



How to Read Today Natural Law in Aquinas?

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Abstract

Why our interest in natural law still today? We can always criticize obligations and found human rights on the basis of natural law and we cannot accept a large gap between inclinations and desires on one hand and norms on the other. Natural law is not the lowest common denominator among men and is not always immediately apparent. We can find out it by a *resolutio*, going back from every day moral experience, from virtues and vices, from civil laws to the first principles. Natural law is the work of practical rationality, that makes order, looking with attention to reality and requires harmony between reason and inclinations towards perfect goods. Human desire is informed by reason and practical reason is always also speculative reason, because it knows reality. Desire “has eyes”, recognizing good. What goodness consists in is perfection. Since human being is open to infinity, the main and inclusive desire is desire for happiness and for God. Inclinations towards good are known, valued, interpreted by practical reason and they become moral norms thanks to the same practical reason. The normative dimension of law is also finalistic. The idea of *conveniens* is different from both Kantian and Utilitarian points of view. Ethical virtues are the flourishing of the seeds of natural law and there is no necessary opposition between freedom and natural law.

Keywords

natural law, practical rationality, virtue, final ends, freedom

Why are we interested in natural law today or still today? Why is the topic of human nature and of natural law still relevant? Of course thanks to the great influence of biology, evolutionary biology, neuroethics on our idea of man, but primarily because, in the first place “speaking very generally, without descending into the details of tough or perplexing cases, everyone knows that human contracts and statutes cannot create truly binding obligations just by the fact of a contractual agreement, or by the mere fact of a command having been

issued by a government official”. We may always criticize obligations and found human rights on the basis of natural law. We might speak today, in particular, of the topic of human rights that seems to require a strong anthropology. But as Russell Hittinger holds “Never was a culture more dependent upon arguments about natural law and natural rights while having such meagre epistemological, moral, and political resources sufficient for reaching a consensus about these things”.¹ In second place, dealing with the topic of natural law we are not merely concerned with the existence of universal norms in ethics, but with the fact that norms are grounded on the psychophysical and appetitive dimension of man.

In this paper I am going to stress the connection between soul and body, reason and desire within Aquinas’ anthropology, whose approach is very different from that of the mainstreams of modern anthropology.² We cannot accept a big gap between anthropology, inclinations and desires on one hand, and norms on the other. This is in fact the risk of a modern philosophical moral philosophy strongly influenced by the models of modern science (as Elizabeth Anscombe has shown).³ On the one hand, modern moral philosophy oscillates between a stress on a normativity detached from human nature and also from divine law, and on the other an exaltation of a human nature that aims to reduce norms to the biological nature of man (the ought to the is).⁴ Furthermore the gap between moral norms and human nature-desire is the same gap between justification and motivation within modern and contemporary ethical theories.⁵

1. Moral experience and philosophical justification of natural law

We must stress the difference between our everyday experience of natural law and philosophical justifications of natural law.⁶ We might agree on the first level, but not on the second level. In fact today it seems that there is more agreement on the first level than on the second one. There are many difficulties in approaching as philosophers

¹ F. R. Hittinger, *Natural Law Still Relevant Today?* [in press]. Cf. F. R. HITTINGER, *Fallimento Del Diritto Naturale? Stato moderno, antropologia negativa e dignità umana in Riscoprire le radici e i valori comuni della civiltà occidentale: il concetto di legge in Tommaso d’Aquino*, F. Di Blasi, ed. (Soveria Mannelli: Rubbettino, 2007), pp. 123–36.

² See *De veritate*, q. 10 a. 9 ad s. c. 3.

³ Cf. G. E. M. Anscombe, ‘Modern Moral Philosophy’ *Philosophy* 33:124 (1958), pp. 1–19.

⁴ The first is the case of Kant, the second of Hobbes.

⁵ See R. Audi, *Moral Knowledge and Ethical Character*, (New York: Oxford University Press, 1997).

⁶ On the gap between moral experience and moral philosophy, see T. Chappell, *Ethics and Experience: Life Beyond Moral Theory* (London: Acumen, 2009).

the topic of natural law. We might say too much or too little. In fact we might say too much on this topic (this is the risk of casuistry, which violates the novelty of reality and human freedom), or, reacting against this approach, to say too little. This is the risk, I believe, of “minimal natural right” (Hart) that underlines only the minimal and obvious presuppositions of social life, and perhaps also of *New Natural Law Theory* (Finnis-Grisez), because they do not say enough about how to put goods in order. From this point of view Aquinas’ approach to natural law is different and, I believe, more interesting.

It seems today that there is no consensus on natural law, particularly on justification of natural law. However, according to Aquinas, natural law is not first of all the lowest common denominator among men (as it is often in modern thought). Today, and since Hobbes’ political thought, we think of natural law as a lowest common denominator among men in order to avoid conflicts. Therefore ethics becomes primarily social ethics and political philosophy. In this case there is the risk of ideology, of the legitimization of the values of one historical society (as Yves Simon has shown).⁷ Looking for common elements in men, modern thinkers (Hobbes, for example) often confuse the level of facts (in particular the “war of every one against every one”) on one hand, and the epistemological level (the impossibility according to Hobbes to reach the ultimate goal – *finis ultimus* – common to every man) on the other. On the contrary, Aquinas does not aim primarily at a lowest common denominator among men, but tries to attain truth and the real good of man and society. This implies the acknowledgment of an order, of a hierarchy of goods and of an ultimate goal (a *summum bonum*). Searching for the fulfilment of ourselves, aiming at our end, being fascinated by it, we live better. From this point of view virtue is a perfection, a value. Only if so conceived, virtue can educate other people. We must stress however, that, according to Aquinas, good in ethics does not coincide exactly with society’s common good, as object of politics.⁸

⁷ Cf. Y. Simon, *The Tradition of Natural Law* (New York: Fordham University Press, 1992).

⁸ Cf. *ST* I-II, q. 96, a. 2, ad 3: “The natural law is a participation in us of the eternal law: while human law falls short of the eternal law. Now Augustine says (*De Lib. Arb.* I, 5): ‘The law which is framed for the government of states, allows and leaves unpunished many things that are punished by Divine providence. Nor, if this law does not attempt to do everything, is this a reason why it should be blamed for what it does.’ Wherefore, too, human law does not prohibit everything that is forbidden by the natural law (I-II, q. 96, a. 2). Whether it belongs to the human law to repress all vices? I answer that, as stated above (q. 90, a. 1, ad 2), law is framed as a rule or measure of human acts. Now a measure should be homogeneous with that which it measures, as stated in *Metaph.* x, text. 3, 4, since different things are measured by different measures. Wherefore laws imposed on men should also be in keeping with their condition, for, as Isidore says (*Etym.* v, 21), law should be possible both according to nature, and according to the customs of the country.

2. The contrast between freedom and natural law

It is frequently thought that there is opposition between natural law and freedom. However, there is no necessary opposition between freedom and natural law. In the first place, negative liberty (liberty from) does not imply scepticism on human nature or on the situation of man under a higher law. Today, however, negative liberty is keyed to negative anthropology. A new way of thought, present in the last few decades, and according to which the role of freedom is unilaterally stressed, should have brought the end of talk about natural law, and much more of *human* rights. But that's not how it turned out. Rather,

“it became the platform for a right to privately construct what it means to be human. Undoubtedly, the right is revisable, for the bearer of rights, the human being, is a revisable thing. And this is the crux of the problem: a self-revising being who still insists upon locating himself under a natural law even though there is nothing anthropologically normative other than freedom.

To entertain no fixed idea of human nature does not limit human liberty. This might seem like moral relativism. Actually, it is an *anthropological* relativism. The culture of advanced modernity, to use MacIntyre's terminology, desires a fixed moral order of rights protecting a fluid and revisable *humanum*. The indeterminate *humanum*, evacuated of *anthropological* content, sets the framework for our contemporary doctrines of natural law and natural rights. Once upon a time, negative liberty (freedom *from*) implied a strong anthropology: namely, that certain human goods ought to be protected against the rough-hand of state intervention. On this view, negative liberty did not necessarily imply scepticism about human nature or scepticism about the situation of man under a higher law. Today, however, negative liberty is keyed to a negative anthropology – the dominant and recurring theme, the *leitmotif*, if you will, is that the person is left to his own liberty to construct his nature. But this is how I would go about answering MacIntyre's question about the status of natural law in the cultures of advanced modernity. Natural law cannot be abandoned lest the state be allowed to legislate in ways prejudicial to our liberties;

Now possibility or faculty of action is due to an interior habit or disposition: since the same thing is not possible to one who has not a virtuous habit, as is possible to one who has. Thus the same is not possible to a child as to a full-grown man: for which reason the law for children is not the same as for adults, since many things are permitted to children, which in an adult are punished by law or at any rate are open to blame. In like manner many things are permissible to men not perfect in virtue, which would be intolerable in a virtuous man. Now human law is framed for a number of human beings, the majority of whom are not perfect in virtue. Wherefore human laws do not forbid all vices, from which the virtuous abstain, but only the more grievous vices, from which it is possible for the majority to abstain; and chiefly those that are to the hurt of others, without the prohibition of which human society could not be maintained: thus human law prohibits murder, theft and such like.”

at the same time, conscience can have no norm except for a revisable human nature”.⁹

Secondly, there is also a more profound ontological reason why there is no opposition between human nature and freedom, natural law and freedom: of course nature is a limit, but it is also an occasion, a chance in order to become more human. As Harry Frankfurt maintains: “The notion that necessity does not inevitably undermine autonomy is familiar and widely accepted. But necessity is not only compatible with autonomy; it is in certain respects essential to it. There must be limits to our freedom if we are to have sufficient personal reality to exercise genuine autonomy at all. What has no boundaries has no shape. By the same token, a person can have no essential nature or identity as an agent unless he is bound with respect to that very feature of himself – namely the will whose shape most closely coincides with and reveals what he is”.¹⁰ And will is directed towards the object of our love. But we do not decide here and now what we should choose to love and which are the traits of our character.

According to Thomas Aquinas freedom is founded on reason (*intellectus ut natura*) and on the openness of the will towards good in general. Furthermore, by loving more the true good and putting order among goods, we become more and more unified and freer, because we can consider finite beings as relative. In fact, as moral beings, we cannot act without freedom or against freedom (in this Kant agrees with Aquinas), nor act without freely searching all fundamental human goods and a supreme good. Otherwise freedom is an empty idea (nihilism). Therefore we cannot easily give up the ideas of nature and of natural law.

3. Natural Law in Aquinas’ thought

First of all natural law and natural right are not the same thing in Aquinas, as sometimes happens in ordinary language. The former is promulgated by God as eternal law and discovered by men as natural law.¹¹ The latter is a character of the virtue of justice that concerns

⁹ F. R. Hittinger, *Natural Law Still Relevant Today?*

¹⁰ H. Frankfurt, *The Importance of what we care about. Philosophical Essays* (Cambridge: Cambridge University Press, 1988), p. IX.

¹¹ Cf. *ST* I-II, q. 91, a. 2: “I answer that, as stated above (q. 90, a. 1, ad 1), law, being a rule and measure, can be in a person in two ways: in one way, as in him that rules and measures; in another way, as in that which is ruled and measured, since a thing is ruled and measured, in so far as it partakes of the rule or measure. Wherefore, since all things subject to Divine providence are ruled and measured by the eternal law, as was stated above (a. 1); it is evident that all things partake somewhat of the eternal law, in so far

only our relationships with others. Nevertheless, although different, there is a connection between them, as we will see in the final section. Aquinas deals with natural law principally in *Summa theologiae* I-II, q. 92ss. The main topics of *Summa theologiae* I-II, which concerns with general ethics, are: 1) the true end of man (perfect and imperfect happiness); 2) human acts (philosophy of action – the same act can have different meanings from the ethical point of view);¹² 3) goodness and evil of human acts (the good comes from an integral cause: end, object, circumstances of an act), emotions, virtues (internal principles of human acts); and 4) law and natural law (external principles of human acts). Since Aquinas' ethics starts with the topic of happiness and deals with passions and virtues, it is a virtue ethics that is rooted on law and on human inclinations.

According to Aquinas, natural law is not immediately evident (as it is for a great part of modern thought, Calvin and Locke in particular).¹³ Natural law is not immediately known, as it is the eternal law of God (*lex aeterna* – the point of view or the plan of God on our world). Man cannot know the plan of God putting himself in the place of God, from God's point of view. Instead we can say that man "is conformed to the Divine will, because he wills what God wishes him to will".¹⁴ First principles of natural law are a kind of beginning (*inchoatio*);¹⁵ they are the very seeds of virtues – *semina* or *seminalia virtutum*.¹⁶ We learn to know the first principles of

as, namely, from its being imprinted on them, they derive their respective inclinations to their proper acts and ends. Now among all others, the rational creature is subject to Divine providence in the most excellent way, in so far as it partakes of a share of providence, by being provident both for itself and for others. Wherefore it has a share of the Eternal Reason, whereby it has a natural inclination to its proper act and end: and this participation of the eternal law in the rational creature is called the natural law. Hence the Psalmist after saying (Psalm 4:6): "Offer up the sacrifice of justice," as though someone asked what the works of justice are, adds: "Many say, Who showeth us good things?" in answer to which question he says: "The light of Thy countenance, O Lord, is signed upon us": thus implying that the light of natural reason, whereby we discern what is good and what is evil, which is the function of the natural law, is nothing else than an imprint on us of the Divine light. It is therefore evident that the natural law is nothing else than the rational creature's participation of the eternal law."

¹² Cf. J. Porter, *Nature as Reason. A Thomistic Theory of the Natural Law* (Cambridge: Eerdmans, 2005), p. 303: "Aquinas offers a credible way of distinguishing between doing and allowing in the form of a more fundamental analysis of the structure of human action, in terms of which we can (non ironically) speak of 'the act itself' and distinguish it both from its consequences and from the agent's overall intention."

¹³ See J. Calvin, *Institutes of the Christian Religion*; and J. Locke, *Questions Concerning the Law of Nature*.

¹⁴ *ST* I-II, q. 19, a. 10.

¹⁵ See *De veritate*, q. 14, a. 2; *De virtutibus*, q. 1, a. 8, co.

¹⁶ Cf. *ST* I-II, q. 51, a. 1: "In the appetitive powers, however, no habit is natural in its beginning, on the part of the soul itself, as to the substance of the habit; but only as to certain principles thereof, as, for instance, the principles of common law are called the

natural law not immediately, but by means of a *resolutio* going step by step from moral experience, from civil law that is the object of *determinatio* (we might say of interpretation), and from virtues and vices, that are the fruit of habituation, towards first principles. We learn natural law as first principles asking, for example: which is the real ground of that virtuous behaviour or of that civil law? Or, why there is something morally wrong here and now?

Thus, natural law has a broad and a restricted meaning as first principles of natural reason (particularly in ST I-II, q. 94, a. 2). Here the first principles of natural law are known by the intellect. In a broad sense natural law is the same with the entire philosophical ethics of Aquinas. We need to argue in order to go up from civil laws and virtues and vices to the first principles of natural law. Moral experience is far more complex and rich than the precepts of natural law.

Thus, natural law is the work (*opus*) of practical rationality. Practical reason makes order in reality, aiming at the good to be done and looking with attention to reality (precisely to the object of *natural inclinations*).¹⁷ The practical dimension of the *unique* human reason

‘nurseries of virtue.’ The reason of this is because the inclination to its proper objects, which seems to be the beginning of a habit, does not belong to the habit, but rather to the very nature of the powers”. Cf. *De veritate*, q. 14, a. 2

¹⁷ I quote the entire *responsio* of the famous article ST I-II, q. 94, a. 2: “I answer that, As stated above (Question 91, Article 3), 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. Now a thing is said to be self-evident in two ways: first, in itself; secondly, in relation to us. Any proposition is said to be self-evident in itself, if its predicate is contained in the notion of the subject: although, to one who knows not the definition of the subject, it happens that such a proposition is not self-evident. For instance, this proposition, ‘Man is a rational being,’ is, in its very nature, self-evident, since who says ‘man,’ says ‘a rational being’: and yet to one who knows not what a man is, this proposition is not self-evident. Hence it is that, as Boethius says (*De Hebdom.*), certain axioms or propositions are universally self-evident to all; 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: thus to one who understands that an angel is not a body, it is self-evident that an angel is not circumscriptively in a place: but this is not evident to the unlearned, for they cannot grasp it. Now a certain order is to be found in those things that are apprehended universally. For that which, before aught else, falls under apprehension, is ‘being,’ the notion of which is included in all things whatsoever a man apprehends. Wherefore the first indemonstrable principle is that ‘the same thing cannot be affirmed and denied at the same time,’ which is based on the notion of ‘being’ and ‘not-being’: and on this principle all others are based, as is stated in *Metaph.* iv, text. 9. Now 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. Consequently the first principle of practical reason is one founded on the notion of good, viz. that ‘good is that which all things seek after.’ Hence this is the first precept of law, that ‘good is to be done and pursued, and evil is to be

concerns both moral experience and moral philosophy. According to Aquinas practical reason is always speculative reason (speculative from *speculum*-mirror), because it knows reality. We must stress that reason is always speculative (in this wide sense) also when it is practical (when it has a practical aim) and makes order. Moral knowledge presupposes the knowledge of real goods (ontological goods, human beings, perfections as knowledge, friendship, etc.), but its object is the intentional order with which it informs the will that is concerned with real goods. Therefore, practical rationality creates the moral order of habits, virtues, laws, etc. From this point of view, every day experience of dialogue is very important because we find in it both the practical and the speculative dimension of the unique reason. In fact, when trying to convince someone (practical rationality), we always look at the expressions of his/her face (speculative rationality) and we might also consider his/her dignity as a person, changing the approach of practical reason to its object.

Furthermore, natural law requires harmony between practical reason and human basic inclinations (not every inclination, but inclinations towards perfect goods). Inclinations towards goods are known (also implicitly), valued, interpreted by practical reason and, in particular, they become moral norms (precepts) thanks to the same practical reason.

Ethical order according to Aquinas is grounded on the encounter between reason, which is nature (*ratio ut natura*) in an analogical sense, and *human nature*, as unity of body and soul with its main

avoided.' All other precepts of the natural law are based upon this: so 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. Since, however, good has the nature of an end, and evil, the nature of a contrary, hence it is that all 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. Because in man there is first of all an inclination to good in accordance with the nature which he has in common with all substances: inasmuch as every substance seeks the preservation of its own being, according to its nature: and by reason of this inclination, whatever is a means of preserving human life, and of warding off its obstacles, belongs to the natural law. Secondly, there is in man an inclination to things that pertain to him more specially, according to that nature which he has in common with other animals: and in virtue of this inclination, those things are said to belong to the natural law, 'which nature has taught to all animals' (*Pandect.* Just. I, tit. I), such as sexual intercourse, education of offspring and so forth. Thirdly, there is in man an inclination to good, according to the nature of his reason, which nature is proper to him: thus man has a natural inclination to know the truth about God, and to live in society: and in this respect, whatever pertains to this inclination belongs to the natural law; for instance, to shun ignorance, to avoid offending those among whom one has to live, and other such things regarding the above inclination."

inclinations.¹⁸ When these inclinations are common both to human beings and to other animals, they are human due to rationality, which is open to the infinity of being that informs them.¹⁹ Contrary to many streams of modern thought, our desire “has eyes”, because it is informed by reason. As Steve Brock holds: “My basic thesis, then, is that not only the apprehension that Thomas is talking about in our passage (*ST* I-II, q. 94, a. 2), but also the inclination, is rational. Reason’s natural understanding of human goods does not follow the natural inclinations to them. The inclinations follow the understanding . . . Another point is the calibre of the inclinations that he must be talking about. They are right inclinations. Their objects are true human goods. Otherwise they could hardly correspond to precepts of natural law”.²⁰

Aquinas is quite explicit about the fact that sometimes the non-rational inclinations existing naturally in a human being are not right. This is particularly clear in the case of the sensitive appetite. Unreasoned feeling may be right or wrong. The rectitude of a person’s

¹⁸ Cf. A. Campodonico, M.S. Vaccarezza, *La pretesa del bene. Teoria dell’azione ed etica in Tommaso d’Aquino* (Napoli: Orthotes, 2012), p. 150–188. See also M.S. Vaccarezza, *Le ragioni del contingente. La saggezza pratica tra Aristotele e Tommaso d’Aquino* (Napoli: Orthotes, 2012), pp. 73–88.

¹⁹ Cf. *ST* I-II, q. 9, a. 1: “Now good in general, which has the nature of an end, is the object of the will. Consequently, in this respect, the will moves the other powers of the soul to their acts, for we make use of the other powers when we will. For the end and perfection of every other power, is included under the object of the will as some particular good: and always the art or power to which the universal end belongs, moves to their acts the arts or powers to which belong the particular ends included in the universal end. Thus the leader of an army, who intends the common good – i.e. the order of the whole army – by his command moves one of the captains, who intends the order of one company”.

²⁰ Cf. S. Brock, ‘Natural Inclination and the Intelligibility of the Good in Thomistic natural law’, *Vera lex* VI: 1–2, pp. 61–62. See *In II De anima* lect. XII, 747: “Desire or shunning did not follow at once from the grasp of that which is good or bad, as here with intellect; but pleasure and pain followed, and then from this, desire and shunning. The reason for this is that just as sense does not grasp universal good, so too the appetite of the sensitive part is not moved by universal good or bad, but by a certain determinate good which is pleasant to sense, and by a certain determinate bad which is painful to sense. But in the intellective part there is the grasp of universal good and bad; whence too, the appetite of the intellective part is moved immediately by the apprehended good or bad.” *ST* II, q. 19, a. 3: “I answer that, as stated above (q. 1, a. 2), the goodness of the will depends properly on the object. Now the will’s object is proposed to it by reason. Because the good understood is the proportionate object of the will; while sensitive or imaginary good is proportionate not to the will but to the sensitive appetite: since the will can tend to the universal good, which reason apprehends; whereas the sensitive appetite tends only to the particular good, apprehended by the sensitive power. Therefore the goodness of the will depends on reason, in the same way as it depends on the object”. There are different interpretations of the inclinations in Aquinas’ natural law. Cf. *ST* I, q. 60, a. 1, ad 3: “As natural knowledge is always true, so is natural love well regulated; because natural love is nothing else than the inclination implanted in nature by its Author. To say that a natural inclination is not well regulated, is to derogate from the Author of nature.”

feeling is guaranteed only when it is directed by (right) reason.²¹ Aquinas holds: “what is desired according to concupiscence seems good because it is desired. For concupiscence perverts the judgment of reason, such that what is pleasant seems good to it. But what is desired with intellectual appetite is desired because it seems good in itself (*secundum se*)”.²² That which is unqualifiedly good, then, is an intelligible good; and it is not something that seems good to reason merely because it is already desired. It seems good, desirable, in itself. Things that are good in themselves are what Aquinas elsewhere calls *bona honesta*. These, he says, “have in themselves that whence they are desired”.²³ They are genuine origins of desire. Neither reason’s judgment that they are good, nor the will’s resulting desire of them, supposes any prior appetitive response such as pleasure.²⁴ To be sure, the *bona honesta* are pleasant. But the pleasure of them presupposes the judgment that they are good.²⁵

Aquinas is very clear that the experience of sense-appetite does not provide the basis for grasping the goodness as such (*ratio boni*). In order to grasp the good, what the intellect must understand is its own appetite, the intellectual appetite. This is why before it grasps the good, it must grasp itself. “First,” Aquinas says, “the intellect apprehends just a being (*ipsum ens*); second, it apprehends itself understanding (*apprehendit se intelligere*) a being; and third, it

²¹ Cf. *ST* I-II, q. 94, a. 2, ad 2. See *ST* I-II, q. 94, a. 4, ad 3. “[...] the inclinations of the parts of human nature, such as the concupiscible and irascible appetites, pertain to natural law insofar as they are regulated by reason.”

²² *In XII Meta.*, lect. vii, 2522.

²³ *ST* I, q. 5, a. 6, ad 2.

²⁴ See S. Brock, *Natural Inclination and the Intelligibility of the Good in Thomistic natural law*, p. 66, footnote 25: “Even as regards goods to which sense-appetite also extends, is it true in every case that we experience sense-desires for them before we understand their goodness? For instance, can a child not understand the good of *coniunctio maris et feminae* before he feels any urge toward it himself?”

²⁵ Cf. *ST* II-II, q. 145, a. 2: “The honest concurs in the same subject with the useful and the pleasant, but it differs from them in aspect. For, as stated above (a. 2), a thing is said to be honest, in so far as it has a certain beauty through being regulated by reason. Now whatever is regulated in accordance with reason is naturally becoming to man. Again, it is natural for a thing to take pleasure in that which is becoming to it. Wherefore an honest thing is naturally pleasing to man: and the Philosopher proves this with regard to acts of virtue (*Ethic.* i, 8). Yet not all that is pleasing is honest, since a thing may be becoming according to the senses, but not according to reason. A pleasing thing of this kind is beside man’s reason which perfects his nature. Even virtue itself, which is essentially honest, is referred to something else as its end namely happiness. Accordingly the honest, the useful, and the pleasant concur in the one subject. Nevertheless they differ in aspect. For a thing is said to be honest as having a certain excellence deserving of honour on account of its spiritual beauty: while it is said to be pleasing, as bringing rest to desire, and useful, as referred to something else. The pleasant, however, extends to more things than the useful and the honest: since whatever is useful and honest is pleasing in some respect, whereas the converse does not hold (*Ethic.* ii, 3).”

apprehends itself desiring (*apprehendit se appetere*) a being. Whence, although the good is in things, there comes first the *ratio* of a being; second the *ratio* of a true [which is in the mind]; and third the *ratio* of a good”.²⁶ To grasp the good means the good as perfect.²⁷

These natural inclinations are known (also in an implicit way), valued, interpreted by practical reason and, particularly they become moral norms thanks to the same practical reason. Individual inclinations known in their ontological goodness by practical reason in its speculative dimension, give content to moral experience. Practical reason as such makes them normative (precepts). The risks here are, on one hand a formalistic interpretation of practical rationality, which ignores human nature and natural inclinations that are to be known and interpreted, and, on the other hand an idea of human nature that would become normative without the work of practical reason. These are the risks of a Kantian interpretation of Aquinas (in which inclinations do not play any role and practical reason does not know reality) on one hand, and of an objectivist or naturalistic interpretation of his ethics on the other, where practical reason does not play an autonomous role. Sometimes norms are deducted from metaphysics or they are only inclinations conceived biologically as mere instincts. The first position implies voluntarism in order to apply norms.

Let us look at some examples of how inclinations become precepts according to Aquinas. According to Maritain’s idea of “dynamic schemes of action”, these moral judgements might not be explicit, although they can be made explicit at the justification level. Within the main formal and inclusive inclination towards goodness with the main moral precept founded on it (“good is to be done and pursued and evil is to be avoided”), there are some basic natural inclinations or dynamic evidences on which precepts are founded. Although every kind of inclination is informed by reason and sometimes the inferior inclination might be sacrificed to a superior one, they proceed from the more general to the more particular: 1) “I wish to preserve my health. It is morally good to preserve our health”. 2) “I desire to educate my kids. It is morally good to educate my kids”. 3) “I desire to read books in order to know. It is morally good to read books”. Or: “I desire to be happy. It is morally good to search for happiness”.

Thus, even the topic of the desire for happiness, the most inclusive inclination, belongs to natural law. It concerns the general precept, all

²⁶ *ST* I, q. 16, a. 4, ad 2.

²⁷ Thomas finds the notion of “perfect” closely associated with that of active power. A being is perfect, mature, when it can effect its like. This makes sense, since likeness is “communication in form”. The being is “full” when its form can “overflow.” Thus grasping active power entails grasping form; and the *ratio* of good, or of final cause, presupposes the *rationes* of formal and agent cause. See L. Dewan, *Wisdom, law and virtue, Essays in Thomistic ethics* (New York: Fordham University Press, 2008).

the three precepts and, particularly, the third inclination and the third precept. In Aquinas' ethics there is a primacy of love of the goal. The relationship with God has a strict connection with happiness and this has a strict connection with ethics. According to the Bible, but somehow also to Aristotle, since human desire is open to the infinity of being, a finite being (i.e. wealth, honour, glory, science etc.) cannot fulfil it, but only an infinite being.²⁸

In fact knowing which is man's good (*bonum hominis*), we can know human nature, and we can find the foundation of morality in human nature (philosophical anthropology). However, the first level of moral experience (that is speculative in a wide sense) is always necessary in order to know who man is. Without knowing natural law in our everyday experience we cannot know who man really is.

According to Aquinas the first precepts of natural law, like divine grace, fund the possibility of a continual newness of moral life. Contrary to Aristoteles, the vicious man can also change his life. Only in the case of a particular action, the first precepts of natural law may be partially blotted out from human hearts. But we can always recover them.²⁹ Unlike secondary precepts, "natural law can be blotted out from the human heart, either by evil persuasions, just as in speculative matters errors occur in respect of necessary conclusions; or by vicious customs and corrupt habits, as among some men, theft, and even unnatural vices, as the Apostle states (*Romans 1*), were not esteemed sinful".³⁰ We might speak about *social* or *cultural* sins. According to Steve Brock,

"the order of the precepts would be a kind of scale (obviously not the only one) measuring the degree to which people may be living in the grip of passion. This could be useful when looking for the appropriate remedy. But perhaps more important are the implications of the general thesis that the inclinations that Thomas is talking about are rational. In aligning the true, intelligible human goods with natural inclinations, he is not suggesting that if some *non-rational* inclination is inborn . . . , its object is therefore a true good of the person in question. The further implication is that its object needs not seem a true good even to the person himself. The inclination only makes the object seem *delectabile*, not *honestum*. While it may pervert particular judgments, impeding the application of what is naturally understood, it does not positively alter that understanding. It does not denature the very light of the mind. This I think is an encouraging conclusion".³¹

²⁸ Cf. *ST* I-II, qq. 1–5.

²⁹ Cf. *ST* I-II q. 94, a. 6.

³⁰ *ST* I-II, q. 94, a. 6.

³¹ S. Brock, *Natural Inclination and the Intelligibility of the Good in Thomistic Natural Law*, p. 78.

As we have seen, the normative dimension of law is, according to Aquinas, also finalistic. There is no normativity without teleology. Its criterion is *convenientia, fitness* (something is convenient, *fits*) or, more precisely, that kind of good called *bonum honestum*. What is the meaning of *conveniens* as *honestum*? It does not mean neither the extrinsecal usefulness of modern Utilitarianism, nor the mere a priori *ought* of deontological Kantianism. Natural law is what is convenient with human being in its wholeness and in the hierarchical harmony of his dimensions (also the dimensions of human act as end, object and circumstances) according to the phrase of Dionysius “the good comes about from the integral cause, but evil from single defects”.³²

What goodness consists in is perfection. It is so in the good thing, and it is also so in the mind’s initial grasp of it. Aquinas argues that good comes after truth *in ratione*, in intelligibility. This means that it enters the mind later. Its *ratio* presupposes and includes the *ratio* of perfect. Presumably the ratio of “bad” includes that of “defective”. Finally, what is perfect is also beautiful (*honestum*).

It is worth stressing that to consider the object of the human act we must also consider its consequences (as from the Utilitarian point of view). For example, adultery is not convenient with humanity not only *per se*, but also for its effects on the other man and on the unity of the man who commits it. In moral matters the main criteria are the criteria of fullness or integrity.³³

4. Ethical virtues as the flourishing of natural law

Ethical virtues are the flourishing of the main natural inclinations and of the main precepts called the seeds of natural law (*semina virtutum* or *seminalia virtutum*), although we cannot isolate them from virtues and vices in concrete life. Jean Porter holds that “even though the practice of the virtues, and therefore, happiness, does not depend on the attainment of well being, for Aquinas the idea of well being does have a normative function in his overall account of moral virtue. Virtues are the dispositions of human capacities oriented toward well being, and such as they take their norms, in key part if not entirely, from the exigencies of basic well being (see,

³² *ST* I-II, q. 20, a. 6, ad 1.

³³ Cf. A. MacIntyre, *Intractable Disputes about the Natural Law*. Alasdair MacIntyre and Critics, L.S. Cunningham, ed. (Notre Dame: Notre Dame University Press, 2009), in particular pp. 19–52. See p. 52: “The best defence of Natural Law will consist in radical, philosophical, moral, and cultural critiques of rival standpoints” and p. 50: “The claim that I am advancing that is that the failure of utilitarians to overcome the difficulties that arise from their use of the concept of happiness, or of some substitute of it, provides Thomistic Aristotelians with sufficient reason to judge that they are able to understand the truth about utilitarians better than utilitarians can.”

for example *ST* II-II, q. 141, a. 6) and since the idea of well being forms the link between nature in the more comprehensive sense and the norms of natural law – between nature as nature and nature as reason – this suggests that for Aquinas the idea of human well being yields natural law precepts through the mediation of ideals of virtue, which are themselves developed from general paradigms to reflective ideals through a process of reflection on what it means to live a complete, fulfilled – in a word – perfect human life . . . the life of virtue is paradigmatically linked to pursuing and enjoying these goods in a particular way which is itself enjoying and satisfying”.³⁴

We can grasp the narrative character of virtues, their capacity of giving sense and unity to life. We have to stress that in Aquinas, as in the rest of the classical and medieval tradition, ethical virtue means an excellence of character and not only (as happens often today) a mere motivation in order to apply moral precepts. This topic is relevant if we want to give a sound foundation to moral education and to education in general: only aiming at the good, the supreme good, we can be unified in ourselves, happy, and therefore can educate other people. Without virtues as outstanding qualities there is no education.

In particular, if we consider the cardinal virtues, temperance and fortitude are more connected with the first and the second inclination and precepts, and justice to the third one. In fact, justice is intentionally open to the others and to the Other (God). However, temperance and courage also have a social dimension. In justice, particularly in the precepts of justice, we can find the relationship between law and right, law and virtues: “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. 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. Because in those matters that relate to himself it would seem at a glance that man is master of himself, and that he may do as he likes: whereas in matters that refer to another it appears manifestly that a man is under obligation to render to another that which is his due. Hence the precepts of the Decalogue must pertain to justice. Wherefore the first three precepts are about acts of religion, which is the chief part of justice; the fourth

³⁴ J. Porter, *Nature as Reason, A Thomistic Theory of the Natural Law* (Cambridge: Eerdmans, 2005), p. 174–221. Cf. *ST* II-II, q. 141, a. 6: “I answer that, as stated above, the good of moral virtue consists chiefly in the order of reason: because “man’s good is to be in accord with reason,” as Dionysius asserts (Div. Nom. iv). Now the principal order of reason is that by which it directs certain things towards their end, and the good of reason consists chiefly in this order; since good has the aspect of end, and the end is the rule of whatever is directed to the end. Now all the pleasurable objects that are at man’s disposal, are directed to some necessity of this life as to their end. Wherefore temperance takes the need of this life, as the rule of the pleasurable objects of which it makes use, and uses them only for as much as the need of this life requires”.

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”.³⁵

As MacIntyre has well shown, natural law has a communitarian dimension because virtue is learnt through communities of life:

“Consider first what is involved in pursuing one’s good as a rational agent. It is of crucial importance in deliberating as to how to act here and now that we deliberate in the company of other people, something that Aristotle had noticed and that Aquinas emphasizes. For only thus will we escape from the one-sidedness of our own individual standpoint, only thus will the full range of relevant considerations be brought into play. But rational deliberation in the company of others is only possible, if both we and those others are committed to securing agreement only through the force of rational argument, only by, so far as possible, treating as good reasons for acting in this way rather

³⁵ *ST II-II*, q. 122, a. 1. In *ST I-II* Aquinas considers the relationship between natural law and the precepts of Decalogue in a different way. See *ST I-II*, q. 100, a. 3, ad 1: “I answer that, the precepts of the Decalogue differ from the other precepts of the Law, in the fact that God Himself is said to have given the precepts of the Decalogue; whereas He gave the other precepts to the people through Moses. Wherefore the Decalogue includes those precepts the knowledge of which man has immediately from God. Such are those which with but slight reflection can be gathered at once from the first general principles: and those also which become known to man immediately through divinely infused faith. Consequently two kinds of precepts are not reckoned among the precepts of the Decalogue: viz. first general principles, for they need no further promulgation after being once imprinted on the natural reason to which they are self-evident; as, for instance, that one should do evil to no man, and other similar principles: and again those which the careful reflection of wise men shows to be in accord with reason; since the people receive these principles from God, through being taught by wise men. Nevertheless both kinds of precepts are contained in the precepts of the Decalogue; yet in different ways. For the first general principles are contained in them, as principles in their proximate conclusions; while those which are known through wise men are contained, conversely, as conclusions in their principles. Reply to Objection 1. Those two principles are the first general principles of the natural law, and are self-evident to human reason, either through nature or through faith. Wherefore all the precepts of the Decalogue are referred to these, as conclusions to general principles.” On this topic see L. Dewan, *Wisdom, law and virtue, Essays in Thomistic ethics* (New York: Fordham University Press, 2008), pp. 244–45: “Or is ‘ignorance to be avoided’ rather the fruit of an experience in which ignorance is encountered as what is meant by the ‘humanly bad’ and so is immediately seen as ‘that which is to be avoided’ (with no middle term)? It appears to me that it is that sort of derivation that is meant by Thomas. Just as we do not expect a reasoning process to be involved in the sequence of intelligibles ‘being’, ‘true’, ‘good’, so neither is there a reasoning process required in the application of goodness to the particular objects that are naturally apprehended as human goods”: I believe that those are correct who see *ST I-II*, q. 94, a. 2, as presenting many precepts that are *per se nota* to all. However, the precepts must be indeterminate enough that they do not have the determinateness of the ten Commandments. The sort of precepts Thomas has in mind are known through the very meanings of the terms [...]. Whereas in the *prima secundae* the Ten Commandments are presented as immediate conclusions from the first principles, by the time he writes the *secunda secundae* Thomas has decided that they are most manifest principles of natural law; thus, they are surely considered *per se nota*”.

than that what are in fact good reasons. So we must rule out from the beginning any attempt to arrive at agreement by use of coercive force or the threat of such force or by some mode of non-rational persuasion. The common mind at which we seek to arrive must not be the outcome of violence or of seduction, but of rational debate. Yet this outcome is possible only if the participants in such deliberation are committed and are seen by others to be committed to observing certain rules unconditionally and without exception".³⁶

These rules are the same rules of natural law. Political communities require natural law as its ground.

But all this does not mean, as I have shown, neither that, according to Aquinas, natural law looks primarily for a lowest common denominator among men in the modern sense (and not for truth and good), nor that it is first of all a procedure in order to solve conflicts. On the contrary procedures are founded on natural law. Today there is the risk that the logic of procedural thought invests the moral experience and the virtues of the single man. This is the meaning of "politically correct".

We must stress that, according to Aquinas, society is not merely built on the abstract universality of men as rational beings with a peculiar language (thus conceived in a Kantian sense), but starting from our "lower" commonality in species:

"Every man is naturally every man's friend by a certain general love; even so it is written (*Sirach*, 13, 19) that 'every beast loveth its like'. This love is signified by signs of friendship, which we show outwardly by words or deeds, even to those who are strangers or unknown to us. Hence there is no dissimulation in this: because we do not show them signs of perfect friendship, for we do not treat strangers with the same intimacy as those who are united to us by special friendship".³⁷

It is worth finishing by asking: does natural law require belief in God? In order to become the object of our moral experience, natural law (as "natural") does not require, according to Aquinas,

³⁶ A. Macintyre, *God, philosophy, universities. A Selective History of the Catholic Philosophical Tradition* (Lanham: Rowan & Littlefield Publishers, 2009), p. 89. According to Macintyre, "They would have to be rules prohibiting the taking of innocent life and the use of violence against the property and liberty of others and enjoining truthfulness and candour in deliberation. They would have to include rules prohibiting one from making commitments to others that one does not expect to fulfil and that bind one to keep whatever promises one might have made. Since they are to be rules without which genuinely rational deliberation would be impossible, they would have to be rules that would inform one's social relationships with anyone with whom one might at some time have to enter into shared deliberation, that is, with anyone whatsoever. But this set of precepts turns out to be identical with the precepts that Aquinas identifies as the precepts of natural law, so that as rational agents we are, just as Aquinas concluded, committed to conformity to the precepts of the natural law".

³⁷ *ST* II-II, q. 114, a. 1.

that we explicitly believe in a God who promulgates it. Instead, on a philosophical level, if we want to be coherent, its foundation requires the existence of God as the very root of the order of reality as well as of the normativity of law. At the very beginning of the world there is no chance, but a principle of order. The practice of natural law and, in particular, its justification by means of philosophical reason, opens rationality towards God, if not towards the God of Christian Revelation, towards God as the principle of the order of reality and therefore of the normativity of natural law.

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