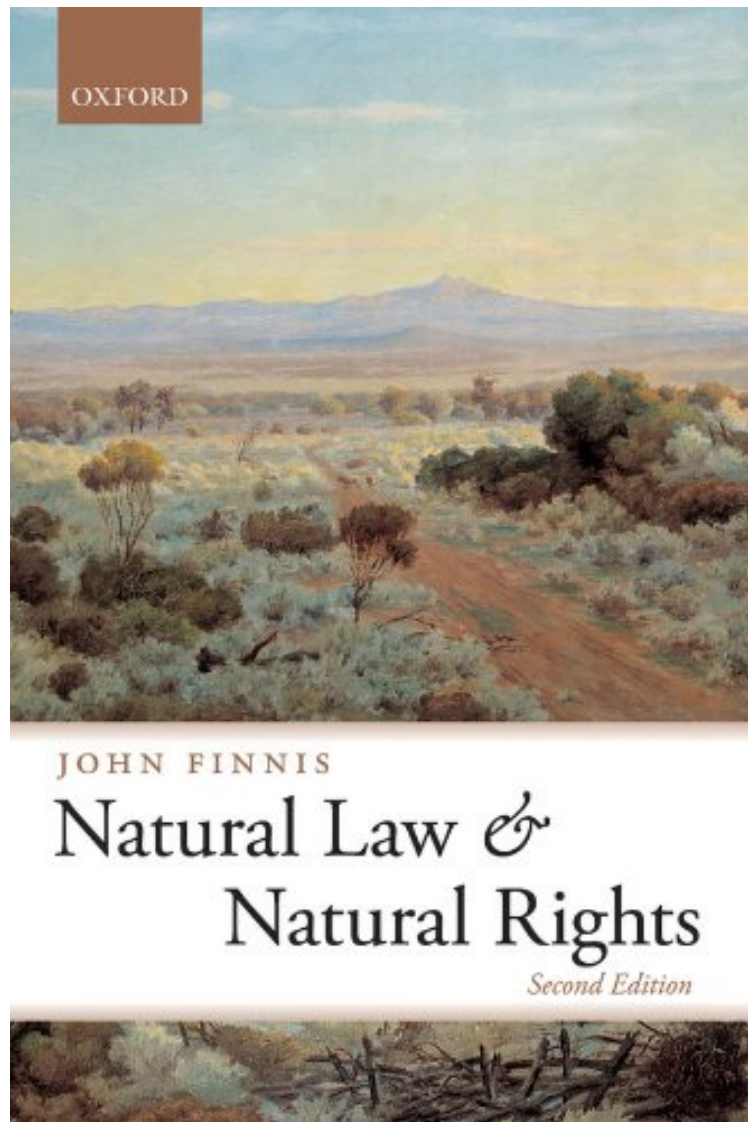


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Natural Law and Natural Rights (Clarendon Law Series)

Von John Finnis

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Von John Finnis : Natural Law and Natural Rights (Clarendon Law Series) before purchasing it in order to gage whether or not it would be worth my time, and all praised Natural Law and Natural Rights (Clarendon Law Series):

KundenrezensionenHilfreichste Kundenrezensionen1 von 1 Kunden fanden die folgende Rezension hilfreich. An exceptional work in moral and political theoryVon Gary ChartierWow! Over a decade after I first picked this book up, I remain impressed with its clarity and thoroughness. Finnis's range and comprehensiveness are remarkable. Those who know Finnis only for his--regrettable and thoroughly inappropriate--support of Colorado Amendment 2 or his opposition to contraception may think of him as a stuffy fuddy-duddy. But such an assessment--utterly unfair--would

all too likely blind prospective readers to the many virtues of the position he develops here and in *Fundamentals of Ethics*. In evidence here is the Finnis critical of Nozick's libertarian views of redistribution and implacably opposed to strategic nuclear weapons--hardly the right-wing ogre some of his detractors may suppose him to be. For those who find Kantian moral theory sterile, consequentialism unjust, and intuitionist approaches unclear, Finnis presents an impressive alternative in the Thomist tradition. There's something here for everyone--lawyers, ethicists, political theorists, and theologians will all be stimulated by Finnis's reflections. This book is a call to personal integrity and to political justice that deserves to be heeded.

0 von 1 Kunden fanden die folgende Rezension hilfreich. Gut gemeint, aber leider nicht geglückt. Von W. Sohst John Finnis versucht, was schon andere vor ihm versucht haben: Letztlich, das Sollen aus dem Sein abzuleiten. Natürlich behauptet er keine göttliche oder sonstwie gearteten Naturrechte. Aber er leitet seinen Glauben ans Naturrecht aus der Evidenz von Werten, vor allem dem Wert von Wissen ab. Die ontologische Begründung fällt auf diesem Argumentationsweg schwach aus: Weder erklärt Finnis, was Werte eigentlich sein sollen (Gegenstände? Von Einzelpersonen unabhängige Phänomene?), noch wird plausibel, wieso aus einem Wert ein Recht folgen soll. Zwar stehen die Werte dem Recht intuitiv vielleicht näher als die objektiven Tatsachen, aber dennoch ist es keineswegs selbstverständlich, dass ein Wert auch Rechte hervorbringt. Ein weiteres Problem ist der allzu simple Begriff von 'Recht', den Finnis seiner Argumentation zugrunde legt. Zwar liegt jedem Rechtssatz ein Sollen zugrunde, aber dieses Sollen kann sehr unterschiedlicher Art sein. Die zivilrechtlichen Ordnungsregeln z.B. des gültigen Vertragsschlusses, des Erb- und Familienrechts drücken eine ganz andere Art von Sollen aus als die Verbotsvorschriften des Strafrechts, und zwar gleich in mehrfacher Hinsicht: Das strafrechtliche Sollen ist ein strafbewehrtes Verbot, während die zivilrechtlichen Regeln der Gestaltung des privaten Rechtsverkehrs überwiegend positiver, d.h. ein bestimmtes Verhalten vorschreibender Natur sind, damit die gewollten Rechtsfolgen eintreten. All das kommt bei Finnis zu kurz. Seine Argumentationslinie von der Evidenz der Werte über das Sollen zum Recht ähnelt stark jenen Auffassungen der Epoche der europäischen, vor allem deutschen Wertphilosophie vom Ende des 19. Jahrhunderts bis in die 1930er-Jahre mit ihrem Höhepunkt bei Max Scheler und Nicolai Hartmann. Wolfgang Bockenforde hat in seinem sehr profunden Buch (eigentlich eine Aufsatzsammlung) 'Recht, Staat und Freiheit' genau zu diesem Ansatz Stellung genommen. Ein wertphilosophischer Ansatz, wie ihn Finnis verfolgt, ist eigentlich nicht mehr vertretbar, weil begrifflich und soziologisch diskreditiert: Zu undeutlich, zu simpel gegriffen, zu sehr vom Wunsch nach 'ordentlicher' Moral geprägt. Die Welt ist nicht so schön einfach.

Kurzbeschreibung First published in 1980, *Natural Law and Natural Rights* is widely heralded as a seminal contribution to the philosophy of law, and an authoritative restatement of natural law doctrine. It has offered generations of students and other readers a thorough grounding in the central issues of legal, moral, and political philosophy from Finnis's distinctive perspective. This new edition includes a substantial postscript by the author, in which he responds to thirty years of discussion, criticism and further work in the field to develop and refine the original theory. The book closely integrates the philosophy of law with ethics, social theory and political philosophy. The author develops a sustained and substantive argument; it is not a review of other people's arguments but makes frequent illustrative and critical reference to classical, modern, and contemporary writers in ethics, social and political theory, and jurisprudence. The preliminary First Part reviews a century of analytical jurisprudence to illustrate the dependence of every descriptive social science upon evaluations by the theorist. A fully critical basis for such evaluations is a theory of natural law. Standard contemporary objections to natural law theory are reviewed and shown to rest on serious misunderstandings. The Second Part develops in ten carefully structured chapters an account of: basic human goods and basic requirements of practical reasonableness, community and 'the common good'; justice; the logical structure of rights-talk; the bases of human rights, their specification and their limits; authority, and the formation of authoritative rules by non-authoritative persons and procedures; law, the Rule of Law, and the derivation of laws from the principles of practical reasonableness; the complex relation between legal and moral obligation; and the practical and theoretical problems created by unjust laws. A final Part develops a vigorous argument about the relation between 'natural law', 'natural theology' and 'revelation' - between moral concern and other ultimate questions.

Pressestimmen "Anyone in Britain or America who attempts to conduct a graduate course in contemporary political philosophy, fundamental ethics, or the philosophy of law, without having first thoroughly read this book, will be open, with considerable justification, to the charge of incompetence....Deserves a place in current discussions comparable in prominence to the one enjoyed by John Rawls's *A Theory of Justice*."--*The Journal of Metaphysics* "The most excellent comprehensive and sensitive work in legal theory to come out of the tradition of analytical jurisprudence."--*The Annals of the AAPSS* "Undoubtedly the most significant work on the natural law to appear in modern times."--*Theological Studies* "An extremely valuable book that may very well become a standard work in moral theology, moral philosophy, metaethics, jurisprudence, and philosophy."--*The Thomist*

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