

Article

The Tempest and Black Natural Law

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Abstract: Vincent Lloyd's 2016 book *Black Natural Law* presents four case histories in which African American intellectuals used the natural law tradition to mount defenses of the rights, capacities, and dignity of members of their communities. This essay uses the discourse of black natural law as reconstructed by Lloyd to reread Caliban's political arguments and social and aesthetic project in *The Tempest*. Although the natural law tradition became increasingly secularized during the century of revolution, black thinkers such as W. E. B. Du Bois and Martin Luther King, Jr. drew on the religious renditions of natural law that were alive in the sixteenth and seventeenth centuries. Reading Shakespeare with black natural law is not simply an audacious leap into our troubled present, but also brings new focus on the forms of scripturally-inspired pluralism that natural law theory supported in Shakespeare's age.

Keywords: natural law; black theology; *The Tempest*; Richard Hooker; Thomas Aquinas; James Cone; Vincent Lloyd

We are God's children now; it does not yet appear what we shall be.

1 John 3:2a, cited by James Cone, *A Black Theology of Liberation*, 1970 (Cone 2010, p. 24)

In his 2016 *Black Natural Law*, Vincent Lloyd describes the African American church imagined by W. E. B. Du Bois:

The church of his dreams would include 'a cooperative store in the Sunday school room; with physician, dentist, nurse and lawyer to help serve, and defend the congregation; with library, nursery school, and a regular succession of paid and trained lecturers and discussion . . . a credit union, group insurance, and a building and loan association.' There would be preaching, but it would not be limited to the Bible. It would also include the words of Shakespeare, Confucius, Buddha, and John Brown (Lloyd 2016, p. 84).

Shakespeare appears here as part of a broadened religious program that begins with the Bible but spirals out to works of secular literature, eastern wisdom, and black history, as part of a church re-envisioned as a community center designed to support the flourishing and build the capacities of its congregants. Lloyd notes that the vocabulary of Fredrick Douglass, too, was "thoroughly soaked in the Shakespearean" (Lloyd 2016, p. 5). I have taken the presence of Shakespeare in Lloyd's powerful treatise as an invitation to consider the extent to which Caliban's claim to embody a creaturely humanity in opposition to the punitive actions of Prospero can be captured within a natural law tradition that culminates in the African-American discourse on human dignity that Lloyd reconstructs in *Black Natural Law*. Lloyd, a scholar of religious studies and a historian of black theology, tunes into the Scriptural strain that stamps black natural law, whose writers took the idea of humanity created in the image of God as the basis of dignity and equality for all people. The received history of natural law thinking is one of progressive secularization, in which the monotheistic synthesis of classical philosophy with Scripture effected by the great medieval Aristotelians Averroes, Maimonides, and Aquinas eventually shed its theistic imagism in the works of Grotius, Hobbes and Locke in order

to become the modern doctrine of rights. Black natural law, unapologetically theological, is thus in some ways a return to the scholastic tradition that stretches from Aquinas to Hooker and to which Shakespeare can be seen to belong. Black natural law is not simply natural law *radicalized*; it is also natural law *theologized*: natural law with its creaturely soul rendered bare and trembling, open and heaving. Thus, reading Shakespeare with black natural law is not simply an audacious leap into our troubled present, but also brings new focus on the forms of scripturally-inspired pluralism that natural law theory supported in Shakespeare's century, and might support again.²

1. Natural Law, *Imago Dei*, Pluralism

Natural law in the West stretches from ancient philosophy to the century of revolution, where its impact is visible in the Declaration of Independence and the Declaration of the Rights of Man and Citizen. Despite the sublimity of those documents, the difficulty of establishing genuinely shared norms in a modern world distinguished by competing moral and legal codes eroded the credibility of natural law, which ceded to legal positivism in the nineteenth century. After World War II, legal philosophers such as Alexander Passerin D'Entrèves began reconsidering the value of norms, and natural law plays a role in various post-war enterprises, including the Universal Declaration of Human Rights. D'Entrèves provides a conceptual history of natural law and presents natural law itself not as an anti-historical discourse but as a mode that incorporates elements of adjustment and adaptation into moments of judgment that occur in time and space. The same can be said of both Lloyd, who pluralizes natural law by articulating a distinctive political discourse in African-American letters, and Shakespeare, who participates in a broadly Hookerian understanding of natural law but opens that tradition to a distinctly subaltern vocalization through the person of Caliban.

In his effort to revive natural law jurisprudence, D'Entrèves pointed to the very different functions of natural law in classical, Christian, and post-Reformation settings. For Cicero, "Mankind is a universal community or cosmopolis. Law is its expression" (D'Entrèves 2017, p. 25). *Ius naturale* (natural law) and *ius gentium* (the law of nations) were distinguished by Justinian in his famous code, but often blend together and share many attributes, above all the insight that different nations and groups arrive at similar maxims concerning human relations from their own regions of custom and thought. Furthermore, Cicero posited the equality of men: "'For those creatures who have received the gift of reason from Nature have also received right reason, and therefore they have also received the gift of Law, which is right reason applied to command and prohibition'" (D'Entrèves 2017). Despite these bold pronouncements, D'Entrèves argues that Roman law was concerned not with transcendental and eternal rights, but with "the intrinsic character of a given situation" (p. 32). Natural law is thus coordinate with Ciceronian decorum, making it much more adaptable, flexible, and intrinsically historical than is commonly understood, but also less revolutionary. In D'Entrèves' gloss, *ius naturale* was "not a complete and ready-made system of rules, but a means of interpretation . . . it played a decisive part in the process of adapting positive law to changing conditions and in elaborating the legal system of an international or rather super-national civilization" (p. 33). This also means that there was nothing revolutionary in the Roman conception: "Being in itself merely 'a reflection upon the existing law', it was not meant to give 'legal sanction to what was not otherwise law'" (D'Entrèves 2017, citing Zulueta: p. 33). Reason for Roman lawyers was not the opposite of experience so much as a synonym for it (D'Entrèves 2017, p. 51). Cicero did, however, defend tyrannicide, a fact not lost on his Renaissance readers (Dzelzainis 2009).

The natural law of Thomas Aquinas looks a lot like the Roman theories upon which it builds. Aquinas, like Cicero and Aristotle, affirmed that human beings are capable of discerning the teachings of natural law through the use of reason. Yet creaturely life—sinful, historical, unreliable,

² For a related reading of Shakespeare's Scriptural pluralism, see (Smith 2018). On the *imago dei* in *The Tempest*, see (Urban forthcoming).

and passionate—distinguishes the post-classical subject of natural law from its classical counterpart. When Aquinas argues that “Grace does not abolish Nature but perfects it”, he at once preserves the rational order of nature so important to classical science and philosophy and refigures nature as the zone of creation: made by God in a deliberative temporal process and then thrown into disarray by the event of original sin (D’Entrèves 2017, p. 44). In the words of Jewish natural law theologian David Novak, “Like all creation natural law is made in time”, a maxim derived from the first book of the Torah and foreign to the eternity of the cosmos posited by Aristotle, Plato, and the Stoics (Novak 2014, location 167). If for Aristotle the good was the telos of all actions, for Augustine and his heirs the human will has been deformed by sin, driving the arrow of virtuous intention away from its promised end towards darker sticking places tainted by lust, aggression, and envy.³ Although for Aquinas, the soul as *imago dei* participating in God through reason secures access to natural law, fallen human beings require both the help of God (in the form of grace) and the coercive power of positive law (in the form of punishment) to act upon those precepts. But because positive law was itself made by creatures, natural law could be used to judge human law, making some room for resistance to tyranny and injustice (D’Entrèves 2017, p. 45). In the words of Walter Benjamin, the sovereign is “the lord of creatures, but he remains a creature” (Benjamin 1988, p. 85).

The creaturely horizon of the monotheistic synthesis also meant that natural law could be changed over time when transformations in ways of life required it (D’Entrèves 2017, p. 46). D’Entrèves asserts that “a deep feeling for history” pervades Aquinas’ account of natural law (D’Entrèves, p. 47), a claim developed by Pamela Hall (Hall 1994) in *Narrative and Natural Law: An Interpretation of Thomist Ethics*. Hall demonstrates how for Aquinas natural law must be discovered, both in history and over the course of individual lives, through the highly situational and temporally reflective operation of prudence (Hall 1994, p. 40). For Aquinas, different moments in God’s covenanting with humanity articulate natural law over time, a philosophical-historical understanding of the relation between reason and revelation that would continue to develop in the natural law writings of Richard Hooker, Hugo Grotius, and John Selden. In this evolving juridical hermeneutics of history, the Creation, the Noahide laws, Babel, Sinai, and the New Testament were conceived as events in the discovery, adaptation, and supplementation of natural law within the saeculum of human history (Hall 1994, pp. 45–64).⁴ The Noahide laws are of special interest to the development of a pluralized natural law jurisprudence; although they are based on Genesis 9, when God re-covenants with his creation after the Flood, they were only formalized as a law code by the rabbis in the Talmud. Thus the adaptation of Noahide laws by Christian natural law thinkers required active engagement with post-biblical Jewish legal texts and methods, convening a plurality of sources in the articulation of laws shared by all peoples.⁵ Meanwhile, for the Jews, the Noahide laws are conceived as “the law of the *other*,” providing the bare rudiments of civil life for gentiles but lacking the soul-shaping, people-founding power of the revelation at Sinai (Wilf 2008, p. 4).

D’Entrèves canonizes Shakespeare’s contemporary Richard Hooker (1554–1600) as the Elizabethan inheritor of Aquinas. Like Aquinas and against Calvin and his hardline Augustinianism, Hooker affirms the power of human reason to discern shared truths concerning social and political life, maxims discovered by human beings seeking the good within concrete situations.⁶ Like Aquinas, Hooker acknowledges the insufficiency of reason alone to order human communities and hence the need for positive law, which adapts natural law to the realities of human nature and to different historical

³ “Every art, and every inquiry, and similarly every action as well as choice, is held to aim at some good” (Aristotle 2011, 1094a). For a nuanced and integrative account of Augustine’s lifelong dialogue with classical virtue, see (Wetzel 1992).

⁴ (Wilf 2008, p. 3) refers to “the legal foundations of the generation after the Tower of Babel” as another instance of legal re-founding.

⁵ (Rosenblatt 2006, p. 10) makes this point and notes that “discussions of Noahide law appear in the work of Richard Hooker, Hugo Grotius, Isaac Newton, Henry Burton, John Lightfoot, Henry Stubbe, Jeremy Taylor, James Harrington, Edward Stillingfleet, John Toland, Samuel Pufendorf, and Lancelot Addison (father of Joseph Addison).”

⁶ For Calvin, “the purpose of natural law is ‘to render man inexcusable’” (Koetsier 2003, p. i).

scenarios: “The case of man’s nature standing as it doth, some kind of regiment the law of nature doth require; yet the kinds thereof being many, nature tieth not to any one, but leaveth the choice as a thing arbitrary” (Hooker 1883, 1.9.5.) Explaining why “even in good laws [there is] so great variety,” he suggests that “the sundry particular ends whereunto the different disposition of that subject or matter, for which laws are provided, causeth them to have special respect in making laws” (Hooker 1883, 1.9.5). Hooker’s allowance for the situational adaptation of natural law recalls the Ciceronian link between natural law and decorum.

But what if nature, both human nature and the physical world, is perfect on its own, and needs to be neither abolished nor perfected by grace? For Thomas, natural law was organized around the order of the cosmos and the dignity of the human soul as a reflection of God, all united by reason (Kent 2017). The modern innovation was to remove God from the picture by affirming the self-sufficiency of human reason; centering the legal discussion around the rights of the individual rather than the laws of nature; and entertaining the possibility of revolution (D’Entrèves 2017, p. 51). Human dignity, derived by the three monotheisms from the *imago dei* and radiated by the doctrine of grace, separated out from this theological matrix to become an independent value, though not without retaining a sublime charge (Debes 2017). Hobbes inherits the pessimism of Tacitus, Augustine, and Luther, while Locke develops the humanism of Cicero, Aquinas and Hooker, but each sets natural law off on its path towards rights, and also, arguably, towards legal positivism. Yet the creationist element does not disappear completely, as we see in the preamble to the Declaration of Independence: “We hold these truths to be self-evident, that all men are *created* equal . . . ” (emphasis added). *Created* introduces a temporal gap between an originary foundation, historical realities, and future projects that allows for both normative judgment and historical reasoning while keeping on call the reference to a divine maker (Wills 1978, pp. xviii–xix).

Shakespeare is the inheritor of a natural law still marked by the monotheistic merging of nature and creation, but his world-building is also enlivened by the skepticism and pessimism of Machiavelli before him and anticipates Hobbes to come. Meanwhile, his anthropology is not untouched by Calvinist convictions concerning unregenerate humanity. (Elton 1988) long ago demonstrated the presence of all of these frameworks in *King Lear and the Gods*. In *The Tempest*, Gonzalo is a kind of Hookerian, or would be with a little education, while Sebastian and Alonso are Hobbesians *avant la lettre*. The play itself unfolds in a landscape that is marked by epochal events in the history of natural law, including the Creation, the Flood, and the Tower of Babel, all moments of what Wilf (2008) calls “the law before the law.” In *The Tempest*, natural law becomes natural history, encrypted in a layered landscape alive with multiple intentions shaped by different catastrophes in the history of the human spirit. Caliban rethinks and reimagines elements of the scholastic tradition, but within an emergent framework of rights, by dint of his position not as judge but as plaintiff: the one who complains, the one who suffers. That is, he contributes to neither scholastic nor modern natural law, but to a distinct strand that links the theological and the political in a great recursive loop: what Vincent Lloyd calls black natural law.

2. From Natural Law to Black Natural Law

Lloyd’s book recovers a natural law theology and politics in the works of four African-American thinkers and leaders: Frederick Douglass, Anna Julia Cooper, W. E. B. Du Bois, and Martin Luther King, Jr. By asserting the humanity, equality, and dignity of black men and women, these thinkers protested the existing laws of the land, participating in “a rich, coherent style of ethical inquiry and political practice” of which, Lloyd argues, “only ruins remain” (Lloyd 2016, pp. vii, 75). Lloyd traces natural law to Aristotle, Cicero, Grotius, and Hobbes, and he acknowledges the existence of Christian, Jewish, and Islamic natural law traditions alongside “dogmatically secular” variants (his own thinking is undogmatically post-secular) (Lloyd 2016, p. vii). Like D’Entrèves, Lloyd does not see natural law as a single continuous tradition; his aim is to “pluralize” natural law by articulating this other line of black thought within and alongside it. D’Entrèves focuses on the “function”, not the “doctrine”

of natural law; similarly, Lloyd focuses on the “process,” not the “product,” of BNL (black natural law) (D’Entrèves 2017, p. 18; Lloyd 2016, p. viii). Lloyd presents his BNL thinkers as lenders as well as borrowers: “European or Catholic natural law traditions can learn much from the black natural law tradition. For example, the black natural law tradition places particular emphasis on the role of emotion in discerning natural law, a theme often neglected in European and Catholic traditions” (p. vii). Like neo-Thomist readers of natural law such as D’Entrèves, Alisdair MacIntyre (2007), and John Finnis (2011), Lloyd calls attention to the theological foundations of the concept for its practitioners, whether they are professional men of faith like Martin Luther King, Jr. or religious humanists like W. E. B. Du Bois. (Du Bois, Lloyd reminds us, lodged the word “souls” in the title of his most famous book (Lloyd 2016, p. 58.) Indeed, black natural law, as an explicitly political-theological teaching, reaches back before Hobbes to the Hookerian and Thomist understandings of natural law. That alone makes BNL compatible with a reading of Caliban. Lloyd’s book ends with a stunning account of secularism as a form of white privilege and religion as an abounding resource for communities of color.

BNL builds on the cosmopolitan and egalitarian aspects of European natural law, with special emphasis on the idea of humanity as *imago dei* put forward by the three monotheisms. By uniting reason with imagination and feeling, the *imago dei* of BNL reclaims the breadth of the human soul that Aquinas had tended to identify exclusively with reason. Moreover, for BNL, Lloyd argues, that composite soul “is ultimately unrepresentable” (p. viii), broaching “a concept of the human essentially defined by what it is not, marking what is in the world but never fully captured by it” (p. ix). The *imago dei* is an inherently creationist formulation, founded on the idea that human beings are made in God’s image. Black natural law amplifies the creaturely character of the *imago dei* by emphasizing the positive role of passion and imagination in discerning natural law, and by unfixing the *imago dei* from its presumptive whiteness. BNL taps the existential stakes and inherent indeterminacy of the *imago dei* doctrine, whose promise of a reassuring likeness and mirroring coherence between God and human is undone by the cognitive rigor of the prohibition against idolatry.

Black natural law is also communitarian: its proponents appreciate “the influence communities have on individuals, and the need for political change to happen through social movement organizing” (Lloyd 2016, p. ix). This insight develops the seeds of resistance theory implicit in natural law, now understood not simply as a last resort in the face of immovable tyranny, but as an independent social good that builds the capacities of oppressed communities and might even defer precipitously violent actions. The political organizing undertaken by Du Bois, for example, aimed to create “a vibrant, complex black social and political space”; “in the process of organizing itself, [this work] provided an opportunity for the realization of human capacities” while “restraining the desire for justice to flow immediately” (p. 83). Finally, BNL “recognizes the epistemic privilege of the oppressed, the way that suffering attunes us to justice” (p. viii). Whereas much natural law theory is written by jurists and philosophers who are protected and empowered by the legal systems they consider, BNL is written from a place of heightened legal disability and enforced minority. Hooker writes that “the search for knowledge is a thing painful” (Hooker 1883, 1.7.7). Whereas Hooker means that for sinful humans, acquiring knowledge is difficult and hence best managed by experts, for black natural law the link between pain and knowledge unlocks heightened attention and a deeper kind of understanding: “where other natural law traditions see each human being as equally capable of discerning the natural law, the black natural law tradition recognizes the epistemic privilege of the oppressed, the way that suffering attunes us to justice” (Lloyd 2016, p. ix).

So, what does it mean to think about *The Tempest* as participating in black natural law? After all, Shakespeare was white, and he was writing with different questions in mind and under constraints that included a royal audience. In response, I would argue that Shakespeare created a character who has gained a life of his own in interpretation and performance. If Shakespeare has “created” Caliban, not simply written his part, this means that Caliban is his “creature,” a vital composite of interpretive and performative possibilities and latent intentions. Creature Caliban is possessed of a soul, a word that captures both the ensemble of capacities that characterize his dynamic personhood

and the extraordinary afterlife, the sempiternity, of Shakespeare's golem. Ancient philosophy derived human dignity from the soul or *psyche*, the ensemble of capacities for thought, movement, perception, and emotion that are exercised and realized in virtuous action. In the assimilation of Aristotle to monotheism, the soul merges with the *imago dei*, becoming at once substantialized and virtualized as the person's immortal part while retaining its ancient sense as the animate infrastructure of mindful faculties. The soul is both *naturata* and *naturans*, a created thing that also creates. The soul makes us who we are (soul as an ensemble of resources for thought and action) and orients us towards what we want to be (soul as *imago dei*). In *The Souls of Black Folk*, W. E. B. Du Bois defines the soul as a "marvelous universe," "a reservoir of experience, knowledge, beauty, love, and deed" (Lloyd 2016, p. 63).⁷ From Dante to Du Bois, the soul as virtuous capacity and divine imprint asserts the creaturely dimension of natural law, grounded in a primal landscape and flowing into neighboring construals of *natura*, including human nature, the state of nature, and the natural world. Creature Caliban, who is also Caliban ensouled, participates in that story.

3. Autonomy and Negation

Caliban's counter-narrative to Prospero recites certain topoi of natural law:

I must eat my dinner.
 This island's mine by Sycorax my mother,
 Which thou tak'st from me. When thou cam'st first,
 Thou strok'st me and made much of me, wouldst give me
 Water with berries in't, and teach me how
 To name the bigger light, and how the less,
 That burn by day and night; and then I loved thee
 And showed thee all the qualities o'th' isle,
 The fresh springs, brine-pits, barren place and fertile—
 Cursed be I that did so! All the charms
 Of Sycorax, toads, beetles, bats, light on you;
 For I am all the subjects that you have,
 Which first was mine own king, and here you sty me
 In this hard rock, whiles you do keep from me
 The rest o'th' island. (1.2.331–45)⁸

Caliban begins with an argument from positive law (he has inherited the island from his mother Sycorax), but he ends by asserting his original self-sufficiency: "For I am all the subjects that you have, / Which first was mine own king." To be one's own king is to discover a law within oneself and by oneself, through the exercise of rational capacities shared with other human beings. This is the idea of human autonomy (from *auto nomos*, to give oneself the law, to be one's own law).⁹ Hooker cites Paul on the discovery of natural law by classical philosophers and jurists:

⁷ Life in this scheme is "the rhythmic workings of the physical and social world that can be understood through the human capacity to reason" (Lloyd 2016, p. 63).

⁸ All citations from Shakespeare are taken from (Shakespeare 2016).

⁹ Compare Grotius: "For God created man *αυτονόμος*, 'free and *sui iuris*,' so that the actions of each individual and the use of his possessions were made subject not to another's will but to his own." Cited by (Nijman 2017, p. 104)

The apostle St. Paul having speech concerning the Heathen saith of them, ‘They are a law unto themselves.’ His meaning is, that by force of the light of Reason, wherewith God illuminateth everyone who cometh into the world, men being enabled to know truth from falsehood, and good from evil, do thereby learn in many things what the will of God is, which will himself not revealing by any extraordinary means unto them, but they by natural discourse attaining the knowledge thereof, seem the makers of those laws which indeed are his, and they but only the finders of them out. (Hooker 1883, 1.8.4-5).

Caliban is a “Heathen” who “by natural discourse,” that is, without the gift of revelation but through his own ratiocinative processes, was able to govern himself on the island. This self-rule was not simply animalistic survival; when Prospero arrived, Caliban demonstrated that he was able to know “good from evil” (Hooker) by “loving” Prospero and showing him “all the qualities o’th’isle” (Shakespeare). Hooker lists as maxims discoverable by reason and acknowledged by nations around the world: “God to be worshipped, Parents to be honoured, Others to be used as we ourselves would by them” (Hooker 1883, 1.8.3). All these principles are evident in Caliban’s discourse and self-narration. When he refers elsewhere to Setebos, we see him practicing a kind of natural theology, and in this passage, he honors his mother and he recollects his own practice of neighbor love and reciprocal care (cf. Urban forthcoming).

Moreover, Caliban’s willing and affectionate movement from self-rule in a state of nature to human sociability retraces the passage into political association that Hooker gives:

But forso much as we are not by ourselves sufficient to furnish ourselves with competent store of things needful for such a life as our nature doth desire, a life fit for the dignity of man; therefore, to supply these defects and imperfections, which are in us living, single, and solely by ourselves, we are naturally induced to seek commune and fellowship with others. (Hooker 1883, 1.10.1)

Caliban was indeed able to live “single and solely” by himself, but the association with Prospero brought tangible benefits, from rather modest new recipes (“water with berries in it”) to the mind-expanding resource of a language shared with others. The “dignity of man” that Hooker associates with social life encompasses the forms of love, conversation, and mutual succour that persons confer on each other in the process of producing and sharing these material and intellectual goods.

Caliban, addressed by Prospero as “thou earth, thou” (2.2.315), is associated with God’s first human creature, Adam. “Adam” comes from *adamah*, earth: earth is God’s plastic medium for fashioning the first man, and it also the ground, literally, of natural life in its teeming fecundity and vermicular decomposition. In naming “the bigger light and . . . the less,” Caliban labels the elements of God’s creation in a childlike, naively concrete language, directly echoing Genesis 1:16 (Orgel 1987, p. 119n). Adam, like Caliban, is associated with a primal self-kingship in seventeenth-century political theory (Benjamin 1988, p. 85). Unlike Adam, however, Caliban must be taught this language by Miranda and Prospero rather than finding it on his own, though he was not without language when they discovered him. Upon encountering Caliban’s draped and prostrate form, Trinculo exclaims, “A man or a fish?—dead or alive?” (2.2.23): amphibious Caliban swims and struts in a world after Noah and Babel, and he himself serves as a translator between worlds and tongues. Whereas Adam’s naming project places him at the head of creation, Caliban’s language lesson places him within creation, as one creature among others, a monster whose reflection of the *imago dei* appears inchoate and uncertain, not a birthright immediately recognized by the other human creatures on stage but rather an attribute that must be demonstrated and performed.¹⁰ This defensive and disenfranchised posture associates Caliban not simply with natural law, whose precepts he has discovered and put into practice, but with

¹⁰ This claim revises my statement that “Caliban is mere creature, a creature separate (like Adam) from the Creator but (unlike Adam) not reflected back to the Creator as His image” (Lupton 2005, p. 166).

black natural law, whose defiant condition he embodies and begins to vocalize. Unlike Hooker's virtuous heathens, who get to do philosophy for everyone, Caliban, embattled and embittered, marks creaturely humanity as "what is in the world but never fully captured by it" (Lloyd 2016, p. xi). Caliban takes the creaturely condition that runs through premodern natural law theory and intensifies it into a point of protest: he *blackens* it. This does not mean that Caliban is exempt from the condition of fallenness, as I will soon demonstrate. It does mean, however, that Caliban as black natural lawyer understands that the depravity of all creatures (original sin) is unevenly amplified by the corruption of institutions and the blindness of privilege (social injustice).

Hooker distinguishes the undeveloped reason of a child, whose soul can "only store itself with concepts of things of inferior and more open quality, which afterwards do serve as instruments unto that which is greater" with mature reason, which is supported by logic and language: "When once it [the soul of man] comprehendeth anything above this, as the differences of time, affirmations, negations, and contradictions in speech; we then count it to have some use of natural reason" (Hooker 1883, 1.6.3). Caliban's retort to Prospero indeed combines "things of inferior and more open quality," namely the resonant realia of the island's flora and fauna, with the tools of reason: the ability to speak in several tenses and to use affirmations, negations, and contradictions to mount an argument. His special handling of particulars indexes his creaturely knowledge, while his use of language to tell a counter-narrative politicizes rational discourse in a new, oppositional mode. Once again, what are attributes of *natural law* in Hooker, shared by a broad and theologically divided but racially unified collective, become features of *black natural law* in the hands of Caliban, who uses the "differences of time" and the power of negation to tell his own story of self-rule, neighbor-love, the joys of society—and their betrayal and destruction.

4. Sex, Sociability, and Slavery

Caliban's attempt to couple with Miranda has led to this state of affairs. Here, too, natural law teachings abound. Although Hooker, following Aquinas, asserts participation in God as the highest good that humans can strive for, he exalts in the fact that "there are so many kinds of perfection which man seeketh," beginning with "desiring the continuance of their being": "All things therefore coveting as much as may be like unto God in being ever, that which cannot hereunto attain personally, doth seek to continue itself another way, that is by offspring and propagation" (1.6.2). Hooker implies here that all creatures, not only human ones, strive to imitate the divine, and that the desire to reproduce expresses the creature's urge to become like God by achieving intergenerational immortality. The creaturely scope of Hooker's vision recalls the great covenant God makes with all creation after the Flood: "And I will remember my covenant, which is between me and you, and every living creature of all flesh" (KJV: Gen. 9:15). Elsewhere in the text, Hooker associates Adam's desire for a helpmeet with human sociability, not just human reproduction: "it is of Adam said that amongst the beasts 'He found not for himself any meet companion.' Civil society doth more content the nature of man than any private kind of solitary living" (1.10.12). In Hooker's creaturely reading of natural law, the sexual act achieves its own dignity, which humans share with other forms of animate life and transform into a vital bond of human fellowship.

So what happened between Caliban and Miranda? The event itself remains obscure and contested, dissolved in "the dark backward and abyss of time" (1.2.50). Prospero accuses Caliban of "seek[ing] to violate / The honour of my child." Caliban responds:

O ho, O ho!
 Would't had been done!
 Thou didst prevent me—I had peopled else
 This isle with Calibans. (1.2.349–51)

Hooker's natural law provides two ways into this exchange. On the one hand, Caliban's desire for Miranda links him to all living things, expresses his own yearning toward and reflection of

the divine, and seeks to deepen human fellowship, all Adamic properties that assert the dignity of Caliban. The nonconsensual nature of his action, however, has fundamentally reconfigured not only his relationship to Prospero and Miranda, but also his management of his own passions and his linguistic and rational capacities. The Caliban who speaks these words to Prospero is no longer the loving and gracious host to the island's newcomers but an angry and unrepentant sex offender whose desires appear drained of divine aspiration. Hooker places consent at the heart of human sociability: "Two foundations there are which bear up public societies, the one, a natural inclination, whereby all men desire sociable life and fellowship, the other an order expressly or secretly agreed upon, touching the manner of their union in living together" (1.10.1). Caliban's debased and passionate language manifests his membership in fallen humanity, who "prefer their own private good before all things, even that good which is sensual" (1.10.6). Caliban's move on Miranda constitutes his own fall, expressing at once an urge towards divine and human participation in the form of a helpmeet and an affront to such participation, a turning within his own being that obscures his rational capacities and gives his passions the upper hand. Subject to what Hooker calls "the divine malediction" (1.3.3), Caliban himself speaks in maledictions.

In Aquinas and Hooker, the story of the Fall serves to reconcile the positive anthropology of Aristotle and Cicero, based on man's sociable and rational being, and the negative anthropology of Tacitus and Augustine, who dwell on humanity's passionate and self-interested impulses. Janne Nijman (2017) argues that Grotius used the *imago dei* to mediate between hard-line Protestant and more humanist Erasmian and Arminian accounts of human nature; in 1601, at age eighteen, Grotius wrote a play about the Fall called *Adamus Exul* that explored precisely these motifs (Barham 1839). Both anthropologies are expressed in Shakespeare's depiction of Caliban, a naturally loving rational creature who has been morally damaged by his own precipitous attempt to realize his desires violently, that is, without consent. Embodying the psalmist's confession of broken humanity, "Behold, I was shapen in iniquity, and in sin did my mother conceive me" (Psalm 51:5 [KJV]), Caliban is not a noble savage but a creature like others. Shakespeare's Caliban is both sinned against *and* sinning. Yet what Miranda and Prospero refuse to acknowledge in this exchange is that they too are creatures. They are unable to consider Caliban's suit as a failed bid for fellowship because their own outrage blinds them to the natural law perspective, which has the potential to assert their equality with Caliban in both dignity and sin. They have replaced the sense of a law that educates and directs (natural law) with the imposition of a law that punishes through force (positive law). They negate the emancipatory potential of natural law and instead wield the rhetoric of nature to justify slavery:

But thy vile race,
 Though thou didst learn, had that in't, which good natures
 Could not abide to be with; therefore wast thou
 Deservedly confined into this rock, who hadst
 Deserved more than a prison. (1.2.358–62; cf. 4.1.188–92)

Shakespeare sides with Prospero when he identifies Caliban in the list of characters as "a savage and deformed slave." The poetic Creator rezones the creatureliness of his Creature from a common condition in which good and evil mingle to a state of permanent exclusion from human society, with "good natures" inside and those of "vile race" without. Yet the Creature is not fully determined by the Creator: Caliban's ability to mount a counter-narrative, to organize a coup, and to continue to develop his own virtuous capacities demonstrates the potential of natural law to yield an approach other than the one taken by Prospero, Miranda, and Shakespeare himself.

Slavery was indeed a part of the natural law tradition. Aristotle, no universalist, argued that some men were naturally slaves and others naturally masters, by virtue of their relative virtues (Dyer 2012, pp. 1–3). Aquinas did not admit slavery to natural law, but accepted it as a potentially legitimate part of positive law, if it benefitted all parties; the right of dominion, however, applied only to the service of

the slave; “in all other respects, the relationship between the two persons was one of justice and mutual rights” (Valenzuela 2017, p. 60).¹¹ Aquinas echoes Job 31:13–14, sometimes taken as a statement of natural law (Perdue 1991, pp. 185–87). Epictetus, one of the greatest of the Stoic philosophers and an exponent of human equality, cosmopolitanism, and natural law, was himself a freed slave. In his *Diatribes*, he remarks that “all human beings have Zeus as their progenitor, and so masters have kinship with their slaves, and are related by nature” (Herschbell 1995, p. 189). Although Epictetus did not espouse the abolition of slavery, his status as a freedman writing on the rational dignity of all persons places him in the prehistory of black natural law. In *Natural Law and the Antislavery Constitutional Tradition*, Justin Buckley Dyer shows how natural law was used on both sides of the slavery debate in the period leading up to the Civil War, but especially powerfully by the abolitionists. Sean Wilentz makes a similar argument in his 2018 opus *No Property in Man: Slavery and Anti-Slavery at the Nation’s Founding* (Wilentz 2018).

Frederick Douglass, a key figure for Dyer, Wilentz, and Lloyd, argued that slavery contradicts “not only the just and proper rules of legal interpretation, but the origin, design, nature, rights, powers, and duties of civil government, and also the relations which human beings sustain to it” (Dyer 2012, p. 181). Douglass compares the slave owner to a tyrant: “arbitrary power, whether ‘vested in the civil ruler’ or in ‘a slaveholder on a plantation,’” runs contrary to natural law (Dyer 2012, p. 180). Douglass develops the resistance theory already evident in Cicero’s defense of Brutus’s assassination of Caesar and that comes into play in Renaissance political theory. Caliban twice calls Prospero a tyrant, a word given new power in religiously driven defenses of resistance and tyrannicide in the sixteenth and seventeenth centuries (Mortimer 2017, pp. 31–33). “Tyrant” is a fighting word. It is also a natural law word. In the words of Cicero, “there can be no fellowship between us and tyrants—on the contrary there is a complete estrangement—and it is not contrary to nature to rob a man, if you are able, whom it is honorable to kill” (1991: II.32). Caliban *contra tyrannos* is a brute, but also a Brutus.

One of the dogs that Prospero unleashes against the rebels is named Tyrant: “Fury, Fury! There, Tyrant, there! Hark, hark!” (4.1.249). The dogs embody Prospero’s own tyrannical fury and the resurgence of his disavowed creatureliness; the hound’s name was powerful enough to have carried a distinct political charge in 1795 (Taylor 2011, p. 511). The image anticipates the canine tracking of runaway slaves; in performance, the specter of the rebels chased by dogs can be quite disturbing. Prospero’s tyranny motivates Caliban (though not his confederates), and raises their revolt into what Ariel suggestively calls “their project” (4.1.175). The word “project” appears more often in *The Tempest* than in any other play by Shakespeare: thrice to describe Prospero’s overarching plans for the action of the play, and once to characterize the conspiracy. In *The Tempest*, resistance fails, but not before it assumes the quality of a project comparable to Prospero’s own, asserting the dignity of the creature and placing Caliban in the black natural law tradition. Novak provides a creationist scaffold for human projects: “For God’s purposeful creation of the cosmos is not only a datum; it is a task given (*Aufgabe* in German) to humans to imitate and further actively” (Novak 2014, location 756). Mark Taylor defines ethos as “an orientation, an attitude, a directional movement that can be found in action, particularly in law’s pursuit of justice and community’s pursuit of love” (Taylor 2009, p. 195). Yet Shakespeare denies his creature either an achievable or a defensible project; Caliban’s desire to overcome Prospero while he is sleeping recalls Macbeth, while his continued disregard for Miranda’s sexual consent reveals the limits of his understanding of political and personal obligation. Violence may be Caliban’s only recourse, but it is not yet justice, and it certainly falls short of love (Schwartz 2017). If the conspiracy against Prospero were the only project that Shakespeare had given Caliban, *The Tempest* would not have yielded the rich discourse of creative political thought that has issued from it, from Mary Shelley to Aimé Césaire.

¹¹ Compare Cicero, *On Duties*: “Justice must be maintained even towards the lowliest. The lowliest condition and fortune is that of slaves; the instruction we are given to treat them as if they were employees is good advice; that one should require work from them, and grant to them just treatment” (Cicero 1991, I.41; p. 18).

5. Sounds and Sweet Airs

Caliban fashions a different kind of project in the sounds and sweet airs passage:

Be not afeard, the isle is full of noises,
 Sounds, and sweet airs, that give delight and hurt not.
 Sometimes a thousand twangling instruments
 Will hum about mine ears, and sometime voices
 That if I then had waked after long sleep
 Will make me sleep again; and then in dreaming
 The clouds methought would open and show riches
 Ready to drop upon me, that when I waked
 I cried to dream again. (3.2.126–34)

This passage discloses Caliban's ability to tune his soul through the art of listening (Jackson 2018). Music in the period was understood to harmonize the different parts of the soul, taken as the ensemble of faculties that lend themselves to thinking and feeling. The lutenist and song writer John Dowland, translating a 1516 treatise on music by Andreas Ornithoparcus, writes,

Humane Musick, is the Concordance of divers elements in one compound, by which the spirituall nature is joyned with the body, and the reasonable part is coupled in concord with the unreasonable, which procedes from the uniting of the body and the soule. For that amitie, by which the body is joyned unto the soule, is not tyed with bodily bands, but vertuall, caused by the proportion of humors. For what (saith Caelius) makes the powers of the soul so sundry and disagreeing to conspire oftentimes each with other? who reconciles the Elements of the body? what other power doth soder [solder] and glue that spirituall strength, which is indued with an intellect to a mortall and earthly frame, than that Musicke which every man that descends into himselfe finds in himselfe? (Lindley 2015, p. 22)

According to Dowland, "humane Musick" modulates a series of internal divisions: the soul, itself a dynamic infrastructure composed of "sundry and disagreeing . . . powers," brings order to the fluctuating but infinitely generative humors of the body. Drawing on natural reason, Dowland claims that this definition can be gleaned from simply observing the operations of music upon one's own composite self. Dowland's free translation emphasizes the created nature of the human being, who relies on the "soder and glue" of music to attach the mind to the "mortal and earthly frame of the body." Listening to music becomes a spiritual exercise, initiating an auto-affective "amity" among "divers elements" that yields a sense of sustained well-being at once mellifluous and cognizant of breaks and joints. In Caliban's musical reverie, reason, imagination, memory, perception, and emotion resonate with each other like so many strings on the lute of the soul (cf. Psalm 108:1–2). Whereas Dowland listens to human music in a human way, creature Caliban responds to natural sounds in a manner that affirms the unbearable fullness of his ensoulment while immersing him in a trembling continuum of living things. The ambient noise of the island become music through the creative-receptive hearing of the soulful auditor, who uses this attunement to build his emotional world and ultimately to calm himself.

This is a new and different order of self-rule from Caliban's presentation of himself as his own king. Neither sovereignty nor resistance is the dominant motif; instead, we glimpse spiritual techniques that give the ensouled creature inner strength and a new equilibrium along with heightened cognitive and affective capacities. (This is what arts education looks like.) The overall effect is to enhance the dignity and personhood that Prospero, Miranda, and even his creator, Shakespeare, would take from him, in a manner that emphasizes his porous, sensitive being in an environment that he inhabits without ruling. For a musical analogue, we might look to composer Luciano Berio's "O King," a symphonic piece

for eight voices, first written as a tribute to Martin Luther King, Jr. in 1967 and then retooled as an elegy in 1968. The highly crafted and experimental piece takes the phonemes in the civil rights leader's name as sonorous fragments that merge with the instrumentation rather than float above it; the word "King" itself is sounded for new sovereignties that reside in collective processes (Osmond-Smith 2016, pp. 65–80). At once weaning and keening, Caliban's proprioceptive lullaby elaborates the psyche as a virtual lyre that meshes with somatic and environmental flows and enables new creative attunements across the island and with future auditors.

Lloyd suggests that social organizing is a key component of black natural law. Social organizing involves more than resistance; it also initiates capacity-building within the community, as we saw in Du Bois's designs for a new church. After abolition, Frederick Douglass "committed himself to cultivating the capacities of freed blacks," which meant "attending to their broader humanity, including stimulating their emotions with music and poetry" (Lloyd 2016, p. 9). Noting Du Bois's use of spirituals as epigraphs, Lloyd concludes that "Just as black life offers privileged access to natural law, black music in a sense performs the natural law . . . Such songs remind us that there is a law beyond the world and that is the law by which we will ultimately be judged" (Lloyd 2016, p. 79). Caliban's psalm of self-comforting contributes to the historical performance of black natural law. His project may fail, but his soul will not break.

6. Wisdom and Grace

Caliban's final act in the play is to "seek for grace." Ordered by Prospero to trim his cell, Caliban replies,

Ay, that I will; and I'll be wise hereafter,
And seek for grace. What a thrice-double ass
Was I to take this drunkard for a god,
And worship this dull fool! (5.1.292–95)

Although the speech is often taken as proof of Caliban's utter submission to Prospero after the collapse of the conspiracy, his desire to seek wisdom and grace has special resonance in natural law thinking. Recall the dictum of Aquinas: "Grace does not abolish Nature but perfects it." In both his dignity and his degradation Caliban is a type of the Old Adam, living after Eden in the wake of a Flood, in the Noahide zone before the mountain-top talks of either Moses or Jesus. Is this "grace" that Caliban seeks simply a set of Christian teachings that will replace the bad natural theology that he exhibited in taking a drunkard for a god? Will grace become violent, as it did in the Pilgrimage of Grace, the English Civil War, or John Brown's military actions? Or will it involve the transformation and expansion of that capacity-building work that Caliban had practiced at the vibrant infrastructure connecting self and world in his "sounds and sweet airs" reverie? This is the direction that grace takes in Matthew J. Smith's reading of Shakespeare's anthropology of religion in this volume: for Angelo, and I would say also for Prospero and Caliban, "the assumption of responsibility for [one's] action imagines a world in which guiltiness is not predetermined"; "confession does not remove [the sinner] from the sphere of guilt, but it enacts his recognition of the need to be outside it" (Smith 2018, p. 13). For Shakespeare, grace ultimately signifies the capacity of religion to transcend its own punitive frameworks and release human beings into new forms of creative freedom, obligation, and mutual recognition.

I took as my epigram 1 John 3:2a, cited by James Cone, the founder of black theology, as he strived to communicate the emergent character of black consciousness in 1970: "'We are God's children now; it does not yet appear what we shall be'" (Cone 2010, location 688). Cone cites the first half of the verse by itself, heightening the mood of expectancy; the full verse is *imago dei* theology through and through:

Beloved, now are we the sons of God, and it doth not yet appear what we shall be: but we know that, when he shall appear, we shall be like him; for we shall see him as he is. (KJV John 3:2)

This passage captures the mood of expectancy and creative possibility that animates (ensouls) Caliban's search for grace at the end of *The Tempest*, and affirms his radiant impress by God's image, to be realized in an encounter yet to come. To seek for grace is to approach eternity by turning one's own incompleteness into an instrument that plays the world.

And what is this wisdom that Caliban seeks? Under the punitive rule of Prospero, Caliban experienced resentment, frustration, and coercion as symptoms, in the form of the cramps, pricks, and itches that beset the creaturely edges of his being. The stinging nettles of pain triggered by the denial of personhood constitute one kind of knowledge, a knowledge that is fierce, inarticulate, and best verbalized in the curse. At the end of the play, anticipating Prospero's departure, Caliban can seek another kind of knowledge, a wisdom that grows out of pain but, like Ariel's pearls, moves beyond it towards benediction, social action, and self-care, the wisdom he has already begun to access through the art of listening. Wisdom is not simply more reflective or accepting than the knowledge that erupts immediately from pain; to the contrary, wisdom must involve the whole person, in the present moment, over time, and in the resonant spaces of dwelling. This is why wisdom is cultivated by spiritual exercises that, like Caliban's music, operate on and through the entire infrastructure of the psyche (Sterrett 2018). The fractured and flowering landscapes of romance, replete with classical, Jewish, messianic, medieval, Reformed, and New World zoo-anthropologies, provide the setting for Shakespeare's ecumenical search for wisdom and grace. In this pulsing, pluralized ecology composed of multiple virtue traditions, the creator begins to acknowledge this thing of darkness as his own, calling back the dogs of tyranny and rage in order to clear the ground for an unknown future freed from his own overbearing supervision.

In what sense does *The Tempest*, through the passion of Caliban, become wisdom literature? I began with Du Bois's library for the souls of black folk, which included works by "Shakespeare, Confucius, Buddha, and John Brown." This world canon is unified by shared values discerned by the librarian from the point of view of the community he aims to represent and to serve. Wisdom literature, like natural law, involves teachings that may be produced by and for a particular religious or cultural group but lend themselves to diffusion and translation. In the seventeenth century, John Selden understood Talmud and Torah as wisdom literature:

[I]t would seem that anyone who considers the matter carefully cannot, for the same reasons, help but place the highest possible value on this philosophy or law of the Hebrews as being the best part and sole survivor of a great treasure, i.e., of the sum total of the barbarian philosophies of the East. (Haivry 2017, p. 128)

Selden credited the Jews with transmitting a "great treasure," namely eastern philosophies such as Zoroastrianism, in the form of natural law discourses such as the Noahide laws. In placing Shakespeare next to Confucius, Buddha, and John Brown, Du Bois is doing a similar kind of comparative work. Writing from the perspective of Judaism, David Novak asserts that natural law "can save multi-culturalism from the dead end of relativism" while also protecting "natural law thinking from its all too frequent political and epistemological myopia" (Novak 2014, location 545). Writing from the perspective of black studies, Vincent Lloyd observes: "The field, born of struggle, was once centrally concerned with normative questions—What ought to be done? How ought we to live? What is a just society?—but these concerns have faded, critical inquiry replaced by dogmatic 'progressive' assumptions" (Lloyd 2016). A similar claim could be made for Shakespeare studies, which has largely eschewed universals in favor of particulars, filtered through "progressive assumptions" that may miss what is most redeeming in the precious texts entrusted to our care. In my new work on Shakespeare's virtues, I am interested in finding a non-reductive and historically attuned place in Shakespeare studies to reevaluate and renew normative concepts such as excellence, soul, autonomy, fellowship, amity, and tradition. Natural law thinking, perfected rather than abolished by black natural law, contributes to that effort.

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