but we know it is out there. He says it is like Neptune. Astronomers new there had to be another planet out beyond what we knew in order for the solar system to function as it did, but

we had not yet actually discovered Neptune yet. Dworkin says, "Integrity is our Neptune" (183). The integrity as law judge would take the community as a moral agent in order for it to defend the idea of integrity. Once community adopts integrity, it "promotes its moral authority to assume and deploy its monopoly of coercive force" (188). Dworkin then gets into the idea that there are three types of community. The first is de facto community, which is basically the idea that a community is a community just because. It is a community as an "accident of history and geography" (209). Then the second type of community is rulebook community. This type of community is like what the conventionalists believe community is. It accepts "internal compromises of our checkerboard statutes" (210). The third and last type of community Dworkin mentions is the model of principle community. This takes to heart the idea of integrity as law above everything else. Dworkin's definition of this type of community is as follows: "Each accepts political integrity as a distinct political ideal and treats the general acceptance of that ideal, even among people who otherwise disagree about political morality, as constitutive of political community" (216). This type of community called the model of principle community or the political community is a community that adheres to the fact that "integrity is central to politics" (216).

The best description that Dworkin uses for Integrity in Law is that it is somewhat a combination of Conventionalism and Pragmatism. He says that "it insists that legal claims are interpretive judgments" (225) and that "they interpret contemporary legal practice seen as an unfolding political narrative" (225). There are different types of translations such as a mechanical translation which would be like translating one language to another or interpretation of what the words actually mean that are being translated. Dworkin says that there is no freedom in the strict mechanical translation, unlike the immense freedom of beginning a new novel.

Dworkin describes the process of law interpretation in the concept of law of Integrity in Law as a sort of chain novel. He says that it is like only part of a novel has been written, which is what the precedent and common law would resemble. He says that a judge must take these chapters of the novel and write the next chapter in line as if he was the author of the overall chain novel. If there is an actual "real" novel, which Dworkin argues that there is, then the judges should be able to write it. This chain is called the "chain of common law." Dworkin then says, however, that "law as integrity consists in an approach, in questions rather than answers, and other lawyers and judges who accept it would give different answers from his to the questions it asks" (243). Basically what Dworkin says law as integrity should ask is for an assumption by the lawyers and judges that there is a set of principles about justice and fairness and that these principles should not be overlooked but enforced according to the same standards that the all other cases, just like the one they are currently deciding, have been enforced. This integrity, as Dworkin describes as a sort of Neptune, is fairly similar to the idea of Natural Law.

Compare and Contrast

How have the ideas presented by Greenawalt and Dworkin fit together relating to natural law and how do they diverge? The major difference between these two authors is the terms they use to explain their arguments. If a closer look is taken with respect to the words used by both Kent Greenawalt and Ronald Dworkin, the overall arguments will appear very similar.

Dworkin tends to agree with Greenawalt with respect to religious convictions, or just "convictions" in general, and says, "Each judge's interpretive theories are grounded in his own convictions about the "point" – the justifying purpose or goal or principle or legal practice as a whole, and those convictions will inevitable be different… from those of other judges" (Dworkin

1986). Here, Dworkin is saying that convictions are a part of every judge's decision making process. This now brings up the point of whether or not natural law could just be intrinsically a part of some people's convictions while not being a part of others', and why that would even make sense if it were true. Obviously, it has been decided by both Greenawalt and Dworkin that people have different convictions, whether they are religious or not doesn't matter. The fact that different people believe different things and have different values and standards points towards one conclusion: people have some sort of intrinsic moral convictions. Dworkin and Greenawalt would not say that there is a set in stone extrinsic moral value system in which people must adhere to. If not everyone agrees about some idea of an objective law (only a few do), then it could be possible that this objective or natural law only resonates intrinsically in the intuition and moral convictions of those who adhere to that theory of law? In other words, is natural law self-illuminating? Ronald Dworkin develops the idea of integrity as law throughout the entire book of *Law's Empire* and the final outcome of this development draws his "Neptune" into an eerily similar path with natural law even though Dworkin claims to not support the theory of natural law.

The main difference between Dworkin's theory of integrity as law and natural law is explained when Dworkin uses his novel analogy as a way to say that integrity is something that is needed in order to amend the law that is currently in place. If natural law is seen as set in stone by nature, Dworkin would say there is no amendment process for that. He says that integrity as law is not set in stone but being found out day by day. There is not amendment process for the religious convictions people tend to adhere to either. The Bible or the Koran does not have any amendment process set up to amend or improve or fix the ideas presented in these sacred books. Like Greenawalt, Dworkin argues that religious convictions are like a text that has been set

forever. Integrity is different than this theory, which is most similar to natural law, because integrity as law is basically an amendment process to the law currently in place. Natural law or religious convictions, both Greenawalt and Dworkin would argue, are not self-illuminating. Dworkin even says integrity as law is not self-illuminating but that humanity needs to use their reason in order to reach a law that adheres to his integrity as law theory. This integrity is followed by judges and representatives and legislation and other government officials as a way to add to current law. In order to maintain this integrity, Dworkin would argue, the law that is set up now may need to be changed. The judges are able and capable to change this law based on their reasoning and logic, or as Greenawalt would say, they are able to do it based on their "publicly accessible reasons". In a sense, the publicly accessible reasons that Greenawalt claims are so important for a liberal democracy are just another way humanity is able to amend the law to make it better. So, going back to the novel analogy, chapters are added continually to improve the law currently in place and get closer and closer to integrity as law. Greenawalt might argue along these lines too if he used the novel analogy. He would claim that the publicly accessible reasons are just the way the new chapters are added.

The next question to ask is whether or not, when the final chapter is added to the novel and the novel has come to a close, the novel is set in stone? Is the novel a sort of natural law when that happens? Would Greenawalt or Dworkin argue for this instance ever taking place? Or would they claim the novel is never ending? Another question is whether or not humanity is discovering the additional chapters to the novel or if humanity is creating the chapters. Dworkin would argue that humanity is doing a combination of the two. Integrity as law is to be discovered, but mankind has the ability to reason and create laws, therefore, if they create a law

wrongly, they then still have the ability to amend the laws in place to get on the right track towards integrity as law.

Going back to the idea that integrity is a sort of "Neptune," Dworkin's theory about integrity as law seems to adhere to some idea about natural law. If people know there is a Neptune out there but cannot see it yet, it would seem to mean that no matter what humanity does, by way of legislation and law making, that integrity would still be there. Humanity could be moving in the complete opposite direction of the integrity as law theory that Dworkin has explained. With this in mind, Natural law is fairly similar to the idea of knowing there is something out there, whether it is Neptune or some form of divine revelation. The most significant distinction, however, between what Dworkin argues for in his theory of integrity as law versus natural law is that integrity as law is to be found out by humanity by reason and logic or "publicly accessible reasons" rather than it being given to humanity by some sort of cosmic or divine or natural revelation.

So, how then can mankind successfully use their reason and logic by way of "publicly accessible reasons" to create and discover the additional chapters needed for the novel of law? Greenawalt and Dworkin discuss specific issues of law in which they can apply their theories and understandings. The issues of abortion and consenting sexual acts such as homosexuality and pornography are controversial topics in law. These issues and where Dworkin and Greenawalt stand will help further clarify Dworkin's and Greenawalt's theories about religious convictions and how they diverge from natural law theory.

Abortion and Pornography

Dworkin begins his discussion about abortion with some alarming statistics. He says that, at the time of his essay, sixty-once percent of Americans believe abortion is morally wrong and that fifty-seven percent believe it to be murder. Yet, seventy-four percent of the same population that was polled in the survey believe that "abortion is a decision that has to be made by every woman for herself" (Dworkin 1996). How can these statistics be reconciled?

The answer is found in how the issue is to be resolved. The question of whether a human fetus is a person is at the heart of the issue. Dworkin believes that this question cannot be resolved scientifically. He states that the people in America tend to believe it is a bad idea for the courts to decide the fate of the issue and that it should be settled politically. Dworkin takes the opposite side of that issue and claims the courts are actually the only way the issue can be resolved successfully. The way he explains why the court should settle the dispute even though it is a tremendously unpopular notion among the people of America is by focusing on the question presented in *Roe v. Wade*. He says the "key question in the debate over *Roe v. Wade* is not a metaphysical question about the concept of personhood or a theological question about whether a fetus has a soul, but a legal question about the correct interpretation of the Constitution which in our political system *must* be settled one way or the other judicially, by the Supreme Court, rather than politically" (46). The question comes down to the 14th Amendment and the equal protection clause. If a fetus is considered a constitutional person then *Roe* is wrong. If people claim the issue should be settled politically through legislation and by popular vote then what the people have already decided is that the fetus is not a constitutional person in the first place because if they had believed the fetus is a constitutional person then the issue could never be resolved through legislation and popular vote because if any state voted in favor of abortion, it would be

ruled unconstitutional. Then, Dworkin, looking at it from the other side, states that "it would be political madness for the Court to try to force unwilling states to outlaw abortion" (48).

That is the main reason Dworkin opposes the issue being politically settled. He goes in to a few more reasons in support of *Roe*, including the fact that before *Roe* was decided, states did not punish abortion as if it was murder. This is a major reason in support of abortion because the abortion was never fully equated to murder in the first place by way of punishment given to the perpetrator of the law. If the law agreed abortion was murder, the punishment for the crime would have been far more severe. The punishment would have been equal to that of murder. Another reason he supports Roe is because "the Constitution recognizes in a variety of ways the special intimacy of a person's connection to her own physical integrity" (51). This is essentially the pro-choice stance.

An argument against abortion is the fact that the Constitution is silent on the issue but Dworkin does not feel that is a fair assessment. He discusses the abstract language and the idea that there are enumerated rights and unenumerated rights in the Constitution. With respect to the abstract language he says that abortion cannot be upheld constitutionally through the 14th Amendment because abortion laws were being made during the time of the 14th Amendment's ratification. *Brown v. Board* is a direct attack on that argument since the 14th Amendment was ratified by the same government that upheld school segregation before *Brown*. With respect to enumerated versus unenumerated rights Dworkin addresses the issue of the Constitution being silent. If abortion is struck down as unconstitutional then so many other rights would need to be struck down as well because the Constitution is silent on the issue. Some of these unenumerated rights include, "contraceptives… to vote, to marry, to travel between states, to live with one's extended family, to educate one's children privately in schools meeting educational standards,

and to attend racially desegregated schools" (53). The bottom line for Dworkin is that "judges should seek to identify the principles latent in the Constitution as a whole, and in past judicial decisions, applying the Constitution's abstract language, in order to enforce the same principles in new areas and so make the law steadily more coherent" (53). This goes along the lines of his integrity as law theory. He expands on the integrity as law theory in relation to this issue by saying that the "Constitution demands, as a matter of fundamental law, that our judges do their best collectively to construct, reinspect, and revise, generation by generation, the skeleton of liberal equal concern that the great clauses, in their majestic abstraction, demand" (82). Dworkin ends with a statement about how out culture views a fetus. He says that it is "an entity of considerable moral and emotional significance in our culture" (55).

He develops his argument even further when he discusses the concepts of derivative claims and detached claims. Derivative claim states that the fetus has rights and interests. The detached claim does not. The detached claim does, however, place a value on human life. It says that the "intrinsic value on human life is already at stake in a fetus's life" (Dworkin 1996). Dworkin says that it is not about the derivative claim about whether a fetus has rights or interests. This argument has to do with the idea of adding new persons to the Constitutional population. This has been debated both with considering fetuses as constitutional persons or corporations as constitutional persons. With respect to the fetus, however, it is not acceptable to add them to the population as a constitutional person if their rights interfere or curtail the rights of an already existing constitutional person. In some cases this is what happens. The mother's rights are curtailed if the fetus is given constitutional personhood. The next question is if the fetus is not a constitutional person is it acceptable for the state to protect the interests of a non-constitutional person. Again, Dworkin says that it is acceptable for the state to do so but not if

there is an abridgement of rights by a constitutional person. Dworkin says that "not everything that can be destroyed has an interest in not being destroyed" (90). This is an important statement because it means the fetus does not have a fundamental interest in not being destroyed. Dworkin goes on to explain what does have interests. He says, "nothing has interests unless it has or has had some form of consciousness – some mental as well as physical life" (91). This definition supports *Roe v Wade* tremendously. The question, though, is still whether or not the government has some interest in protecting the fetus. Dworkin even says that "individual decisions inevitably affect shared collective values" (94). Here he is saying that whether or not abortion is legal, the woman's choice to abort the fetus will have affects on the society.

There needs to be a balance between religious values and the government's protection. Religion is a major topic that comes up in each of these issue areas. Both abortion and pornography are latent with religious convictions. The quintessential religious conviction that is at the heart of the abortion debate is the sanctity of life. If someone with a very high religious conviction towards upholding human life changed their opinion on abortion they would also be changing their faith. Because of this people can still feel that the fetus has no right so interests and yet still think abortion is wrong because of the religious conviction that life is intrinsically valuable. Here, Dworkin is sounding very similar to Greenawalt. People have religious convictions. It is a fact. People cannot make decisions apart from their religious convictions sometimes. When this happens it is acceptable for people to use their religious convictions. It must only be secondary to publicly accessible reasons, however. The biggest difference between Greenawalt and Dworkin is in relation to the moral status of a fetus. Dworkin says that culturally there is moral status given to a fetus. Greenawalt says that it is impossible to figure out if a fetus has any moral status apart from religious convictions. If the fetus does have moral status,

according to Greenawalt, then abortion should be less permissive. Dworkin says that the fetus does have moral status but only by the standards of society and culture and therefore if rights are violated, constitutional persons should automatically be considered first legally. It is a question of legality and not morality according to Dworkin.

Pornography is another issue that Dworkin writes about in depth in *Freedom's Law*. This will be touched on just briefly. The debate on pornography takes into account Isaiah Berlin's essay on positive and negative liberty. Both are guaranteed by the constitution. The prohibition of pornography and the distribution and production and sale of it is unconstitutional because of this. Dworkin says that the "essence of negative liberty is freedom to offend, and applies to the tawdry as well as the heroic" (219). MacKinnon, however, argues that the negative liberty of pornography actually interferes with the positive liberty of women. She says that "it leads to women's political as well as economic or social subordination" (219). She claims that pornography is not a consequence of a distorted subordination view of women but that it is, in fact, a "cause or vehicle" of this view of women. Pornography is said to silence the speech of women. They are looked upon differently because of pornography and therefore do not have as much weight in what they say because of the subordination that is depicted in the pornographic material. Michelman tends to agree with MacKinnon and says "a woman's speech may be silenced not just by noise intended to drown her out but also by argument and image that change her audience's perceptions of her character, needs, desires, and standing, and also, perhaps, change her own sense of who she is and what she wants" (222). The main argument they have against pornography is that some speech (the speech of pornography) must be limited in order to make room for the entry of other speech that otherwise would not be able to be heard (the speech of women). Essentially, the central point of the debate comes down to the question of which

came first, the chicken or the egg? Is pornography what causes women to be silenced? Or is pornography just a consequence of women already being silenced for some other reason?

For Dworkin, his integrity as law theory of law is important to note. This is the reason why he would be against what MacKinnon says about pornography. As said earlier, the definition that Dworkin tacks on to integrity is: "Each accepts political integrity as a distinct political ideal and treats the general acceptance of that ideal, even among people who otherwise disagree about political morality, as constitutive of political community" (Dworkin 1986). MacKinnon would be in the group that does disagree about political morality. She argues pornography is immoral and degrading to women to such a degree that it impedes the speech of women. There is an ideal for Dworkin. In order to reach that ideal, people need to put aside their individual conviction about morality and look at each issue and policy through the eyes of integrity. They need to continue the novel. To do this, however, the law needs to be looked at and not any conviction that only a few people have. Likewise, Greenawalt would argue that any religious convictions that are against pornography cannot be used unless there is some publicly accessible reason against pornography. To the best of her ability, MacKinnon tried to argue that women's speech or a positive liberty is curtailed because of the negative liberty of pornography, but the overwhelming publicly accessible reason for pornography is that both positive and negative liberties are protected by the constitution.

Dworkin ends his essay with a quote from Berlin's essay, "Two Concepts of Liberty", and it is a fitting end to the discussion on pornography too: "Everything is what it is: liberty is liberty, not equality or fairness or justice or culture, or human happiness or a quiet conscience" (223).

Religion and Integrity's

Relation to Natural Law

So how does religion and integrity fit into the idea of natural law? While Greenawalt and Dworkin would not admit to arguing some sort of natural law theory into their main arguments, natural law does, in fact, come in to play. Dworkin understands that in order for society and law to progress and become the ideal he argues it should be people need to stop listening to their personal convictions, religious or otherwise. These convictions get in the way of integrity. Integrity may seem like a natural law idea but Dworkin would argue it is the opposite. He would say that integrity as law is built by man not nature. He would say that the religious convictions and personal convictions people have that may oppose integrity is actually an underlying problem. These convictions could be some sort of natural law creeping into society through individuals, however. Greenawalt argues that people should only fall back on their religious convictions when publicly accessible reasons are not found. In this sense, Greenawalt adheres a little more to natural law than Dworkin because, ultimately, he states some things cannot be determined without this secondary resource. Dworkin however would argue the secondary resource of religious convictions is the problem in the first place and once that is eradicated, integrity as law, or the ideal of law in society, can fully be actuated.

If natural law exists and is ignored, society and law would take a turn for the worse. If there is no natural law and yet people in society believe there is some sort of natural law and therefore follow their religious convictions as this natural law, society and law would take a turn for the worse. This is a hugely important question if society is to progress through its understanding of law. Dworkin developed several theories of law and it is decided that if the judges, representatives, lawyers, and citizens in a liberal democracy do not adhere to one theory

of law over the others, there will not be a consistent and ever improving "novel" in the making. Law will instead be a chaotic mumbo jumble all jangled and conflicting. This is the main reason a consensus about law should be reached. Dworkin says that the outcomes may be the same for judges adhering to different theories of law, but only by coincidence. Coincidence is not what society and law need. Society and law need an ideal to strive and progress towards. Society and law need integrity.

Conclusion

Kent Greenawalt argues against citizens in a liberal democracy relying on their religious convictions. Instead, he says that they should rely on publicly accessible reasons to make political decisions. The religious convictions are to be secondary to the publicly accessible reasons. In this way, his argument tends to step away from natural law and into a manmade law. Dworkin, likewise, develops his theory of integrity as law. His analogies of Neptune and writing a novel are very explanative. Man must build law and continually improve upon it. There is no natural law that mankind can just look up or feel inside of them. Greenawalt may say that some people will have some sort of feeling about moral issues and he calls these feelings religious convictions, however, he does not equate them to natural law because, ultimately, he does not believe people should rely on these convictions or feelings. In the end, Greenawalt and Dworkin develop theories of law that oppose the theory of natural law. The both argue that law is malleable and that mankind is working on building law in such a way as to perfect it. Dworkin says this is integrity as law.

Works Cited

Dworkin, Ronald. *Freedom's Law: the Moral Reading of the American Constitution*. Cambridge, Mass.: Harvard UP, 1996. Print.

Dworkin, Ronald. M. *Justice in Robes*. Cambridge, Mass: Belknap, 2006. Print.

Dworkin, Ronald. M. *Law's Empire*. Cambridge, Mass: Belknap, 1986. Print.

Greenawalt, Kent. *Religious Convictions and Political Choice*. New York: Oxford UP, 1988. Print.