



Ethics Accessible to Reason: A Synopsis of the Natural Law Question in Moral Theology

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The fact of human free will—which entails the power to act or refrain from acting, to deliberate, evaluate, and choose among different courses of action—necessitates criteria from which to judge alternatives and arrive at practical decisions. Unlike irrational animals, the human person does not act out of necessity, but may exercise free choice. When he acts, man naturally pursues some form of sensible or intelligible good.¹ At the same time, his evaluation of alternative actions goes beyond the categories of what is possible, useful, or pleasurable, and includes the moral categories of what is “right” and what is “wrong.” A moral sense—the experience that some actions are proper, others permissible, others obligatory, and others prohibited²—is common to all peoples in all times and places, though the practical instantiations of this sense vary widely. In the end, the idea expressed by the words “I ought,” “I ought not,” and “I may” is not foreign to any culture, and is not reducible to other types of human experience.³

¹ See Saint Thomas Aquinas, *Summa Theologiae* (hereafter S. Th.), I, 80, 1, ad 2; I-II, 8, 1.

² For the ancient Greeks, the notion of what is proper or improper was often expressed in terms of acting in a way worthy of a human being, and was closely linked to the moral aesthetics of a desirable, beautiful life. Nonetheless, the pursuit of the good life was not presented as one possible course to follow, but as the right course to follow, and a sense of moral obligation was not foreign to them. Plato, Aristotle, and the Stoics spoke of conduct which conformed to reason or was contrary to it, of what should be done or avoided.

³ In his book, *The Problem of Pain*, C. S. Lewis expresses the singularity of this phenomenon: «All the human beings that history has heard of acknowledge some kind of

Thus despite elaborate theories to the contrary,⁴ it may be affirmed with certainty that man is a moral animal.

An indispensable aid to forming personal moral judgments comes from law.⁵ According to the classical definition, law is «a rule of conduct enacted by competent authority for the sake of the common good.»⁶ Though one speaks of laws of nature (such as the law of gravity), properly speaking law refers to reason,⁷ since law is not the efficient cause of order nor a mere description of an existing order, but a guide by which man himself is to measure and order his activity.

The Scholastic tradition subdivides law into the eternal law and temporal laws, the former being the plan in the mind of God according to which the whole universe is governed,⁸ or simply divine wisdom which directs all the activity of creatures,⁹ and the latter being specific norms of human conduct. The eternal law is the ultimate source, in God, of all true law.¹⁰ St. Augustine defined the eternal law as «the divine reason or will commanding that the natural order be preserved

morality; that is, they feel towards certain proposed actions the experiences expressed by the words 'I ought' or 'I ought not'. These experiences... cannot be logically deduced from the environment and physical experience of the man who undergoes them. You can shuffle 'I want' and 'I am forced' and 'I shall be well advised' and 'I dare not' as long as you please without getting out of them the slightest hint of 'ought' and 'ought not'.... Attempts to resolve the moral experience into something else always presuppose the very thing they are trying to explain» (C. S. Lewis, *The Problem of Pain* [London: Fount Paperbacks, 1940], 8).

⁴ Noteworthy among theories that deny moral sense are Freud's idea that moral consciousness represents a «sublimation» of elementary instincts such as the sexual libido, resulting from censorship by the superego (see especially *Totem und Tabu* [1913], and *Unbehagen in der Kultur* [1929]), and Nietzsche's condemnation of morality as a hypocrisy which conceals men's weakness and cowardice (especially in *Also sprach Zarathustra* [1883-1884], *Jenseits von Gut und Böse* [1886], and *Zur Genealogie der Moral* [1887]).

⁵ «Such, then, being the condition of human liberty, it necessarily stands in need of light and strength to direct its actions to good and to restrain them from evil. Without this, the freedom of our will would be our ruin. First of all, there must be law; that is, a fixed rule of teaching what is to be done and what is to be left undone» (Pope Leo XIII, encyclical letter *Libertas Praestantissimum* (hereafter LP), June 20, 1888, no. 7). Thomas speaks of three extrinsic principles of human acts: the devil, law, and grace. The devil incites man to evil, while God incites man to good through law and grace. See S. Th., I-II, 90, preamble.

⁶ *Catechism of the Catholic Church* (hereafter CCC), 1951. St. Thomas defines law as «a dictate of practical reason emanating from the ruler who governs a perfect community» (S. Th., I-II, 91, 1) and «an ordinance of reason for the common good, made by him who has care of the community, and promulgated» (Ibid., I-II, 90, 4).

⁷ See, for instance, S. Th. I-II, 90, 1 and I-II, 91, 2, ad 3.

⁸ S. Th., I-II, 91, 1.

⁹ S. Th., I-II, 93, 1.

¹⁰ CCC, 1952.

and forbidding that it be disturbed.»¹¹ This law governs irrational creatures through physical and biological “laws” that direct their activity, and governs man by providing him with principles of his activity to be freely chosen and adhered to.¹² The moral law, which «prescribes for man the ways, the rules of conduct that lead to the promised beatitude» and «proscribes the ways of evil which turn him away from God and his love» is «the work of divine Wisdom.»¹³

Temporal laws, in turn, may be divided into “positive laws,” extrinsic to man, and “natural law,”¹⁴ written on man’s heart¹⁵ and intrinsic to his rational nature.¹⁶ Positive laws find their source in the reason and will of the legislator, and induce to obedience either by the authority of the lawgiver or the positive or negative sanctions attached to their observance.¹⁷ Positive laws are in turn further subdivided into positive divine law¹⁸ revealed by God (the Old Covenant or Mosaic Law, and the New Covenant or Evangelical Law) and positive human

¹¹ Saint Augustine, *Contra Faustum Manichaeum*, c. 22, n. 27; PL 42, col. 418.

¹² As Tertullian wrote: «Alone among all animate beings, man can boast of having been counted worthy to receive a law from God: as an animal endowed with reason, capable of understanding and discernment, he is to govern his conduct by using his freedom and reason, in obedience to the One who has entrusted everything to him» (Tertullian, *Ad. Marc.*, 2, 4; PL 2, 288-289).

¹³ CCC, 1950.

¹⁴ Thomas’s division of law is somewhat different (eternal, natural, human, divine). But since he sees natural law as an expression of natural right (S. Th., II-II, 57, 1, ad 2), we have taken his division of right into natural and positive (S. Th., II-II, 57, 2), and applied them to law.

¹⁵ «When Gentiles, who do not possess the law, do instinctively what the law requires, these, though not having the law, are a law to themselves. They show that what the law requires is written on their hearts, to which their own conscience also bears witness; and their conflicting thoughts will accuse or perhaps excuse them» (Rom. 2:14-15).

¹⁶ There is considerable debate regarding whether the natural law is truly intrinsic to man’s nature or rather extrinsic and internal. In other words, is the natural law part of man’s nature, or extrinsic to it. I understand the natural moral law to be «written into» and thus intrinsic to the fabric of man’s nature. For the natural law to be an extrinsic principle, it would have to be somehow inserted into man in an act separate from his creation and abide in him as a sort of foreign occupant. For his part, Leo XIII declared that the natural law, written and engraved in the mind of every man, «is nothing but our reason, commanding us to do right and forbidding sin» (LP, 8).

¹⁷ «Now the precepts refer to things which have to be done: and to their fulfillment man is induced by two considerations, viz. the authority of the lawgiver, and the benefit derived from the fulfillment, which benefit consists in the attainment of some good, useful, pleasurable or virtuous, or in the avoidance of some contrary evil» (S. Th., I-II, 99, 5).

¹⁸ «I answer that, as stated above, the Divine law is instituted chiefly in order to direct men to God; while human law is instituted chiefly in order to direct men in relation to one another» (S. Th., I-II, 99, 3).

laws (ecclesiastical or civil).¹⁹ Positive divine laws serve to complement the natural law by determining what the natural law leaves indeterminate, by providing a sure guide of conduct that compensates for the uncertainty of human judgment, and by making possible the attainment of goals which could not be attained by the mere light of natural law.²⁰ Positive human laws stipulate what is due to one and required of another, and derive from common accord or by the decree of the lawgiver.²¹

The Case Against Natural Law

Volumes have been written on natural law theory, and the idea of natural law, though expounded from antiquity,²² has always been fraught with controversy.²³ The natural law has enjoyed a glorious but tumultuous history, which Maritain adequately sums up as follows:

The idea of a natural law is a heritage of Greek and Christian thought. It goes back not only to Grotius, who indeed began deforming it,²⁴ but, before him to Suarez and Francisco de Vitoria;

¹⁹ Thomas sees human laws as particular determinations deriving from the more general precepts of the natural law. See S. Th., I-II, 91, 3.

²⁰ See S. Th., I-II, 91, 4. Here Thomas speaks specifically of the value of divine law.

²¹ See S. Th., II-II, 57, 2.

²² «The doctrine of natural law is as old as philosophy» (Heinrich A. Rommen, *The Natural Law: A Study in Legal and Social History and Philosophy* [1936], translated by Thomas R. Hanley [Indianapolis: Liberty Fund, 1998], 3).

²³ Fortin, for instance, notes that «the notorious debates to which [natural law theory] gave rise and the variety of interpretations to which it was subjected suggest that its status always remained ambiguous.» He adds: «It has been remarked more than once, usually by its defenders, that no single doctrine has so often risen from its ashes after having been repeatedly and solemnly pronounced dead. If these cycles of decline and rebirth are a sure sign of its abiding vitality, they also testify to a no less persistent vulnerability» (Ernest L. Fortin, «Augustine, Thomas Aquinas, and the Problem of Natural Law,» in *Classical Christianity and the Political Order: Reflections on the Theologico-Political Problem*, vol. 2 of *Ernest L. Fortin: Collected Essays*, ed. J. Brian Benestad [Lanham, MD: Rowman & Littlefield, 1996]: 199).

²⁴ It seems to me that much unmerited blame for the corruption of natural law theory has been placed on the shoulders of Grotius. His definition of the natural law, in fact, coincides almost exactly with that of the whole of Christian tradition: «The law of nature is a dictate of right reason, which points out that an act, according as it is or is not in conformity with rational nature, has in it a quality of moral baseness or moral necessity; and that, in consequence, such an act is either forbidden or enjoined by the author of nature, God» (Hugo Grotius, *De Iure Belli ac Pacis Libri Tres* (1625), translated by Francis W. Kelsey [Oxford: Clarendon Press, 1925], Bk. I, Ch. I, X, 1, 38-9). Furthermore, against nominalism and voluntarism Grotius affirmed that God himself respects the order of the creation that is fruit of

and further back to St. Thomas Aquinas (he alone grasped the matter in a wholly consistent doctrine, which unfortunately was expressed in an insufficiently clarified vocabulary, so that its deepest features were soon overlooked and disregarded); and still further back to St. Augustine and the Church Fathers and St. Paul (we remember St. Paul's saying: 'When the Gentiles who have not the Law, *do by nature* the things contained in the Law, these, having not the Law, are a law unto themselves...' [Rom. 2:14]); and even further back to Cicero,²⁵ to the Stoics, to the great moralists of antiquity and its great poets, particularly Sophocles. Antigone, who was aware that in transgressing the human law and being crushed by it she was obeying a better commandment, the *unwritten and unchangeable laws*, is the eternal heroine of natural law: for, as she puts it, they were not, those unwritten laws, born out of today's or yesterday's sweet will, "but they live always and forever, and no man knows from where they have arisen."²⁶

The existence of a natural law, though propounded in some form or another from the beginnings of civilization, has always been contested, and arguments against such a law are legion.²⁷ Sometimes the very proponents of natural law theory have been the cause of its fall from grace. Natural law theory has at times been presented in a simplistic way or made to do things it was never able to do, such that those of a more skeptical or critical mindset have had ample reason to doubt its existence.²⁸

his wisdom. «The law of nature, again, is unchangeable—even in the sense that it cannot be changed by God. Measureless as is the power of God, nevertheless it can be said that there are certain things over which that power does not extend; for things of which this is said are spoken only, having no sense corresponding with reality and being mutually contradictory. Just as even God, then, cannot cause that two times two should not make four, so He cannot cause that that which is intrinsically evil not be evil» (Ibid., Bk. I, Ch. I, X, 5, 40).

²⁵ Cicero puts these words into the mouth of the righteous Laelius: «There is a true law, namely, right reason, which is in accordance with nature, applies to all men, and is unchangeable and eternal; by its commands it summons men to the performance of their duties, by its prohibitions it restrains them from doing wrong» (Cicero, *De Re Publica*, III.22.33, cited in Fortin, «Augustine, Thomas Aquinas, and the Problem of Natural Law,» 203).

²⁶ Jacques Maritain, *Man and the State* (1951), (Washington, D.C.: The Catholic University of America Press, 1998), 84-5, citing Sophocles, *Antigone*, ii. George Young's translation, 452-60.

²⁷ I speak here of natural law in the broadest possible sense: as a moral standard for human behavior which is prior to positive law, and discoverable by human reason. «The natural law expresses the original moral sense which enables man to discern by reason the good and the evil, the truth and the lie» (CCC, 1954).

²⁸ «During the rationalist era jurists and philosophers have misused the notion of natural law to such a degree, either for conservative or for revolutionary purposes, they have put it

Especially since the pontificate of Leo XIII,²⁹ natural law doctrine has enjoyed acceptance as an established part of the Church teaching, and from a theological perspective its existence is not in question. Though a worthy treatment of objections to natural law is beyond the scope of this paper, such arguments cannot be altogether passed over. The five objections described here are among the most notorious, and offer a fair representation of the sort of criticisms voiced by opponents of natural law. The responses provided are meant only to indicate the direction a more thoroughgoing response could take.

The most typical objection proposes that the wide variety of societal mores and ethical principles found in different cultures and historical periods excludes the possibility of a single, universal natural law. Were such a law in existence, critics say, one would observe greater ethical uniformity among peoples and cultures. Historicism and similar approaches seek to explain the assortment of moral codes by proposing that ethical norms are the product not of some abstract, immutable human nature, but of external conditioning forces, such as personal history, culture, and education. Some Existentialists, in turn, deny the existence of human nature altogether, asserting rather that existence precedes essence, and thus a natural law binding for all human beings is impossible.

A second objection rests on anthropological premises of a theological strain. The chief agents of the Protestant reformation, whose accentuation on the corruption of human nature after the Fall cast doubt on reason's capability of furnishing trustworthy ethical criteria, by and large sidelined the natural law in favor of the law of the Gospel.³⁰ The ability of reason to ascertain moral truth was seen to be so

forward in so oversimplified and so arbitrary a manner, that it is difficult to use it now without awakening distrust and suspicion in many of our contemporaries» (Maritain, *Man and the State*, 81).

²⁹ Leo set forth the fundamental lines of the natural moral law especially in his encyclical *Libertas praestantissimum* of June 20, 1888. This doctrine has been amply reiterated by Leo's successors and has been clearly formulated in the *Catechism of the Catholic Church*, §§ 1954-1960 as well as in the encyclical letter *Veritatis splendor* (hereafter VS), especially §§ 40-60.

³⁰ Among the reformers a variety of opinions existed. Calvin, for example, held that a sort of natural law is present in fallen man, and whereas his reason is sufficient to discern right from wrong, he is incapable of carrying out the good he sees. «There is imprinted on their hearts a discrimination and judgment by which they distinguish between what is just and unjust, between what is honest and dishonest... not of the power to fulfill the law, but of the knowledge of it» (John Calvin, *Commentary on Romans, 2:15*, cited by Daniel Westberg, «The Reformed Tradition and Natural Law,» in *A Preserving Grace: Protestants, Catholics, and Natural Law*, ed. Michael Cromartie [Grand Rapids, MI: Ethics and Public Policy Center/William B. Eerdmans Publishing Co., 1997]: 184, note 6). Martin Luther retained

limited as to be unreliable, and at any rate was superseded by Christian revelation.³¹

A third objection typical of a modern scientific mentality questions the normative quality of human nature. Since man is called to subdue nature and harness it for his purposes, how can nature provide moral norms to which man must submit?

A fourth, more pragmatic objection would seek to deflect attention from foundational questions of moral justice in favor of practical consensus. If the goal of justice is social order and peace, consensus is to be preferred to principle since it seeks practical solutions without delving into theoretical considerations on which full agreement between peoples may never be reached, and which will therefore only stymie efforts to reach an accord.³²

Fifth, and more recently, among moral theologians certain currents have disengaged freedom from its mooring to theological and philosophical anthropology, resulting in a sweeping rejection of the natural law and its precepts.³³ Norms of morality would be dictated by the autonomous moral conscience in its pursuit of the personal good, and not by an objective moral code written into human nature.

natural law in his theology, «though not without transforming its place and meaning within the framework of his overall understanding of the Gospel» (Carl A. Braaten, «A Response to Russell Hittinger,» in *A Preserving Grace: Protestants, Catholics, and Natural Law*, ed. Michael Cromartie [Grand Rapids, MI: Ethics and Public Policy Center/William B. Eerdmans Publishing Co., 1997]: 31).

³¹ De Finance notes that «Lutheran theology, in the measure in which it holds that human nature has been totally corrupted by original sin, so that human reason is now entirely incapable of grasping moral and religious truths, cannot but reject the notion of natural law. It is only revelation that can give people the knowledge of moral truths» (Joseph de Finance, *An Ethical Inquiry*, translated from the original French *Éthique Générale* (1967) by Michael O'Brien [Rome: Editrice Pontificia Università Gregoriana, 1991], § 182, p. 312).

³² Maritain observed that it was possible for the framers of the United Nations Universal Declaration of Human Rights to reach a consensus for the formulation of practical conclusions, despite the broad diversity of ideological allegiances, cultural backgrounds, and philosophical and religious traditions. Maritain states that «men mutually opposed in their theoretical conceptions can come to a merely practical agreement regarding a list of human rights» (Maritain, *Man and the State*, 76).

³³ «In fact, a new situation has come about within the Christian community itself, which has experienced the spread of numerous doubts and objections of a human and psychological, social and cultural, religious and even properly theological nature, with regard to the Church's moral teachings. It is no longer a matter of limited and occasional dissent, but of an overall and systematic calling into question of traditional moral doctrine, on the basis of certain anthropological and ethical presuppositions. At the root of these presuppositions is the more or less obvious influence of currents of thought which end by detaching human freedom from its essential and constitutive relationship to truth. Thus the traditional doctrine regarding the natural law, and the universality and the permanent validity of its precepts, is rejected» (Pope John Paul II, encyclical letter *Veritatis splendor*, August 6, 1993, no. 4).

A response to these objections could begin with the following considerations. In the first place, a distinction must be drawn between the existence of natural law and knowledge of the law. While cultural and historical circumstances undoubtedly influence one's grasp of moral principles, they do not negate such natural principles, nor do they dislodge the natural capacity of practical reason to discern moral truth. In studying the broad diversity of customs and moral norms operating in history and from culture to culture, one notes not only differences but also constants, which indicate commonality. To expect natural law to provide a detailed code of prescriptions immediately discernible to all is simply to demand too much from it.³⁴

Secondly, Catholic anthropology differs from the Protestant view of man in that Catholics understand original sin to have wounded man's nature but not corrupted it beyond recognition. Though reason has been clouded and the will weakened, their operations remain substantially the same and thus man is still capable of knowing the truth—including moral truth—and adhering to it, albeit with difficulty.³⁵

Thirdly, as regards man's dominance over nature, care must be taken to avoid confusing different meanings of "nature." When speaking of man's dominance over "nature," the word refers to the physical world with its particular physical laws. When speaking of man's "nature" as the source of moral law, the word refers to a metaphysical principle: man's nature as a free, rational being is what makes him what he is and distinguishes him from other sorts of beings. Moreover, even when speaking of nature in the sense of the physical world, man harnesses nature to his own purposes always through his understanding and application of nature's laws—not by flouting them. Through his understanding of gravity, for example, man is able to create a rocket which respects the law of gravity while allowing man to travel to the moon. Likewise through man's knowledge of his own nature

³⁴ «I think that one overstates the case to say that anything but the rudiments of moral law are known naturaliter» (Russell Hittinger, «Comments,» in *A Preserving Grace: Protestants, Catholics, and Natural Law*, ed. Michael Cromartie [Grand Rapids, MI: Ethics and Public Policy Center/William B. Eerdmans Publishing Co., 1997]: 42).

³⁵ In his encyclical *Fides et ratio*, Pope John Paul speaks of the censures delivered by the Magisterium to fideism and radical traditionalism, «for their distrust of reason's natural capacities» (FR, 52). One of these, applied to Louis Bautain, reads as follows: «Although reason was weakened and darkened by original sin, yet sufficient clarity and strength remain in it to lead us with certainty to the knowledge of the existence of God» (Pope Gregory XVI, *Theses a Ludovico Eugenio Bautain iussu sui Episcopi subscriptae* (8 September 1840), DS 2756).

and end he is able to distinguish between activity that conforms to his true moral good and that which frustrates it.³⁶

Fourthly, concerning the superiority of pragmatic consensus to moral theorizing in political life, to employ the Latin maxim, here it is not a matter of *aut-aut* but *et-et*; that is, the two approaches are not mutually exclusive but complementary. The fact that consensus regarding practical action is often more expedient on a political plane does not preclude the need for study and discussion of the deeper foundational principles. What is consensus today can be changed in a single generation. Furthermore, even if for prudential reasons in a pluralist society pragmatic accords must be taken without insisting on agreement as to principle, it is essential to understand the deeper underpinnings of human moral principles to be able to distinguish them from false claims, and explain how they relate to true human fulfillment.

Finally, attempts to detach moral norms from an objective understanding of man and man's good cannot but lead to subjectivism or positivism, that is, either to the absence of objective moral norms or to moral principles grounded solely in the divine will and accessible only through revelation (or grounded in human will, and dependent on civil legislation). Freedom seen as absolute independence is incompatible with natural law.³⁷

This last point merits special consideration. Regardless of the specific content of natural law, to affirm its existence is to affirm that law cannot be reduced to positive law,³⁸ and that positive law itself

³⁶ Some falsely assert that natural law implies blind obedience to natural physiological processes, rather than a law of reason. Thus Miranda explains that natural law is not, as some profess, «una serie de condicionamientos morales provenientes de la naturaleza en cuanto naturaleza física, concretamente la naturaleza corporal del hombre. Como si las leyes biológicas que rigen el funcionamiento del cuerpo fueran por sí mismas y en sí mismas moralmente obligatorias para la conciencia del individuo» (Gonzalo Miranda González de Echavarrí, *Respuesta de amor: Manual de teología moral fundamental*, vol 1 [Mexico City: Nueva Evangelización, 1998], 82).

³⁷ «If we understand human freedom in an entirely indeterministic way, as complete independence unlimited by anything whatsoever, then this concept, of course, already excludes all natural law: natural law loses its meaning» (Karol Wojtyła, «The Human Person and Natural Law,» translated by Theresa Sandok, in *Person and Community: Selected Essays*, vol. 4 of *Catholic Thought from Lublin*, ed. Andrew N. Woznicki [New York: Peter Lang, 1993]: 185).

³⁸ In his *Nichomachean Ethics*, Aristotle notes this essential difference between positive and natural law, and emphasizes the stability of the natural law and the volatility of the positive. «Political justice is of two kinds, one natural and the other conventional. A rule of justice is natural that has the same validity everywhere, and does not depend on our accepting it or not. A rule is conventional that in the first instance may be settled in one way or the other

must submit to the rule of right reason.³⁹ Since natural and positive law are corporately exhaustive, the exclusion of natural law would leave positive law as the sole criterion of justice.⁴⁰ Right and wrong, just and unjust would become synonyms of legal and illegal. Hittinger asserts that «the most rudimentary form of natural law thinking arises in connection with the question of whether the *ius* is the mere artifice of positive law. Does this life, property, dignity, and status belong to me (him or them) exclusively by virtue of a contract or decree of the state or, for that matter, by the assertion of an individual?»⁴¹

The consequences of an affirmative reply are obvious. Without such a principle, human persons would be at the mercy of the whims of convention and legislatures (or, in their absence, reduced to anarchy). The majority could democratically enact laws subjugating minorities, and these latter could appeal to no higher standard than the democratic process, making way for a situation of tyranny of the strong over the weak.⁴² Consensualism is a helpful political tool for

indifferently» (Aristotle, *Nicomachean Ethics*, translated by Harris Rackham [London: William Heineman LTD, 1982], V, 7: 1134b18-21).

³⁹ It is indeed our natural assumption that positive law mirrors and reinforces natural law, what is just in itself. MacIntyre writes: «We make laws providing penalties for performing certain types of action and for failing to perform others only if and when we believe that there are good reasons, prior to and independent of our lawmaking, for judging it to be good or right that such types of actions should be done or left undone. We also believe that those good reasons by themselves provide sufficient grounds for people in general to perform or to refrain from performing the relevant types of action. When by enacting laws we attach penalties to failure to perform or to refrain from performing, we provide additional grounds for those insufficiently motivated by such good reasons because of some deficiency of character. But our assumption is that anyone whose moral character was sufficiently educated would not need the motivation afforded by those additional sanctions for obeying the law» (Alasdair C. MacIntyre, «Theories of Natural Law in the Culture of Advanced Modernity,» in *Common Truths: New Perspectives on Natural Law*, ed. Edward B. McLean [Wilmington: ISI Books, 2000]: 99).

⁴⁰ This holds true both for human law and divine law. Whereas nominalists, beginning with Ockam, asserted a divine voluntarism whereby God's commands are good because he commands them, Christian tradition has always maintained that God commands certain things because they are good. In other words, this tradition posits a harmony between the divine will and divine wisdom. Thus Thomas asks whether some human acts are right by nature, and not only because they are prescribed by law, and answers in the affirmative. The things, he writes, «prescribed by the divine law are right not only because they are prescribed by law, but also by their very nature» (Thomas Aquinas, *Summa contra Gentiles* [hereafter SCG], III, 129, 5).

⁴¹ Russell Hittinger, introduction to *The Natural Law: A Study in Legal and Social History and Philosophy*, by Heinrich A. Rommen (Indianapolis: Liberty Fund, 1998), xxix.

⁴² Pope John Paul II has repeatedly cited the uncoupling of freedom from objective truth as the root of totalitarianism. «Totalitarianism arises out of a denial of truth in the objective sense. If there is no transcendent truth, in obedience to which man achieves his full identity, then there is no sure principle for guaranteeing just relations between people. Their

ordering many aspects of human society, but it is seriously deficient as the final criterion of justice. Natural law refers to objective ethical principles that precede all legislation, and by which legislation can be called to render an account and judged as just or unjust.⁴³ In 1953 Leo Strauss wrote that

...the need for natural right is as evident today as it has been for centuries and even millennia. To reject natural right is tantamount to saying that all right is positive right, and this means that what is right is determined exclusively by the legislators and the courts of the various countries. Now it is obviously meaningful, and sometimes even necessary, to speak of “unjust” laws or “unjust” decisions. In passing such judgments we imply that there is a standard of right and wrong independent of positive right and higher than positive right: a standard with which we are able to judge of positive right.⁴⁴

Of course a mere assertion of the desirability or even necessity of natural right or natural law does not prove its existence.⁴⁵ At the same time, every attempt to replace natural law with something else has proved fruitless. Just as no speculative reasoning can be carried out without self-evident principles, so too no practical reasoning can take place without self-evident first principles.⁴⁶ When natural law is discarded positive law itself loses all authority except the power of force.

self-interest as a class, group or nation would inevitably set them in opposition to one another. If one does not acknowledge transcendent truth, then the force of power takes over, and each person tends to make full use of the means at his disposal in order to impose his own interests or his own opinion, with no regard for the rights of others» (VS, 99; See also Pope John Paul II, encyclical letter *Centesimus annus*, 44: AAS 83 (1991), 848-849; Leo XIII, *Libertas Praestantissimum*, (June 20, 1888): Leonis XIII P.M. Acta, VIII, Romae 1889, 224-226).

⁴³ The same holds true concerning natural rights. «These rights are prior to society and must be recognized by it. They are the basis of the moral legitimacy of every authority: by flouting them, or refusing to recognize them in its positive legislation, a society undermines its own moral legitimacy» (CCC 1939; cf. Pope John XXIII, encyclical letter *Pacem in terris*, April 11, 1963, no. 65).

⁴⁴ Leo Strauss, *Natural Right and History* (Chicago: The University of Chicago Press, 1953), 2.

⁴⁵ «Certainly, the seriousness of the need of natural right does not prove that the need can be satisfied. A wish is not a fact. Even by proving that a certain view is indispensable for living well, one proves merely that the view in question is a salutary myth: one does not prove it to be true. Utility and truth are two entirely different things» (Ibid., 6).

⁴⁶ «I draw the following conclusions. The thing which I have called for convenience the Tao, and which others may call Natural Law or Traditional Morality or the First Principles of Practical Reason or the First Platitudes, is not one among a series of possible systems of

Perhaps the strongest argument in favor of the existence of natural law is that provided by common human experience. People habitually judge positive laws as just or unjust, implying that right must proceed from some source other than—and prior to—positive law. Since history provides countless examples of unjust laws, it requires little imagination to come up with examples that bear this out. Laws that arbitrarily disadvantage individuals or groups grate against a sense of fairness which can be witnessed among all peoples in all eras. People spontaneously emit judgments about both laws and human actions that reveal a sense of justice independent of and above positive laws. Critics of natural law theory themselves, if they examine their own behavior and beliefs in an unbiased way, will discover that they cannot wholly refrain from evaluating human conduct in absolute terms of right and wrong, with no reference to positive law. Even little children, when playing together, will utter expressions such as “That’s not fair!” which bear no relation to established rules, but simply reflect a basic sense of right and wrong, just and unjust. The same principles of natural right or natural justice that allow us to evaluate actions as fair or unfair, good or evil, can be restated as precepts of law: Do this; avoid that.

The Laws of Nature and Nature’s God

Though in itself law is an extrinsic principle of human activity,⁴⁷ God has written a law into man’s nature. Thus, «human acts can be regulated by the rule of human reason, which rule is derived from the created things that man knows naturally; and further still, from the rule of the Divine law.»⁴⁸ Through his loving providence, God directs all creation to its proper end. Nevertheless, God provides for man differently from the way in which he provides for beings which are not persons, and natural law does not guide man to his proper end through coercion, as other laws do. Thus God «cares for man not ‘from without,’ through the laws of physical nature, but ‘from within,’ through reason, which, by its natural knowledge of God’s eternal law, is consequently able to show man the right direction to take in his free

value. It is the sole source of all value judgements. If it is rejected, all value is rejected. If any value is retained, it is retained» (C. S. Lewis, *The Abolition of Man*, 56).

⁴⁷ See S. Th., I-II, 90, preamble.

⁴⁸ S. Th., I-II, 74, 7.

actions.»⁴⁹ Practical reason discovers precepts of right action written into created reality, which provide guidance to man's free will to choose good and avoid evil.⁵⁰ In this way God has made man a sharer in his own providence, since he desires to guide the world through man's reasonable and responsible care. The *natural law*, therefore, is the human expression of God's eternal law.⁵¹

Thus, together with the body of positive moral norms and laws which come from without (so-called "heteronomous" precepts⁵²), man also discovers internal normative principles of activity⁵³ to which he can reason independently and by which he can judge his own and others' actions.⁵⁴ These internal normative principles are traditionally referred to as "natural law,"⁵⁵ in that they pertain to man's nature as a free, rational being.⁵⁶ Natural moral law, then, can be defined as «that

⁴⁹ VS, 43. See also S. Th., I-II, 90, 1, ad 1.

⁵⁰ Thus Miranda defines the natural moral law as consisting of «une serie de principios morales generales que la razón natural del hombre formula espontáneamente a partir de su propia naturaleza o modo de ser» (Miranda, 83).

⁵¹ «Among all others, the rational creature is subject to divine providence in the most excellent way, insofar as it partakes of a share of providence, being provident both for itself and for others. Thus it has a share of the Eternal Reason, whereby it has a natural inclination to its proper act and end. This participation of the eternal law in the rational creature is called natural law» (S. Th., I-II, 91, 2).

⁵² The divine positive law can be called heteronomous only in the sense of extrinsic, not in the sense of unrelated to man's true good. «Hence obedience to God is not, as some would believe, a heteronomy, as if the moral life were subject to the will of something all-powerful, absolute, extraneous to man and intolerant of his freedom. If in fact a heteronomy of morality were to mean a denial of man's self-determination or the imposition of norms unrelated to his good, this would be in contradiction to the Revelation of the Covenant and of the redemptive Incarnation. Such a heteronomy would be nothing but a form of alienation, contrary to divine wisdom and to the dignity of the human person» (VS, 41).

⁵³ Hittinger holds that as a true law, the natural moral law is an extrinsic principle, but it is written into man's nature and thus does not govern his actions by coercion but by appealing to his practical reason. «The natural law is extrinsic, but not external; whereas positive law is extrinsic and almost always external» (Hittinger, «Comments,» 48).

⁵⁴ Boyle sums up the traditional understanding of natural law as «a set of universal prescriptions whose prescriptive force is a function of the rationality which all human beings share in virtue of their common humanity» (Joseph Boyle, «Natural Law and the Ethics of Traditions,» in *Natural Law Theory: Contemporary Essays*, ed. Robert P. George [Oxford: Clarendon Press, 1995]:4).

⁵⁵ A typical definition is that of Zalba: «Lex naturalis est divina creature rationalis in finem ultimum naturalem ordinatio, necessaria, in ipsa natura expressa, naturali lumine rationis percepta» (Marcellinus Zalba, *Theologiae Moralis Compendium I* [Madrid: BAC, 1958], § 316).

⁵⁶ Wojtyła has written that «natural law is something that intimately corresponds to the person and that is proper to the person. For if the person is an 'individual substance of a rational nature,' it is hard to deny that an 'ordinance of reason' corresponds to and is proper to the person» (Wojtyła, «The Human Person and the Natural Law,» tr. Theresa Sandok, in

moral order which arises from the full reality of human nature and which can be recognized by man's reason, independent of positive revelation.»⁵⁷ Indeed, man reasons that certain actions, though perhaps pleasurable or useful for attaining determined goods, are unworthy of him, and degrade him as a human being, while other choices elevate him because they correspond to his true good, which his reason discerns. Man realizes, moreover, that his free choices constitute him as a moral subject, in that they make him into a certain sort of person: the sort of person who would avoid certain actions and perform others.⁵⁸ Therefore, whereas speculative reason leads man to understand what he *is*, practical reason leads him to understand what he *should be* and consequently what he *should do*.⁵⁹ It also discovers in other persons beings who *should be treated* in a certain way.

In his encyclical on the moral life, *Veritatis Splendor*, Pope John Paul II summarizes the Church's perennial teaching on natural law. According to this vision, the entire moral law finds its origin and its authority in God.⁶⁰ Nonetheless, on making man in his own image and endowing him with reason and free will, God wrote this law into man's nature, to be discovered and freely adhered to. For this reason, the natural law is a fully human law.⁶¹ God created man and ordered him with wisdom and love to his final end, through the law which is inscribed in his heart (cf. Rom. 2:15), the "natural law." «The latter 'is nothing other than the light of understanding infused in us by God,

Person and Community: Selected Essays, volume 4 of *Catholic Thought from Lublin*, ed. Andrew N. Woznicki [New York: Peter Lang, 1993], 184).

⁵⁷ C. Henry Peschke, *A Presentation of General Moral Theology in the Light of Vatican II*, vol. 1 of *Christian Ethics* (Dublin: C. Goodliffe Neale, 1977), 105.

⁵⁸ For example, a man who deliberately chooses to lie not only chooses the act of lying, but also chooses to become a liar, since he chooses to be the sort of person who would lie. In this way, he opts both for conduct which is reprehensible and also degrades himself as a moral subject.

⁵⁹ «Su razón, en cuanto «razón especulativa», le hace comprender lo que es; y en cuanto «razón práctica», le ayuda a entender lo que debe ser, y en consecuencia, lo que debe hacer» (Miranda, 36).

⁶⁰ Thus the Pope observes that «reason draws its own truth and authority from the eternal law, which is none other than divine wisdom itself. The moral law has its origin in God and always finds its source in him» (VS, 40).

⁶¹ John Paul adds that «at the same time, by virtue of natural reason, which derives from divine wisdom, it is a properly human law» (Ibid.).

whereby we understand what must be done and what must be avoided. God gave this light and this law to man at creation.’»⁶²

The obligatory character of natural law can be discussed from three different but complementary angles.⁶³ In the first place, and most essentially, natural law can be viewed as the ordinance of the divine Lawgiver, reflected in man’s nature. In this regard, Aquinas neatly sums up the natural law as «nothing else than the rational creature’s participation of the eternal law.»⁶⁴ Hence, the authority of the natural moral law—and its obligatory character—derives from the authority of God Himself.⁶⁵ Second, natural law can be viewed as a function of man’s nature. Man possesses an ontological structure which is a locus of intelligible necessities, as well as ends which correspond to his essential constitution. Furthermore, writes Maritain, «since man is endowed with intelligence and determines his own ends, it is up to him to put himself in tune with the ends necessarily demanded by his nature.»⁶⁶ Thus, man can come to understand what actions correspond to his nature and true good, and which are unworthy of it. Third, natural law can be examined as an epistemological problem regarding man’s cognitive grasp of the moral precepts written into his nature as a person. This means, continues Maritain, that «there is, by the very virtue of human nature, an order or a disposition which human reason can discover and according to which the human will must act in order to attune itself to the essential and necessary ends of the human being.»⁶⁷

⁶² Pope John Paul II, VS, 12, citing Thomas Aquinas, *In duo praecepta caritatis et in decem legis praecepta*. Prologus: *Opuscula theologica*, II, 1129, Ed. Taurinens. (1954), 245; cf. S. Th., I-II, 91, 2; CCC, 1955.

⁶³ Russell Hittinger’s treatment of the three foci of natural law discourse provides a clear summary of the theme. See Russell H. Hittinger, «Natural Law and Catholic Moral Theology,» in *A Preserving Grace: Protestants, Catholics, and Natural Law*, ed. Michael Cromartie, (Grand Rapids, MI: Ethics and Public Policy Center/William B. Eerdmans Publishing Co., 1997): 1-31.

⁶⁴ S. Th., I-II, 91, 2.

⁶⁵ The natural law «is written and engraved in the mind of every man; and this is nothing but our reason, commanding us to do right and forbidding sin. Nevertheless, all prescriptions of human reason can have force of law only inasmuch as they are the voice and the interpreters of some higher power on which our reason and liberty necessarily depend» (LP, 8).

⁶⁶ Maritain, *Man and the State*, 86.

⁶⁷ *Ibid.*

The Universality of the Natural Law

These three complementary dimensions of the natural moral law provide an invaluable starting point for a discussion of the universality of the law. The first dimension deals with the origin of the natural moral law, the second with its impression on human nature, and the third with man's cognitive grasp of its precepts. As regards the first level, it is clear that the eternal law is one, and is immutable and unchanging. Therefore, the *origin* of the natural moral law is universal, being the same for all.

On the second level, the natural moral law shows itself to be written into man's nature not as an addition, but as constitutive and inherent to that nature. For this reason, it inheres in every individual who partakes of this nature, that is, in every human person. It is not a function of the degree of intelligence⁶⁸ or any other quality which may vary from person to person, but simply of man's nature as a rational animal. Because all human beings have a rational nature, all are subject to the same fundamental moral principles inherent in that nature.⁶⁹ This is why despite great cultural variance among peoples, the virtues (though perhaps not their concrete expressions) are the same for all, as are vices and sins.⁷⁰ Envy, lust, and treachery, just like courage, magnanimity, and loyalty, are universally intelligible moral categories, though their concrete expressions may differ.

The Catechism, in fact, stresses the universality and unchanging nature⁷¹ of the natural moral law, and states that the

⁶⁸ We speak of all men as intelligent, in the sense of having use of reason, but we do not speak of more intelligent persons as «more human.» One either is, or is not, a human being. Thus humanity is a binary function. In the same way, the natural moral law inheres in all human beings by the fact of their humanity.

⁶⁹ «The natural law, present in the heart of each man and established by reason, is universal in its precepts and its authority extends to all men» (CCC, 1956).

⁷⁰ The Catechism points out that «in the diversity of cultures, the natural law remains as a rule that binds men among themselves and imposes on them, beyond the inevitable differences, common principles» (CCC, 1957).

⁷¹ Thomas offers two distinctions regarding the immutability of the natural moral law. First, if one considers the change that is addition to the precepts of the natural law, there is nothing to hinder such change (though one could say that these superadded precepts are placed alongside the natural law, and not added to its proper content). Second, there may be a certain mutability as regards the application of the natural law, whereby certain proper precepts may not be applicable in determined circumstances. Clearly, as regards the general principles of the natural moral law, no change is possible, since man's nature is constant and unchanging. See S. Th., I-II, 94, 5.

natural law is immutable and permanent throughout the variations of history (Cf. *GS*, 10); it subsists under the flux of ideas and customs and supports their progress. The rules that express it remain substantially valid. Even when it is rejected in its very principles, it cannot be destroyed or removed from the heart of man. It always rises again in the life of individuals.⁷²

Just as those who deny basic axioms of speculative reason inevitably make use of the very principles they reject (take, for instance, Hume's denial of causality), so too, those who reject the basic precepts of the natural law end up appealing to them again and again, without calling them by name.

Maritain points out that since the natural moral law flows from first principles deriving from man's common nature, «the precepts of the unwritten law are in themselves or in the nature of things (I am not saying in man's knowledge of them) universal and invariable.»⁷³ Because underlying human goods do not depend on man's preferences but rather on his unchanging nature, the precepts that enjoin the pursuit and protection of such goods and prohibit their violation are likewise universal. Practical reason, as Pope John Paul II observes, recognizes that it is «right and just, always and for everyone, to serve God, to render him the worship which is his due and to honor one's parents as they deserve.»⁷⁴ Since these moral truths are accessible to human reason, the positive precepts that derive from them (the same truths, stated in the imperative, such as «Honor thy father and thy mother») «are universally binding; they are unchanging» and «unite in the same common good all people of every period of history, created for 'the same divine calling and destiny' (*GS*, 29).»⁷⁵

In like manner, the *negative precepts* of the natural law are universally valid. «They oblige each and every individual, always and in every circumstance» because «the choice of this kind of behavior is in no case compatible with the goodness of the will of the acting person, with his vocation to life with God and to communion with his neighbor.»⁷⁶

⁷² CCC, 1958.

⁷³ Jacques Maritain, *The Rights of Man and Natural Law* (Glasgow: Robert Maclehose and Co./The University Press, 1945), 39.

⁷⁴ VS, 52.

⁷⁵ Ibid.

⁷⁶ Ibid.

One final distinction should be made concerning the universality of the natural moral law. Thomas notes that while the natural moral law is indeed universal in its general precepts, as regards matters of detail—specifications of these general precepts—the natural moral law holds in a “majority of cases.”⁷⁷ Thomas takes the example of the common principle that goods taken in trust should be restored to their rightful owner on demand. He mentions the case of a person who would wish to use those goods to fight against his country (elsewhere he uses the example of a madman who demands restitution of his sword),⁷⁸ in which case the precept would not bind. Consequently, the natural moral law is universal in its general precepts, but since it deals with contingency of human action and a vast array of possible circumstances, in matters of detail it may occasionally vary.

The Content of the Natural Law

What does the natural moral law in fact enjoin? Which specific moral precepts are included under the heading of the natural moral law? Here Aquinas’s teaching can be especially helpful, though other reflections and considerations can complete his thought along the way.

The natural law deals primarily with first principles, with practical premises that cannot be reasoned to from other truths.⁷⁹ Thus Thomas teaches that «the precepts of the natural law are to the practical reason, what the first principles of demonstrations are to the speculative reason; because both are self-evident principles.»⁸⁰ The quality of self-evidence is critical, since all discursive reasoning must begin with premises, both for speculative and practical reasoning. The compulsory character of particular moral norms likewise derives from the compulsory character of the general norm from which they originate. As Lewis says, «If nothing is self-evident, nothing can be proved. Similarly, if nothing is obligatory for its own sake, nothing is

⁷⁷ See S. Th., I-II, 94, 4.

⁷⁸ See S. Th., II-II, 120, 1.

⁷⁹ «The natural law states the first and essential precepts which govern the moral life» (CCC, 1955). «All the practical principles behind the Innovator’s case for posterity, or society, or the species, are there from time immemorial in the Tao. But they are nowhere else. Unless you accept these without question as being to the world of action what axioms are to the world of theory, you can have no practical principles whatever. You cannot reach them as conclusions: they are premisses» (C. S. Lewis, *The Abolition of Man*, 52-3).

⁸⁰ S. Th., I-II, 94, 2.

obligatory at all.»⁸¹ Insistence on the essence of natural law as dealing with first principles helps circumvent erroneous notions of natural law as a comprehensive code of detailed moral norms encompassing every possible circumstance. Natural law deals chiefly with first principles, which must be instantiated in concrete circumstances by practical reason, perfected by the virtue of prudence.

Thomas continues with the analogy between speculative reason and practical reason in the search of a first principle. He states that speculative reason treats of being, and thus the first indemonstrable principle of speculative reasoning is the principle of non-contradiction, that «the same thing cannot be affirmed and denied at the same time,» (based on the mutually exclusive notions of “being” and “not-being”). From this principle, Thomas continues, all others are based.⁸² But just as “being” is the first thing that falls under the apprehension simply, «so ‘good’ is the first thing that falls under the apprehension of the practical reason, which is directed to action: since every agent acts for an end under the aspect of good.» Because in acting reasonably man always pursues the good, so the first principle of practical reason states that «good is that which all things seek after.»⁸³ This principle likewise furnishes the first precept of law, that «good is to be done and pursued, and evil is to be avoided.» A regression performed on any moral precept or ethical cause will ultimately arrive at this principle. Whether one advocates saving baby seals, or advancing the cause of women, or preserving Costa Rican rain forests, or feeding the poor, the ultimate grounds for justifying one’s cause is

⁸¹ C. S. Lewis, *The Abolition of Man*, 53.

⁸² S. Th., I-II, 94, 2.

⁸³ «It is easy to be confused by the Aristotelian tag that ‘the good is what all things desire’—as if the goodness were consequential on the desires. But, as it applies to the human good and human desire, this tag was intended to affirm simply that (i) our primary use of the word ‘good’ (and related terms) is to express our practical thinking, i.e. our thinking, in terms of reasons for action, towards decision and action; and that (ii) we would not bother with such thinking, or such action, unless we were in fact interested in (desirous of...) whatever it is we are calling good. Those who use the tag were equally insistent that one’s human desire is a pursuit of something in so far as it seems desirable, and that things seem desirable to one in so far as they (appear to) promise to make one better off (not necessarily ‘materially,’ or instrumentally)» (John Finnis, *Natural Law and Natural Rights* [Oxford: Clarendon Press, 1980], 70). Another way to express «to make one better off» would be to say that such a good «perfects» man, or makes him not just «better off» but really «better.» Now to say that such a good perfects man means that it completes him, or makes him more truly what he is. This in turn implies some version of the Aristotelian concept of act and potency. Man is not fully actualized, and thus is susceptible to being improved or perfected. It likewise implies a teleology. Man is not only not fully what he is capable of being, he is also not fully what he is meant to be.

that it is good, not in an instrumental, but an absolute way, and at least implicitly one acknowledges that *good is to be done and evil avoided*.

Therefore, just as all principles of speculative reason issue from the principle of non-contradiction, so too all natural moral law principles issue from the first principle of practical reason. This principle does not exhaust the natural law but constitutes its font and origin.⁸⁴ The natural moral law embraces the ensemble of moral principles that flow necessarily from this first essential principle.⁸⁵ How does this come about? Obviously from the precept that «good is to be done and evil avoided» nothing further can be logically deduced. It is only by adding further data about man's good that one can come to specific conclusions as to what is to be pursued and what avoided. Thus Thomas says that «whatever the practical reason naturally apprehends as man's good (or evil) belongs to the precepts of the natural law as something to be done or avoided.»⁸⁶

But here, too, data seems to be lacking. How does practical reason go about determining what is good? What criterion distinguished good from evil? Aquinas assigns this role in the first place to natural inclinations. «[A]ll those things to which man has a natural inclination, are naturally apprehended by reason as being good, and consequently as objects of pursuit, and their contraries as evil, and objects of avoidance... Wherefore according to the order of natural inclinations, is the order of the precepts of the natural law.»⁸⁷

These inclinations Thomas arranges on three tiers. There is a good pertaining to man's lower nature that he has in common with all other substances: the good of existence. Wherefore man, like other substances, naturally seeks the preservation of his being. Thomas concludes that «by reason of this inclination, whatever is a means of preserving human life, and of warding off its obstacles, belongs to the

⁸⁴ Thus Thomas remarks that «the precepts of the natural law are many in themselves, but are based on one common foundation» (S. Th., I-II, 94, 2, ad 2).

⁸⁵ «The only practical knowledge all men have naturally and infallibly in common is that we must do good and avoid evil. This is the preamble and principle of natural law; it is not the law itself. Natural law is the ensemble of things to do and not to do which follow therefrom in necessary fashion, and from the simple fact that man is man, nothing else being taken into account» (Maritain, *The Rights of Man and Natural Law*, 36). It should be noted that this «following from» in necessary fashion does not take the form of logical deduction, as if a whole string of moral precepts could be pulled from the sleeves of first practical principles. Rather, that which presents itself to the moral subject as good, will present itself contemporaneously as «to be done,» and that which the moral subject perceives as evil, he will likewise perceive as «to be avoided.»

⁸⁶ S. Th., I-II, 94, 2.

⁸⁷ S. Th., I-II, 94, 2.

natural law.» On the second tier Thomas places those goods that man shares with other animals, and again, by virtue of this inclination, those things are said to belong to the natural law, «which nature has taught to all animals, such as sexual intercourse, education of offspring and so forth.» On the third tier one finds those goods which are proper to man «according to the nature of his reason,» and thus man has a natural inclination to know the truth about God and to live in society. In this respect, Thomas concludes, whatever pertains to this higher inclination also belongs to the natural law, such as «to shun ignorance, to avoid offending those among whom one has to live, and other such things regarding the above inclination.»⁸⁸

Linking goods to inclinations sounds plausible, but leaves problems in its wake. MacIntyre, for example, writes of

the question of precisely which of our desires are to be acknowledged as legitimate guides to action, and which on the other hand are to be inhibited, frustrated or re-educated; and clearly this question cannot be answered by trying to use desires themselves as some sort of criterion. Just because all of us have, actually or potentially, numerous desires, many of them conflicting and mutually incompatible, we have to decide between the rival claims of rival desires.⁸⁹

In other words, as a criterion for ascertaining man's good, natural inclinations do not seem to be sufficient. Left to themselves, man's natural tendencies pull in multiple directions and due to the internal disorder that is the legacy of original sin, they do not always conform to man's true good. Some other coordinating principle must be invoked.

Thomas supplements his statements about human inclinations with teleological considerations regarding man's final end. Thomas teaches that «since everything desires its own perfection, a man desires for his ultimate end, that which he desires as his perfect and crowning good.»⁹⁰ Now this perfect good, to which man naturally tends, is happiness. The natural moral law, in fact, is concerned chiefly with conducting man to his last end, which is beatitude. And

⁸⁸ Ibid.

⁸⁹ Alasdair C. MacIntyre, *After Virtue: A Study of Moral Theory* (London: Gerald Duckworth & Co., 1985), 48. It should be noted, however, that Thomas does not speak of momentary desires as guides to human action, but rather of stable tendencies or inclinations as indicative of human goods.

⁹⁰ S. Th., I-II, 1, 5. See also Ibid., I, 5, 1.

so «the law must needs regard principally the relationship to happiness.»⁹¹ Far from an assault against man's happiness, the moral law finds its reason for being in this happiness, since it orders man's activities to attain it. It corresponds to his deepest desires and longings, and leads him to the fullness of being.⁹² Thomas notes that «as the intellect of necessity adheres to the first principles, the will must of necessity adhere to the last end, which is happiness.»⁹³ Therefore freedom is not exercised as regards the last end, which is "fixed." When man acts rationally, he necessarily seeks happiness in all he does. At the same time, he needs guidance concerning which means are to be chosen to reach his last end. Law, therefore, as a rule of action, teaches man to order his actions to achieve happiness.

Furthermore, we must recall that for Thomas, the happiness that all men desire is the attainment and enjoyment of God, «who alone by His infinite goodness can perfectly satisfy man's will.»⁹⁴ In this sense, the natural moral law conducts man to the attainment and enjoyment of God. "Moreover," he writes, «those things are natural to every man, whereby he tends to his natural end: while those which are of a contrary nature, are naturally unbecoming to him. Now, we have proved above⁹⁵ that man is by nature directed to God as his end. Consequently those things whereby man is brought to the knowledge and love of God, are naturally right: and whatever things have a contrary result, are naturally bad for man.»⁹⁶ Thus it would seem that there are really two fundamental principles for discerning man's good: natural inclinations and the suitability of things for bringing man to his final end. This would explain what Thomas means when he says

⁹¹ S. Th., I-II, 90, 2.

⁹² Matthew Berke, commenting on the encyclical letter *Veritatis splendor*, notes that «the commandments are not regarded here as arbitrary, life-denying impositions that are alien to man's real impulses (VS 41), being accepted only in order to receive a payoff from God in the next life. Ethical requirements bind the conscience because they are true—true, that is, with respect to 'what man is and what he must do' (VS 10) in order to flourish and enjoy the fullness of life in this world as well as the next, as an individual and as a member of the social body» (Matthew Berke, «A Jewish Appreciation of Catholic Social Teaching,» in *Catholicism, Liberalism, & Communitarianism: The Catholic Intellectual Tradition and the Moral Foundations of Democracy*, eds. Kenneth L. Grasso, Gerard V. Bradley, and Robert P. Hunt [Lanham, MD: Rowman & Littlefield Publishers, 1995], 239).

⁹³ S. Th., I, 82, 1.

⁹⁴ See S. Th., I-II, 3, 1. «Happiness is called man's supreme good, because it is the attainment or enjoyment of the supreme good» (ibid., ad 2).

⁹⁵ *Summa contra Gentiles*, Bk. III, Ch. 17, n. 25.

⁹⁶ Ibid., Bk. III, Ch. 129, n. 8.

that natural inclinations must be ordered according to right reason.⁹⁷ If particular things to which man is inclined can be directed to his integral good (if they lead to his perfection, and ultimately to God), then they are truly good for man and worthy of choosing. Such options that cannot be so ordered are evil, and to be avoided. Here it is clear how closely the natural moral law depends on its anthropological foundation: one can only understand what is to be done by understanding man's good, and man's good can only be determined by knowing who man is and what he is for.

The "perfect, ultimate good" of happiness serves as an end, but does not in and of itself reveal the means to that end. It is precisely the task of the moral law to indicate the way to attain to this happiness. Moreover, the natural moral law does not only address man's final good, but also those particular goods which pertain to his nature. We have seen that "everything desires its own perfection," and since the good is perfective of nature, everything needed for the perfection of nature will be apprehended as a good.⁹⁸

Are natural inclinations then the source of natural law? Natural inclinations indeed serve as criteria for discovering human goods in a *general* way: life, sexual intimacy, knowledge, friendship and so forth. But these different goods must be ordered and appropriated according to reason to insure that they contribute to man's integral good.⁹⁹ The fact that man is naturally inclined to eat does not mean

⁹⁷ «As, in man, reason rules and commands the other powers, so all the natural inclinations belonging to the other powers must needs be directed according to reason» (S. Th., I-II, 94, 4, ad 3). It is the role of the virtues to perfect natural inclinations and to order them according to reason.

⁹⁸ Since goodness is convertible with being, and differs only in the aspect of desirability (see S. Th., I, 5, 1), to desire goodness is to desire the fullness of being. To desire this end is also to desire the particular means ordered to this end, and for this very reason the means become useful goods, and are good inasmuch as they are useful for achieving this end, that is, inasmuch as they are perfective of the person.

⁹⁹ In this sense it seems clear that an understanding of man's nature is essential for evaluating whether particular, perceived goods do in fact contribute to the person's overall good. If we are ignorant of man's nature, we have no point of reference for reason to distinguish true goods from apparent but false ones. Since good means the perfection of being, the particular good of a being will depend on what sort of being we are dealing with. Otherwise, inclinations are our only guide and human experience confirms that such inclinations do not infallibly lead to man's true good. In this regard, I agree with MacIntyre's critique of the Grisez/Finnis rejection of human nature as guide for discerning true human goods. «Grisez, Finnis, and other exponents of their position emphasize that their view—that our knowledge of human goods is not and cannot be derived from our knowledge of human nature, but rather is knowledge of what is self-evident to intelligent persons—does not mean that the goods of which they speak are not fulfilling of human nature. But they do repudiate all arguments of the form: Human nature's essential and ordered inclinations are such-and-such; the achieve-

that eating anything, at any time, in any place is necessarily good, or that refraining from eating at a given time is a negation of that good. By his reason, man understands that eating is not an absolute good, but is ordered towards his health and physical well-being; his health and physical well-being, in turn, contribute to his overall human flourishing.¹⁰⁰ If a certain instance of eating should fail to contribute to these personal goods, or worse still, should cause a person harm, it would cease to be a good for him. In like manner, sexual relations are generally good for man because they contribute to the love and union between spouses and allow for the fruit of new life. Deprived of these two goods towards which it is ordered, however, sexual activity, too, ceases to be a good for the person.

Certain basic goods, therefore, such as health and physical well-being, are good in themselves, not as a *means* but as a *constitutive part* of man's overall good.¹⁰¹ Related goods (such as food), and corresponding activities (such as eating), are good not in themselves, but as means to attaining the human goods to which they are directed (in this case, health). Both "eating" and "health" are said to contribute to man's integral good or perfection, but they do so in essentially different ways. Health does so since it forms a part of man's overall good; eating does so inasmuch as it leads to health, which is a constitutive part of man's overall perfection.¹⁰² Thus Finnis observes:

ment of so-and-so would be the achievement of that to which human nature is inclined and ordered; therefore so-and-so is a good for human nature; and therefore we ought to respect and to achieve so-and-so» (MacIntyre, «Theories of Natural Law in the Culture of Advanced Modernity,» 106-7).

¹⁰⁰ «Hence there is an obligation on the human person to respect the movement towards a continued and ever deepening existence which is essential to his nature: the conservation of his life, of his physical integrity, of his liberty insofar as it is the condition for genuinely human activity, the effort to attain a certain level of cultural development and, in general, the conditions of life in default of which human existence degenerates—all of these will constitute inevitable and universal obligations, even though on certain points, such as the last-mentioned obligation, the manner in which they are applicable can vary considerably» (De Finance, § 185, p. 320).

¹⁰¹ Here the Finnis-Grisez category of basic human goods (values) is helpful. John Finnis lists them as the goods of life (including health and vitality); knowledge; play; aesthetic experience; sociability (friendship); practical reasonableness; and religion (see Finnis, *Natural Law and Natural Rights*, 85-90).

¹⁰² «Recall, first of all, the distinction between the brute fact of an urge (or drive or inclination or tendency) and the forms of good which one who has such urges can think it worth while to pursue and realize, on the ground not that he has the urges but that he can see the good of such pursuit and realization. Secondly, and a fortiori, recall the distinction between the material conditions for, or affecting, the pursuit of a value and the value itself. A sound brain and intelligence are necessary conditions for the understanding, pursuit, and realization of truth, but neither brainpower nor intelligence should appear in a list of basic values:

The universality of a few basic values in a vast diversity of realizations emphasizes *both* the connection between a basic human urge/drive/inclination/tendency and the corresponding basic form of human good, and at the same time the great difference between following an urge and intelligently pursuing a particular realization of a form of human good that is never completely realized and exhausted by any one action, or lifetime, or institution, or culture (nor by any finite number of them).¹⁰³

If these reflections were to end here, the analysis of the content of natural law would still be severely lacking. The preceding discussion has focused on man's perfection, the fullness of being, in which is found his happiness where nothing is lacking to him. From this cosmological, objectivist perspective, man is seen as a creature alongside other creatures, albeit the most exalted. Thus his good consists in the perfection of his nature on its different levels: that which it shares with

knowledge is the relevant value.... Thirdly, in listing the basic values in which human beings may participate, recall the distinctions between general value and particular goal, and between ends and the means for attaining, realizing, or participating in those ends» (Ibid., 82).

¹⁰³ (Finnis, *Natural Law and Natural Rights*, 84). Though I have been citing Finnis's work regarding basic human goods and find it most helpful, I must register disagreement with certain central components of his theory, especially with the assertion that no objective hierarchy exists among human goods. For instance, he writes that «each one [of these values], when we focus on it, can reasonably be regarded as the most important. Hence there is no objective hierarchy amongst them» (Ibid., 92). It seems to me that Finnis confuses hierarchy and incommensurability. Incommensurability merely signifies that different goods cannot be reduced to a common measure and interchanged according to some ratio. But the existence of an objective hierarchy in no wise suggests incommensurability. Hierarchy does not mean that goods possess greater or lesser value along a common scale, which can produce some ratio such as 2:1 or 4:3. It means, rather, that goods exist on different tiers which separate them and render them incommensurable.

Similarly, Finnis also writes: «Each [of the basic values] is fundamental. None is more fundamental than any of the others, for each can reasonably be focused upon, and each, when focused upon, claims a priority of value. Hence there is no objective priority of value amongst them» (Ibid., 93). I see at least two problems with this statement. First, Finnis seems to draw a metaphysical conclusion («hence, there is no objective priority amongst them») from a psychological premise («each can be reasonably focused upon, and each, when focused upon, claims a priority of value»). Secondly, as regards the premise, certain basic goods, when focused upon, do not seem to claim a priority of value. When I eat, I recognize the importance and indeed the necessity of eating, but I also am aware that it is not the most important activity of my life. It is one thing to say that a basic value is in itself a «sufficient reason for acting» in a given instance, and quite another to infer from this an equality among all basic values. Some values rightly are accorded a subsidiary status in life and we judge a person irresponsible or superficial if he absolutizes or exaggerates the importance of one of these. Furthermore, from a Christian perspective, to have fully developed the first six basic values while neglecting the seventh (religion, holiness), is an utter failure. «What does it profit a man...?» (Matt. 16:26; Mark 8:36; Luke 9:25).

all beings, that which is proper to animal life, and that which is proper to man as man (the use of reason).¹⁰⁴ Moreover, his good, his perfection is seen as essentially immanent and self-relational, whereby other created realities are valued as goods insofar as they act as perfecting elements of his nature, in other words as means to his perfection. This analysis would be sufficient if human beings existed as isolated individuals in a world of things, but this is not the case. The human person is in continual contact with other human persons, who, like himself, are consciously pursuing their own perfection (happiness, the fullness of being, the attainment of God). These other persons are not objects alongside other objects, nor are they simply means to be used in one's quest for perfection.¹⁰⁵ They—like me—are persons, not *something*, but *someone*, spiritual subjects of action. The addition of other persons to the equation of human action and human happiness is so crucial that in a sense throws the preceding analysis out of kilter.

This helps to explain a curious anomaly in Thomas's exposition of the natural law. If one were to construct *ex novo* a series of natural law precepts from the analysis just undertaken, one would undoubtedly come up with precepts regarding the ordered use of natural goods to insure that they always contribute to man's integral fulfillment, and thus to his happiness. They would deal principally with the cardinal virtues of temperance, fortitude, and prudence, and enjoin moderation and good sense in the use of all things.¹⁰⁶ Yet when Thomas himself

¹⁰⁴ It should be noted that though certain human goods and the actions realized to attain them can be said to be common to man and irrational beings, man's personhood permeates even these goods and these actions, and thus they are distinctly «human.» The actions of a man dining is entirely different from the action of a horse feeding. Man does not live as an animal on one level and as a human on another, even though determined actions and determined goods resemble those of irrational animals. Thus de Finance observes: «Because of the unity in man of spiritual subject and organism, even his animal activities have a teleology which rises above the purely biological and animal level, and already share in some degree in the teleology which is his as a spiritual subject» (De Finance, § 185, p. 321). See also Miranda, 91.

¹⁰⁵ In Thomas's teleological framework, beings that are lower than man have their place as means to his perfection, and God has «his place» as man's final end and *summum bonum*. Other persons, however, do not fit neatly into this structure and risk being relegated to the realm of mere means to man's perfection, since they cannot be his final end. «Now a twofold order has to be considered in things: the one, whereby one created thing is directed to another, as the parts to the whole, accident to substance, and all things whatsoever to their end; the other, whereby all created things are ordered to God» (S. Th., I, 21, 1, ad 3).

¹⁰⁶ Thomas teaches that justice deals with external operations while all the other moral virtues deal with ordering man's internal passions. «The reason for this is that justice is about operations, which deal with external things... But the other moral virtues deal with interior passions» (S. Th., I-II, 64, 2).

cites particular moral precepts belonging to the law of nature, the examples he comes up with do not look like this. He mentions as examples of the most evident moral precepts the commandments “Honor thy father and thy mother,” “Thou shalt not kill,” and “Thou shalt not steal,” all of which, he states, «belong to the law of nature absolutely.»¹⁰⁷ Other precepts which are less evident, but belong nonetheless to the law of nature, include respect for the elderly. Finally, Thomas teaches that to reach the knowledge of some precepts human reason needs Divine instruction, such as the second commandment which forbids the making of graven images or taking God’s name in vain.¹⁰⁸

In other words, *all* the examples of particular moral precepts of the natural moral law given by Thomas refer not to ordering man’s use of *things*, but rather ordering his relations with other *persons*, and only touch upon things as they relate to persons (for example, in forbidding stealing). Thus they do not deal with the ordering of practical reason per se (prudence)¹⁰⁹ nor with the ordering of the passions (temperance and fortitude),¹¹⁰ but instead with the cardinal virtue of justice.¹¹¹ Of course it cannot be inferred from this that the natural moral law only governs man’s relationship with other persons.¹¹² Though natural law embraces the whole of natural morality—what should and should not be done—at its core, it deals with justice, that is with relations with other people.¹¹³ Hence, the Catechism (following St. Thomas¹¹⁴) notes

¹⁰⁷ S. Th., I-II, 100, 1.

¹⁰⁸ See *ibid.*

¹⁰⁹ Thomas devotes only two articles of the *Summa* to «the precepts of prudence,» and notes that none of the precepts of the natural law (Decalogue) deals with prudence per se, but rather all with justice, since prudence is about means, whereas the first precepts of the Law are concerned with ends. All of the precepts are related in a general way to prudence, however, in that they all command virtuous acts and prudence directs practical reason to these acts. See S. Th., II-II, 56, 1.

¹¹⁰ See S. Th., I-II, 61, 2.

¹¹¹ «Justice properly so called regards the duty of one man to another: but all the other virtues regard the duty of the lower powers to reason» (S. Th., I-II, 100, 2, ad 2).

¹¹² Though according to Thomas human law deals with justice only—whose proper function consists in directing the human community—divine law enjoins the practice of the other virtues, since anything commanded by reason is enjoined by the divine law for the very reason that God’s image is found in reason. Thus «the Divine law proposes precepts about all those matters whereby human reason is well ordered» (S. Th., I-II, 100, 2).

¹¹³ «Natural law, like the virtue of justice, is primarily oriented to others, while always including the agent who is also a member of society» (Servais Pinckaers, *The Sources of Christian Ethics*, tr. Sr. Mary Thomas Noble [Edinburgh: T&T Clark, 1995], 453).

that the principal precepts of the natural law are expressed in the Decalogue,¹¹⁵ and these are precepts of justice.¹¹⁶ Furthermore, Thomas notes that the very notion of precept implies duty, and duty in turn «is of one towards another.»¹¹⁷ The virtue that orders relations of one to another is justice. If this is so, then the basic precept of justice (“Give to each his due”) underlying all relations between persons, must also be one of the fundamental precepts of the natural moral law. This also makes sense when one considers the New Testament teaching that love—which is the perfection of justice—sums up the entire Old Law and the prophets.¹¹⁸

The Catechism furthermore states that the natural moral law, whose principal precepts are contained in the Decalogue, «hinges upon the desire for God and submission to him... as well as upon *the sense that the other is one’s equal* (emphasis added).»¹¹⁹ In other words, the natural moral law hinges upon our relationship with others: with God and with other persons.¹²⁰ Man immediately grasps not only

¹¹⁴ Thomas asserts that «the precepts of the decalogue are the first principles of the Law: and the natural reason assents to them at once, as to principles that are most evident» (S. Th., II-II, 122, 1).

¹¹⁵ See CCC, 1955. The Catechism goes on to cite St. Irenaeus: «From the beginning, God had implanted in the heart of man the precepts of the natural law. Then he was content to remind him of them. This was the Decalogue» (St. Irenaeus, *Adv. Haereses* 4, 15, 1; PG 7/1, 1012). Pope John Paul affirms the same when he says that God gave man the light of understanding and the natural law «at creation» as well as «in the history of Israel, particularly in the ‘ten words,’ the commandments of Sinai» (VS, 12). John Paul goes still further, stating that the commandments contain the entire natural law: «These are the goods safeguarded by the commandments, which, according to Saint Thomas, contain the whole natural law» (ibid., 79, citing S. Th., I-II, 100, 1).

¹¹⁶ Thomas states that «the precepts of the decalogue must needs pertain to justice. Wherefore the first three precepts are about acts of religion, which is the chief part of justice; the fourth precept is about acts of piety, which is the second part of justice; and the six remaining are about justice commonly so called, which is observed among equals» (S. Th., II-II, 122, 1).

¹¹⁷ «Now it is altogether evident that the notion of duty, which is essential to a precept, appears in justice, which is of one towards another» (Ibid.).

¹¹⁸ See Matt. 22:39-40; Rom. 13:8-10; Gal. 5:14; Jas. 2:8.

¹¹⁹ CCC, 1955.

¹²⁰ «The natural law, when the senses do not dominate reason, moves us spontaneously to receive all men as our brothers and to come to the aid of those in need; it inspires in us a unanimous will, such that each is happy to give to others what he himself would like to receive. This is what the Lord taught: ‘Whatever you wish that men would do to you, do so to them.’ Such is the humanity realized in those in whom nature is governed by reason. This manner of life, this way of seeing and hearing, makes them aware of the rational unity of human nature, a unity in which there exists no trace of the laceration of that nature which comes about as the result of selfishness» (St. Maximus the Confessor, «The Three Laws: Question 64 to Thalasiaus» in PG, 724-728).

that he is a person, responsible for achieving a transcendent purpose, but also that other human beings are also persons, equal in dignity to himself. According to the Council, man's conscience discovers in his heart a law inscribed by God which calls him «to love and to do what is good and to avoid evil (emphasis added).»¹²¹ The addition of the words "to love" to the traditional Thomistic formula is significant. It would seem to put love on a par with the first principle of practical reason, as a fundamental principle immediately discovered by conscience. Since "love is the fulfilling of the law," one could say that the particular precepts of the Law issue from the one central precept of love.

Again, justice (and love) do not encompass the whole of the natural moral law.¹²² Its centrality, however, cannot be overemphasized.¹²³ The importance of justice and love in the moral law does not contradict man's natural desire for happiness, which is fruit of the fullness of being. Indeed, the fullness of being for man is not separate from, but includes his relationality with other persons. The nature of the "other" as person is so unique, that the other person can never be integrated into a moral scheme of *means* to the end of happiness or human fulfillment. The discovery of another personal good equal to mine, and distinct from mine—though somehow related to it—introduces a component into morality that makes the human good thoroughly different from the good of other created beings. Furthermore, the personal good of the other is no mere datum added to the moral equation. The person is open to and made for relation, and not only for relation, but for self-giving and for love. The person only realizes himself as a person when he becomes a gift for others.

¹²¹ Second Vatican Council, Pastoral Constitution on the Church in the Modern World, *Gaudium et spes* (hereafter GS), no. 16.

¹²² Wherefore Thomas notes that «since justice is directed to others, it is not about the entire matter of moral virtue, but only about external actions and things, under a certain special aspect of the object, in so far as one man is related to another through them» (S. Th., II-II, 58, 8).

¹²³ «When the Catholic moral tradition and, in its wake, the Catechism speak of the nature of man, of the natural law and of behavior in conformity with nature, what is meant is not some form of biologism but behavior that accords with what the Creator has implanted at the core of our being. If we continue this line of inquiry, we discover love as the heart of all morality» (Joseph Ratzinger, *Gospel, Catechesis, Catechism: Sidelights on the Catechism of the Catholic Church*, [San Francisco: Ignatius Press, 1997], 16-17).

Knowledge of the Natural Law

The promulgation of a law is part of its essence. Since it is directed to reason, if law be unknown it cannot bind, nor can it serve as a guide to human activity.¹²⁴ This also holds true for the natural law, since it does not function automatically, as in the case of animal instinct, but by appealing to reason. The natural law, therefore, is also promulgated, «by the very fact that God instilled it into man's mind so as to be known by him naturally.»¹²⁵

Though the natural law is universal in scope, and is in essence identical for all persons and intelligible to all,¹²⁶ not all apprehend it equally.¹²⁷ Cultural environment, upbringing, intellectual acumen, the disposition and time for serious reflection, openness to moral truth, and previous moral choices may help or hinder a person's comprehension of natural law precepts.¹²⁸ Moreover, some of the precepts of the

¹²⁴ Thomas observes that «a law is imposed on others by way of a rule and measure. Now a rule or measure is imposed by being applied to those who are to be ruled and measured by it. Wherefore, in order that a law obtain the binding force which is proper to a law, it must needs be applied to the men who have to be ruled by it. Such application is made by its being notified to them by promulgation. Wherefore promulgation is necessary for the law to obtain its force» (S. Th., I-II, 90, 4).

¹²⁵ S. Th., I-II, 90, 4, ad 1.

¹²⁶ When St. Thomas questions himself as to whether or not all men know the precepts of natural law, he answers with an important distinction. All men feel the inclination to act according to reason, and in this sense, the first precept is always present in them. Yet, the application of this first precept can present problems, whether because of objective reasons—such as circumstances that change and do not allow for the same application of a norm—or because of passions, bad habits, and even man's bad natural attitudes. These latter factors can corrupt the process of knowledge of what is right. See S. Th., I-II, 94, 4.

¹²⁷ «The precepts of natural law are not perceived by everyone clearly and immediately. In the present situation sinful man needs grace and revelation so moral and religious truths may be known 'by everyone with facility, with firm certainty and with no admixture of error'» (Pope Pius XII, encyclical letter *Humani generis*: DS 3876; cf. First Vatican Council, *Dei Filius* 2: DS 3005).

¹²⁸ What Pius XII wrote in reference to knowing God by the unaided light of human reason can also be applied to the knowledge of the precepts of the natural law. «Though human reason is, strictly speaking, truly capable by its own natural power and light of attaining to a true and certain knowledge of the one personal God, who watches over and controls the world by his providence, and of the natural law written in our hearts by the Creator; yet there are many obstacles which prevent reason from the effective and fruitful use of this inborn faculty. For the truths that concern the relations between God and man wholly transcend the visible order of things, and, if they are translated into human action and influence it, they call for self-surrender and abnegation. The human mind, in its turn, is hampered in the attaining of such truths, not only by the impact of the senses and the imagination, but also by disordered appetites which are the consequences of original sin. So it happens that men in such matters easily persuade themselves that what they would not like to be true is false or at least doubtful» (*Humani generis*, 561: DS 3875).

natural law are more readily evident than others. Therefore Thomas, in the context of principles of speculative reason, says that «certain axioms or propositions are universally self-evident to all;¹²⁹ and such are those propositions whose terms are known to all, as, ‘Every whole is greater than its part,’ and, ‘Things equal to one and the same are equal to one another.’ But some propositions are self-evident only to the wise, who understand the meaning of the terms of such propositions.»¹³⁰ One could add the further distinction that though everyone naturally knows that a whole is greater than its part, not all would be able to reach a theoretical formulation of this axiom. One thing is to naturally grasp a truth and even to use it in one’s reasoning process, and another thing is to *know* that one is using it. In a similar way, everyone knows that good is to be pursued and evil avoided, and spontaneously acts according to this principle, though not all would be capable of formulating the axiom.

Mention must be made here of the workings of moral conscience, which grasps the first principles of natural law (synderesis)¹³¹ and applies them to concrete situations.¹³² According to Thomas, conscience is an act of practical reason in the form of judgment regarding what we have done or propose to do.¹³³ It is in conscience, then, «man’s most secret core and his sanctuary» where «he is alone with God,» where man discovers the natural law, and the voice of con-

¹²⁹ «The basic principles and norms of the natural law, as natural, are addressed to all human beings, and they are held to be accessible to all who are capable of forming the concepts which comprise them» (Boyle, 4).

¹³⁰ S. Th., I-II, 94, 2.

¹³¹ Synderesis refers to a habit of practical reason by which first principles are naturally grasped. «Therefore we must have, bestowed on us by nature, not only speculative principles, but also practical principles. Now the first speculative principles bestowed on us by nature do not belong to a special power, but to a special habit, which is called ‘the understanding of principles,’ as the Philosopher explains (Ethic. vi, 6). Wherefore the first practical principles, bestowed on us by nature, do not belong to a special power, but to a special natural habit, which we call ‘synderesis.’ Whence ‘synderesis’ is said to incite to good, and to murmur at evil, inasmuch as through first principles we proceed to discover, and judge of what we have discovered» (S. Th., I, 79, 12). See also CCC, 1780.

¹³² S. Th., I, 79, 13.

¹³³ St. Thomas describes conscience as an application of knowledge to an individual case, an application that is made in three ways: (1) by witnessing to the fact that the person has or has not done something, (2) by binding or inciting to an action in judging that it should or should not be done, (3) by judging whether an action was well done or badly done, and thus accusing, excusing, praising, etc. (See S. Th., I, 79, 13). Similarly, the Catechism explains that conscience «is a judgement of reason whereby the human person recognizes the moral quality of a concrete act that he is going to perform, is in the process of performing, or has already completed» (CCC, 1778).

science urges him «to love and to do what is good and to avoid evil.»¹³⁴ Therefore, «whereas the natural law discloses the objective and universal demands of the moral good, conscience refers to the application of the law to a particular case; this application of the law thus becomes an inner dictate for the individual, a summons to do what is good in this particular situation.»¹³⁵ In this way, conscience formulates moral obligation in the light of the natural law by acknowledging the universality of the law and its obligation and establishing the law's application in concrete circumstances. Thus «the judgment of conscience states 'in an ultimate way' whether a certain particular kind of behavior is in conformity with the law; it formulates the proximate norm of the morality of a voluntary act, 'applying the objective law to a particular case.'»¹³⁶

Taking a step backward from the judgment of conscience in particular circumstances, in practice, how does man come to grasp the precepts of the natural law? According to Catholic teaching, amply backed up by human experience, man's knowledge of natural law precepts is not innate,¹³⁷ but rather, as in the case of all natural human knowledge, comes about through reasoning about what he has experienced through the senses. Knowledge of natural law implies a discovery of a pre-existing order, an order of goods. Thus Wojtyla remarks that the natural moral law is not a subjective interference of reason in objective reality, but rather entails an «attitude of reason discerning, grasping, defining, and affirming, in relation to an order that is objective and prior to human reason itself.»¹³⁸ At the same time, the first principle of practical reason—that good is to be done and evil avoided—*is* innate, in the sense that it is written into the structure of human freedom and is discovered as the fundamental rule by which man must govern his actions. In other words, just as speculative reason «works» according to certain principles which it necessarily

¹³⁴ GS, 16.

¹³⁵ VS, 59.

¹³⁶ *ibid.*

¹³⁷ «By forbidding man to 'eat of the tree of the knowledge of good and evil,' God makes it clear that man does not originally possess such 'knowledge' as something properly his own, but only participates in it by the light of natural reason and of Divine Revelation, which manifest to him the requirements and the promptings of eternal wisdom. Law must therefore be considered an expression of divine wisdom: by submitting to the law, freedom submits to the truth of creation» (VS, 41). See also S. Th., I, 79, 3; I, 84, 6.

¹³⁸ Wojtyla, «The Human Person and Natural Law,» 184.

employs,¹³⁹ so too human freedom is essentially ordered to pursue the good and avoid evil. Likewise, just as the speculative reason proceeds from naturally known, indemonstrable principles to particular conclusions, so too with practical reason, which proceeds from the general to the specific, from the common to the proper.¹⁴⁰ The various moral precept of the natural law all derive from the first principle of practical reason, just as the various principles of speculative reason derive from the principle of non-contradiction.¹⁴¹

Let us take examples of moral precepts offered by Aquinas to see how this understanding comes about in practice. The particular precepts of the natural law cited by Aquinas are principles of natural justice that govern man's relationship with other persons. These are summed up in the commandments of the second tablet of the Decalogue. How, in fact, do the commandments come to be naturally apprehended? As categorical obligations, or as the imperative corollary to the acknowledgment of some good to be respected and defended? Though the natural law can be conceived as a series of categorical imperatives, experience does not back this up. No one

¹³⁹ «Aristotle argued in book Gamma of the *Metaphysics* that anyone who denies that basic law of logic, the law of noncontradiction, and who is prepared to defend his or her position by entering into argumentative debate, will in fact be unable to avoid relying upon the very law which he or she purports to reject» (Alasdair C. MacIntyre, *Whose Justice? Which Rationality?* [Notre Dame: Notre Dame University Press, 1988], 4).

¹⁴⁰ «Now it is to be observed that the same procedure takes place in the practical and in the speculative reason: for each proceeds from principles to conclusions, as stated above (*De libero arbitrio*, i, 6). Accordingly we conclude that just as, in the speculative reason, from naturally known indemonstrable principles, we draw the conclusions of the various sciences, the knowledge of which is not imparted to us by nature, but acquired by the efforts of reason, so too it is from the precepts of the natural law, as from general and indemonstrable principles, that the human reason needs to proceed to the more particular determination of certain matters» (S. Th., I-II, 91, 3).

¹⁴¹ There is a fundamental difference, however, between the dynamics of speculative and practical reason. Speculative reason apprehends first principles and extracts from them necessary conclusions, which hold true always and everywhere for the very reason that they are necessary. The practical reason, on the contrary, deals not with necessary but with contingent things, and consequently its conclusions allow for a greater margin of error in judgment. Drawing conclusions from speculative principles resembles pure deduction, whereas the conclusions of practical reason take the form of an application of a general principle to concrete circumstances. Accordingly, we can say with Aquinas that general principles of practical reason are the same for all, and readily comprehensible, but the more detailed or specific the application, the greater the margin for error. Wherefore Thomas states that «as regards the general principles whether of speculative or of practical reason, truth or rectitude is the same for all, and is equally known by all... But as to the proper conclusions of the practical reason, neither is the truth or rectitude the same for all, nor, where it is the same, is it equally known by all... And this principle will be found to fail the more, according as we descend further into detail» (S. Th., I-II, 94, 4).

discovers “Thou shalt not kill” emblazoned somewhere on his conscience as a precept innately received. By definition the content of natural law is rationally accessible, and thus one must be able to reason back to it. “Reasoning back to it,” in this case, means tying it into the first principle of practical reason, which enjoins the pursuit of good and the avoidance of evil. If the commandment not to kill forms part of natural law, it can only be because reason discerns that killing a fellow human being is evil, and thus, “to be avoided.”

Though the revealed commandment forbids “killing” in the abstract (“Thou shalt not kill”), without specifying the object of this action, Jewish and Christian tradition has always taken the prohibition to refer exclusively to other human beings, and this interpretation is corroborated by natural ethics. Uprooting poison ivy and squashing cockroaches—instances of deliberate killing—do not carry the same moral charge of evil as killing another human person. The evil of killing depends on who or what is being killed. The deliberate destruction of innocent human life is recognizably evil, whereas the destruction of plant or animal life does not possess this moral character. Therefore one must conclude that human life possesses a worth or goodness not possessed by plant or animal life. It would furthermore seem logical to say that if killing another human being is evil, then such an action constitutes an improper or incorrect way to treat another person.

Now if there is an improper or incorrect way to treat a person, there must perforce be a proper and correct way to treat him. The morality of interpersonal relations, then, will consist in treating other persons in a proper or correct manner. And here the argument returns to the issue of justice, which deals with the question of what is “due” to others. In the case of the precepts of the second tablet of the Decalogue, which treat of man’s obligations towards all persons without distinction, the issue is what is due to man simply as man, by the mere fact of his humanity.

The same simple analysis can be carried out with the other moral precepts of the natural law. The second tablet of the Decalogue outlines the sort of behavior which represents an improper way to treat other human persons, and the avoidance of this behavior can be said to be naturally due to others. Behind these prohibitions stand goods to be respected and promoted in others (property, life, marital union...) which exclude certain types of conduct toward them (stealing, killing, adultery...) that would violate these goods. In the case of the fifth commandment, for example, it is good that the other *is*, that the other

lives, and thus to kill the other would be wrong. At least this is how classical Christian ethics has viewed the matter, and it is difficult to think how it could be otherwise, unless the natural law is to be discarded altogether.¹⁴²

The workings of the natural moral law in terms of man's perception of his fellows as naturally deserving of a certain sort of treatment lead to questions regarding the inner coherence of the virtue of justice. The Christian concept of human dignity, whereby persons possess an excellence meriting special regard (to be treated as ends rather than means) is a necessary corollary to the idea of natural justice and must stand at the base of the natural law for natural justice itself to be comprehensible.

Summary: *Because he possesses free will, the human person needs practical criteria in order to act rationally and freely. The natural law, a participation in God's eternal law written into man's nature, provides practical guidance so that the person can act well and attain his true end of happiness and union with God. Through synderesis, a natural habit of practical reason, the person grasps the first principles of practical reason and understands that he is to do good and avoid evil. Man's natural tendencies indicate basic human goods, which must be rationally pursued and integrated into one's overall good. Yet morality is not first and foremost about man's relationship with perfective goods, but with other persons who must be treated as ends rather than means. The precepts of the natural law treat chiefly of questions of justice and man's relationship with God and his fellows. Thus the natural moral law deals particularly with justice and love, and also relies on man's natural grasp of the dignity of persons, understood as an excellence meriting special regard.*

Parole chiave: anthropology, Aquinas, Aristotle, basic goods, commandments, conscience, Decalogue, dignity, due, duty, ethics, Finnis, free will, good, Grotius, human nature, human person, justice, law, MacIntyre, Maritain, morality, natural law, natural right, obligation, practical reason, precepts, reason, right reason, Rommen, Scholasticism, Strauss, synderesis, teleology, virtue, Wojtyla.

Key words: antropologia, Aristotele, bene, beni basici, comandamenti, coscienza, Decalogo, debito, dignità, diritto naturale, dovere, etica, Finnis, giustizia, Grozio, legge, legge naturale, libero arbitrio, MacIntyre, Maritain, morale, natura umana, obbligo, persona umana, precetti, ragione, ragione pratica, retta ragione, Rommen, Scolasticismo, sinderesi, Strass, teleologia, Tommaso d'Aquino, virtù, Wojtyla.

¹⁴² Pinckaers has written that «for St. Thomas the feeling of obligation did not come first. It was rooted in the natural inclinations towards truth and goodness and was based on the attraction and behest of the true good» (Pinckaers, 421).