

# NATURAL LAW AND THE CHALLENGE OF LEGAL POSITIVISM

Brian P. Casey

Dr. Robert N. Johnson, Dissertation Supervisor

## ABSTRACT

In this dissertation I develop and defend a version of a general theory of the nature of law inspired by the classical natural law tradition, with special intellectual debt to the articulation of that tradition by John Finnis. I develop that theory by addressing two major “challenges” to natural law as a theory of law presented by writers in the legal positivist tradition: (1) the claim that theories in the legal positivist tradition are descriptively superior to theories in the natural law tradition, and (2) that theories in the legal positivist tradition are methodologically superior to theories in the natural law tradition. Addressing those two claims, I demonstrate not only that there is significant common ground between the version of natural law as a theory about the nature of law I defend and the most tenable versions of legal positivism but also that the version of natural law I defend possesses explanatory power that even the best versions of legal positivism do not.