

The Natural Moral Law in Theological Perspective

ANTONIO CABEZÓN, OP, SThD

Pope Benedict XVI, since the beginning of his pontificate, has lamented the prevalent moral relativism affecting presently all spheres of human life everywhere in the world. Indeed, many traditional moral concepts such as truth, moral law, reason, conscience, virtue, goodness, fidelity, parents, chastity, authority, etc., etc., are vanishing, or being replaced by new terms kept purposely vague, blurred and confusing, as decided by politicians, legislators, and mass media empires, so that they may be easily assessed by people either positively or negatively. Those new terms are among others: value, gender equality, single-parenting, same sex marriage, reproductive rights, women's rights, animals' rights, right to die, ecological awareness, global ethics, cultural liberty, dialogue between civilizations, quality of life, pro-choice, and the like.

The fact that the new concepts are neither clear nor precise presents a problem and real challenge to all, but especially to those involved in education and character formation.

A purely biblical and charismatic approach to moral formation is certainly not sufficient nowadays; it has to be joined with a sound anthropology and a metaphysically grounded objective thinking. The advice "to do what Jesus would have done had He been in our situation" cannot function as a basic moral rule if rational thinking is discarded.

This is exactly the role of the *natural moral law in theological perspective*, which is the topic I intend to develop in the following pages. I will try to offer an accurate interpretation of St Thomas' Natural Moral Law Theory, which is actually the official teaching of the Magisterium of the Church.

I. The Natural Moral Law According to St. Thomas Aquinas

St Thomas Aquinas classic treatise on law is found in the Second Part of the *Summa Theologiae*, 1-2, qq. 90 to 108. In the opening question of the treatise St Thomas gives this general definition of law: "A rule or measure of activity by which one is moved to act or held from acting."¹ But at the end of the same question, St Thomas proposes another definition, which has become classical: "*An ordinance of reason for the common good made and promulgated by him who has the care of the community.*"²

These two definitions of law are general and applicable to all laws: Eternal law, Natural law, Positive law, and the Evangelical or New law.

Law, as such, is for St Thomas something brought into being by reason, by way of "universal propositions directed to action." "This kind of universal propositions," he writes, "or precepts of the practical reason determining what is to be done or avoided, possesses the meaning of law."³ Law is then a work of wisdom, engaging both intelligence and will.

He distinguished five kinds of law: the Eternal Law, Natural Law, Human Positive Law, Revealed Old Law, and Evangelical

¹ *Summa Theol.*, I-II, 90, 1. To understand St. Thomas' Treatise on Natural Law, it would be useful to bear in mind that the terms "law" (*lex*) and "Right" (*ius*) are more or less interchangeable in the *Summa*; and so Natural Law is equivalent to Natural Right, (*Lex naturalis* or *Ius naturale*), and Law of Nations/Peoples same as *Ius Gentium*.

² *Ibid.*, I-II, 90, 4.

³ "Law," comments V. Cajetan on this question, "is essentially a work of reason – a universal principle of practical reason. But this act of reason presupposes an act of the will in the legislator. The act of the will is necessary for the existence of the law; but it does not formally constitute law."

Law or the New Law.⁴ In St Thomas' moral teaching all these laws are interconnected and actually ordered to the Evangelical Law as to their perfection and culmination. In fact, all his moral teaching, directed by various kinds of laws, is oriented to the Evangelical Law.⁵

Eternal Law: Divine Providence

St Thomas taught that the whole creation – the cosmos and all the things within it – is under the governance of God's intelligence. The eternal law, thus, is the *idea* or *divine plan* of the governance of all things insofar as this idea or divine plan exists within the mind of God himself as the ruler of the universe.⁶ The eternal law directs the entire created universe and the activity of all created things, including the activity of human persons. Eternal law is the divine *wisdom* in so far as it is directing and moving all things to their due end.⁷ The end to which the eternal law directs all of creation is the universal common good of the entire created universe, and is promulgated along with creation.⁸

Therefore, the Eternal Law is "*The plan (idea) in the mind of God directing all actions and movements of every creature to their end.*"⁹ It is "God's plan of action for the whole work of creation. This reasonable plan or law is really God's own wisdom, by which He directs everything to the fulfillment He has in mind."¹⁰ *Divine Providence.*

Natural Law: Its Central Meaning

St Thomas, with his usual genius for conciseness and precision, said it briefly. His treatise on the classification of laws

⁴ Ibid., I-II, 91; 106, 1.

⁵ Ibid., I-II, 106, 4.

⁶ Ibid., I-II, 91, 1.

⁷ Ibid., I-II, 93, 1.

⁸ Ibid., I-II, 91 ad 1 and ad 2; 93, 1 ad 2.

⁹ Ibid., I-II, 93, 1.

¹⁰ Ibid., I-II, 21, 1.

begins by affirming, as a foundation, the existence of an *eternal* law. He proves this by referring to the fact that in creatures there is not only the good of their substantial nature but also the good of their order to an end.¹¹ Thus he briefly defines natural law in these terms: "The *participation of the eternal law* in the rational creature."¹²

According to St Thomas, therefore, all created realities "participate" in the eternal law. But they do so differently, in accordance with their own nature – "*Quidquid recipitur ad modum recipientis recipitur.*" Non rational beings participate in the eternal law in a purely *passive* way insofar as they receive an "impression" whereby they "have inclinations toward their proper acts and ends."

The eternal law is "in" them inasmuch as they are ruled and measured by it.¹³ But human persons, inasmuch as they are intelligent, rational creatures, participate *actively* in the eternal law, and their active, intelligent participation is precisely what natural law is. The eternal law is "*in*" them both because they are ruled and measured by it and because they actively rule and measure their own acts in accordance with it. It is thus "in" them properly and formally as "law." Therefore the participation of the eternal law only in the rational creature is properly called law: for law is something pertaining to reason.¹⁴

¹¹ Ibid., I-II, 91, 1c.: "On the supposition that the world is ruled by divine providence, as proven in the first part, it is obvious that the whole community of the universe is governed by divine reason." The reference to the first part reads as follows: "In things is found the good not only of the substance of things themselves, but also the good of their order to an end... Now, this good of order existing in created things is created by God. But since God is the cause of things by His intellect... it is necessary that the reason (design) of the order of things to an end should pre-exist in the divine mind."

¹² "Thus it is obvious that the natural law is nothing but the *participation of the eternal law* in the rational creature." Ibid., I-II, 91, 2c.

¹³ Ibid., I-II, 91, 2, and ad 3. And *In I Sent.*, d, 7, q. 1, a. 2.

¹⁴ Ibid., I-II, 91, 1, ad 3. What really differentiates Natural law from natural inclination, and makes it law in the proper sense, is the fact that it is the work of reason, *expression* rather than *impression*. It comes from God as all human things, but the mind receives it, not as an object which is revealed by it, but as becoming a source of light, which together with prudence discerns and declares the truth and good for human activity.

To understand what the central meaning of natural law is, according to St Thomas, one must consider the person under two aspects, namely, as *subject* and as *object* of moral rule. The person as subject is self-ruling, called to guide himself through directives, which he forms in his mind as conscious of his basic inclinations and as freely choosing how to implement them. From this point of view natural law, as a conscious and free determination of acting, can be simply described as ethical self-rule.

The person is also object insofar as it is the self, which is to be ruled; and is the aspect of nature, which is stressed. This self, as nature, indicates through its basic inclinations, how it should be ruled. Here we deal not so much with law as with what St Thomas calls "natural right" (*ius naturale*), the fundamental duties and corresponding rights grounded in human nature as such.

To rule oneself in accordance with these natural tendencies is to conform to the law of nature. How the general precepts of this law are to be carried out in each individual case will depend on the free and responsible choice of the person.

The general laws of morality will be personalized in each such personal decision, and this will depend on many individual factors, e.g. on how fulfillment is envisaged, how the basic inclinations are known and their implications realized, as well as psychic, social and cultural influences.¹⁵

This explanation of the inclinations of natural law is an exposition of the naturally purposive tendencies that man finds in his heart when he sees himself as a whole; and a measuring of the demands made on him by these desire-inclinations.¹⁶

Against many of his predecessors St Thomas also maintained that "natural law in its proper sense is not a habit, nor is it a power, nor the habit of *synderesis*. Rather it is a reality brought into being (*'constitutum'*) through reason; it is a work of intelligence as ordered to action (of practical reason)."¹⁷

¹⁵ Ibid., I-II, 94, 1.

¹⁶ Cf. John Paul II, *Fides et Ratio*, nos. 25-28; A. McNichols, O.P., *Person, Sex, Actual Trends of Thought*, p. 152.

¹⁷ *Summa Theol.*, I-II, 94, 1.

For St Thomas, Natural Law is *a creation of practical reason*. It consists of a set of propositions or precepts – true judgments – formulated by practical reason, about what is to be done, guided by what he called the natural inclinations or the necessities of life.¹⁸

The desire of the good as such and of true happiness is the primary precept or principle of natural law. “Consequently,” he says, “the first principle in the practical reason is one founded on the nature 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 promoted, and evil is to be avoided*. All other precepts of the natural law are based upon this; so that all things which the practical reason naturally apprehends as man’s good belong to the precepts of the natural law under the form of things to be done or avoided.”¹⁹

“But good,” adds St Thomas, “has the meaning of an end. It thus follows that reason naturally apprehends as goods, and consequently to be pursued in action, all those things to which man has a natural inclination, and things contrary to them reason naturally apprehends as evil to be avoided.”²⁰ Now, whatever satisfies a need becomes a good and an end; and that is what reason with prudence must discover. Natural law is thus the work of human reason, and consists of an ordered series or set of precepts or propositions.

The first set of natural law precepts or principles embraces the self-evident true propositions about what is to be done that are easily grasped by practical reason.²¹

The second set or grade of natural law precepts includes those that are proximate to the primary principles, as they are conclusions immediately derived from them. And so everyone, even the simple people, can also easily know them, unless one’s practical reason is perverted by passion, or one lives in a per-

¹⁸ Ibid., I-II, 94, 2; 2-2, 141, 6.

¹⁹ Ibid., I-II, 94, 2.

²⁰ Ibid.

²¹ Ibid.

verse society.²² These are the precepts of the Law of Nations/ People (*Ius Gentium*) or Natural International Law, and the Decalogue.²³

Finally, the third set or grade of natural law precepts includes more moral norms, which are determinations derived from the secondary precepts as from their principles, and are known only by the wise and prudent after much consideration. This is the field of positive human law and rights, which is 'a particular determination of human reason,' directing human actions to the common good and wellbeing of the community.²⁴

Human Law is defined by St Thomas as a particular determination of human reason (I-II, 91, 3) directing human actions (I-II, 95, 5) to the common good and well-being of the community (I-II, 96, 1). Quite different is the *Evangelical* or *New Law* which is "the grace of the Holy Spirit given through faith in Christ" (I-II, 106, 2).

Role of the Natural Inclinations and the Principles of Natural Law

Reason is the first and proximate rule and measure for judging the moral quality of human activity, which is moral precisely because it is inherently conformable to reason and nature, and immoral because it is at variance with both.

The primary and decisive factor for moral judgment is the object of the human act, which establishes whether it is capable of being ordered to the good and to the ultimate end, which is God. This capability (suitability) is grasped by reason in the very being of man, considered in his integral truth, and therefore in

²² Ibid., I-II, 94, 6.

²³ Ibid., I-II, 95, 4, ad 1: "The Law of Nations is indeed, in some way, natural to man, in so far as he is a reasonable being, because it is derived from the natural law by way of a conclusion that is not very remote from its premises. Wherefore men easily agree thereto." The *Ius Gentium* or the *Law of Nations* is in fact what natural reason establishes for all peoples/nations; in Francisco de Vitoria's words: "*Quod naturalis ratio inter omnes gentes constituit.*"

²⁴ Ibid., I-II, 91, 3; 95, 5; and 96.

his natural inclinations, his motivations and his finalities, which always have a spiritual dimension as well. They are precisely the content of the natural law and hence the 'personal good' which serves the good and perfection of the person himself.²⁵

But it is man's natural tendencies or inclinations which indicate to his reason and will in what direction the perfection of his essential nature lies and, and more precisely what is to be done as good, and what is to be avoided as evil; thus, thereby also realizing the will of God, which is truly manifested therein. But *how does reason actually determine whether an action or object is suited to the essential nature?* St Thomas' wise answer is found in the following text from the *Summa Theologica* (I-II, 94, 2) where he considers the many kinds of incommensurable goods as ends of inclinations or dispositions or needs, as well as the precepts based on them. The whole purpose of man's natural inclinations, as natural, is to indicate what the person needs to do in order to become what he/she is meant to be.

"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 in the 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 pursuit, and evil is to be 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 the 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. Therefore, *the order of the precepts of the natural law is according to the order of natural inclinations*. For there is in man, *first of all*, an inclination to good in accordance with the nature which he has

²⁵ Ibid., I-II, 18, 6; John Paul II, *Veritatis Splendor*, no. 73.

in common with all substances, inasmuch, namely, 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, such as sexual intercourse, the education of offspring and so forth. *Thirdly*, there 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.

"All the inclinations of any part whatsoever of human nature, e.g., of the concupiscible and irascible parts, in so far as they are ruled by reason, belong to the natural law, and are reduced to one first precept, as stated above: so that the precepts of the natural law are many in themselves, but are based on one common foundation."²⁶

In this text St Thomas clearly shows that natural law essentially consists of three elements taken collectively: man's natural inclinations, the light of reason with which he is endowed, and the resultant dictate or proposition of reason; but the dictate of practical reason, which follows immediately and inevitably from the other two, is the most essential.²⁷

Thus, Natural Moral Law may be defined as "*The light of reason inherent in us by nature, through which we perceive what we ought to do and avoid.*"²⁸

²⁶ Ibid., I-II, 94, 2, and ad 2.

²⁷ On this subject *one of the finest commentaries* is provided by Santiago Ramírez, OP, *Derecho de Gentes*, (1955), Madrid.

²⁸ Cf. H. Rommen, *The Natural Law*. Herder (1955), p. 183 ff.

His sources were the classical authors of antiquity, principally Aristotle and the Stoic philosophers Cicero, Seneca, the Roman Jurists Gaius and Ulpian, the Justinian Institutions, and the Decretum of Gratian, including of course the Fathers of the Church, like St Augustine, St Isidore of Seville, and others.²⁹

St Thomas regarded nature as the intrinsic and radical source of characteristic human activities. Nature is that by and through which the person acts. In so far as the human nature signifies the mode of being common to all humans it is the *source of an active tendency* to fulfill the self through connatural activity like the virtues. It ensures that the person is intrinsically oriented to the definite end and it inclines the person to act in such a way as to attain the end, that is, to complete and fulfill itself. The dynamic tendencies or inclinations inherent in nature indicate the appropriate way in which it can be brought to completion.

Animals follow the inclinations instinctively and spontaneously into action. The human person, being intelligent, is conscious of these inclinations and is basically free to follow or to go against them; he is called to translate them into particular and definite ways of acting in order to achieve the end.³⁰

²⁹ By way of example here is one of Cicero's most celebrated passages: "True law is right reason in agreement with nature; it is of universal application, unchanging and everlasting; it summons to duty by its commands, and averts from wrongdoing by its prohibitions. And does not lay its commands or prohibitions upon good men in vain, though neither have any effect on the wicked. It is a sin to try to alter this law; nor is it allowable to attempt to repeal any part of it, and it is impossible to abolish it entirely. We cannot be freed from its obligations by senate or people, and we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome and at Athens, or different laws now and in the future, but one eternal and unchangeable law will be valid for all nations and all times, and there will be one master and ruler, that is God, over us all, for he is the author of this law, its promulgator, and its enforcing judge. Whoever is disobedient is fleeing from himself and denying his human nature, and by reason of this very fact he will suffer the worst penalties, even if he escapes what is commonly considered punishment." (*The Republic*, III, xxii).

³⁰ For men "an action is natural only in so far as it is harmonious with the law of reason. This agreement with reason is not only the mark of naturalness, of humanity, it is the stamp of virtue; our actions are virtuous or good exactly in

In the traditional teaching on morality, which was set in the context of law, the concept of nature played a central role. If natures are seen as caused by God and ordained by Him to their due fulfillment, this ordination will reveal itself in the basic inclinations always found in those natures and can properly be regarded as a *law of nature*. Where the creature is intellectual the person will be conscious of this law and called to conform himself to it, that is, to act in conformity with the basic inclinations which he finds in his nature and so to fulfill himself.

It is here that the notion of right and duty (obligation) arises in the consciousness of being called to perform, through free choice, the kind of action indicated by nature as leading, when it is not impeded, to fulfillment. The person is free to follow this course or not; but the general lines of action and the end to which they lead do not depend on his choice; they are set by nature. Within these limits the person, as moral agent, is free to decide how, in each individual situation, to follow these inclinations in practice. The function of the precepts of natural law is to show how this is to be done.³¹

Natural law is truly the expression, in the form of precepts, of our natural inclinations to goodness and truth, as it is written in the human 'heart', that is, in the very nature of our human faculties of reason and will. Surely the inclinations, like the natural law, were God's most precious work in the human person, a unique and direct participation in His own wisdom and goodness.

St Thomas established a correlation between the operation of the mind ruled by the grasp of being, expressed in the speculative intellect by the basic principle of contradiction stating that a thing could not simultaneously be affirmed and denied, or even be and not be, with the operation of the will ruled by its perception of the good, which was its end, and was expressed in the principle of practical reason: "Good is to be done and sought;

so far as they harmonize with the commands of reason, or, in other words, precisely in so far as they follow the directions of reason and move towards the goal of man." (Walter Farrell, OP, *A Companion to the Summa*, II, 382).

³¹ I-II, 91, 2; 94, 2. Cf. A. McNichols, OP, *Person, Sex, Actual Trends of Thought*, p. 152; John Paul II, *Fides et Ratio*, no. 25-28).

evil is to be avoided.”³² This is the most basic drive to which the others are reduced.

St Thomas makes mention of the following five main, basic natural inclinations or needs: (1) The inclination to the good; (2) The inclination to self-preservation; (3) The inclination to sexual union, and the rearing of offspring; (4) The inclination to the knowledge of the truth; and (5) The inclination to live in society.

First, there is a natural inclination to the good, and is expressed in the proposition that “good is to be done and evil avoided.” This, for St Thomas, is the first principle of the practical reason, the expression of what is most fundamental in moral life. Everybody spontaneously desires what appears as good and spontaneously avoids what appears as evil; our natural tendency is to do the one and avoid the other.

Second, there is an inclination common to man and all beings in so far as they are substances; this is the inclination of self-preservation according to each one’s nature, that is, to preserve life and avoid death.

Third, there is a more particular inclination or disposition common to man and animals: that of sexual union between male and female, and the rearing of offspring.

Fourth, there is in man an inclination to know the truth about God and the world.

Fifth, there is an inclination to live in society to satisfy the necessities of human life.³³

All the inclinations of any part of human nature, in so far as they are ruled by reason, belong to the natural law, and are reduced to one precept; so that the precepts of the natural law are many in themselves, but are based on one common foundation, *the strive after good and happiness*. In other words, the good, the end, the object of desire, is the root of all action. Thus, through reason the rational creature – the human person – directs his own

³² I-II, 94, 2.

³³ *Summa Theol.*, I-II, 94, 2; 2-2, 141, 6.

activity towards his proper final end, eternal happiness. This, of course, is realized through the practice of the virtues.³⁴

St Thomas says that right reason is able to recognize all the natural inclinations within human nature, they are self-evident to all human beings, and are known intuitively. They serve as premises on which all reasoning and questioning about human good is based.³⁵ Thus the natural moral law is understood as human reason directing the individual to his own end or good. The good, the end, is that what is in accordance with the natural inclinations of man; and evil, that which is against those inclinations; for the whole purpose of man's natural inclinations, as natural, is to indicate what nature needs for its fulfillment and perfection. "Do good and avoid evil" is "the first necessary and natural dictate of practical reason."

But what is good? *Good is what is in accordance with the natural inclinations of man.* The natural inclinations guide the practical reason to good- then the practical reason guides the appetites of man and their inclinations to the attainment of that good and this is not a vicious circle. For the inclinations of man's appetite are his guide to truth relative to the end or goal; for the means by which that end is to be attained; reason takes the lead and points out the path. This is only to say again that the law does not establish an end, or point it out, but rather, as an act of the virtue of prudence, guides our steps to that end.³⁶

Because of this developmental view of being, St Thomas can consistently define the good in terms of an end. In other words, the completion of a developmental process – the natural termination point – is a good. In *De Veritate*, St Thomas writes that "all things found to have the criterion of an end at the same time meet the criterion of a good" ("*omne it quod invenitur habere rationem finis, habet et rationem boni*"³⁷). The end, i.e. the good, is

³⁴ Ibid., 2-2, 81, 6.

³⁵ Pope Benedict XVI says that these natural inclinations are the "message" used by reason to formulate the judgment of conscience; cf *Sum Th.*, I-II, 94, 2.

³⁶ Walter Farrell, OP, *A Companion to the Summa*, II, 380 ff.; John Paul II would say in *Veritatis Splendor*: "The good must first be true."

³⁷ *Summa Theol.*, I-II, 21, 1.

built into the very process of human development. The final end of all human action and, at the same time, the principle of such action is happiness. In thomistic terminology, the final cause (the end) is related to the formal cause (dispositions or structure). This explains why for St Thomas happiness or beatitude (not Aristotle's *eudemonia*) is the ultimate end of man.³⁸

Thus functioning well means to reach the developmental potential of all one's essential properties. In the passage just cited from *De Veritate* St Thomas indicates that there are as many goods as there are ends, and as many ends as there are needs, because whatever satisfies a need (or inclination) is a good, a value and an end.

Now, *the good or end is the specific object of the virtues*. But the good that we are to do and pursue through the virtues is by no means limited to the moral good. St Thomas insists that the good that is to be done includes everything that practical reason naturally grasps as humanly good,³⁹ that is, the full range of good achievable through human action is within the scope of the virtues. In his treatise on the virtues he clearly affirms that the rule of morality, specifically of the virtue of temperance, is the necessities of life, which vary according to the state in life of each individual person. Obviously a single person has different 'necessities' than a married, or one following a consecrated type of life.

It is the role of practical reason strengthened by the virtue of prudence to judge, evaluate and determine in each concrete situation what is the true good that we ought to do in order to become the person that we are meant to be. The virtues are the way, the means not only to satisfy our basic human needs, but also all our 'necessities in life' (or 'responsibilities', as St Augustine

³⁸ Ibid., I-II, qq. 1-5. "The first principle in practical matters, which are the object of the practical reason, is the last end: and the last end of human life is happiness or beatitude." Ibid. 90, 2. Cf. Ibid., q. a. 6. St. Thomas explains what man's last end or happiness does and does not consist in, how far and in what way it is attainable in the present life, and how we are to conceive the final and perfect happiness of the next life in *Summa Theo.*, I-II, q. 2-5; *Summa Contra Gentiles*, Bk. III, chaps. 1-63.

³⁹ Ibid., I-II, 94, 2: II-II, 141, 6.

says), and in the process to attain our ultimate end, complete fulfillment, perfect happiness with God in heaven.⁴⁰ *The rule and standard of virtue is derived from the necessities of life.*

For St Thomas the virtues are more important than the commandments or precepts of Natural Law. Truly the practice of the virtues – not obedience to the law – will make us *whole, holy and healthy*, or simply, “good persons.”

We should now find it easier to appreciate the profound statement of St Thomas, in his *Summa Contra Gentiles*: “We do not wrong God, unless we wrong our own good.”⁴¹

This is the realist, objective foundation of St Thomas Natural Law Theory. Nowadays, however, many moralists prefer to set their teaching in the context of *value* rather than of *law*, partly in order to avoid the danger of legalism, but also because this seems to be a more human and a more Christian approach. But is it really so? The gospel values are accepted through faith. If we rely on reason alone the values appear as theory, ideals or perfections which are conceived as integrating the complete fulfillment of personhood.

These can well be represented as universal and absolute; as valid and desirable for all individuals in all conditions of time and space. Laws can then be seen as *rational directives* which indicate, in general terms, the ways in which these values are to be aimed at through fitting types of action. How these directives are to be followed in any given set of particular circumstances will depend on the conscientious decision of the person. If the

⁴⁰ Ibid., II-II, 141, 6. The ‘needs’ or ‘necessities of life’ are not limited to the things without which man would not live or the race would perish. A broader concept is used here by St Thomas. For him the ‘necessities of life’ include the ‘needs’ of physical and mental well-being, and of spiritual progress, of cultural and intellectual growth, of custom and good manners, and of social standing – all these and more must be considered in determining what is and what is not virtuous. The rule and measure of temperance is not exclusively determined by the generic needs of human nature, but also by the personal needs of each man as he/she exists in the concrete circumstances of his/her life. This means that, for a Christian, the ‘rule of reason’ embraces also the truths of faith, and anything required by the dignity of our profession.

⁴¹ *Summa Contra Gentiles*, Bk. III, ch. 122.

value in question is, for example, justice and the corresponding law tells me to give my neighbor what is due to him, it is up to me and to my conscience to decide what exactly I am to do in my particular circumstances. This approach fosters truly personalistic morality while at the same time it respects the dynamic trends inscribed in my nature.

Whether the approach to morality is from the point of view of law or of value it may not, in either case, leave nature out of consideration nor see personhood morally in terms of inter-personal relations. To do so would be to make free decision the only basis and criterion of moral action. The moral act should be free; but if it is only free, without any regard for the basic promptings (inclinations) of human nature or for the nature of the total environment of the agent, it will be neither rational nor moral, for there would no longer be any objective ground for distinguishing good from evil. Thus if the "value theory" is followed, it must be assumed that the values have been justified as objective and unchanging.

The Evangelical Law or the New Law

St Thomas' Treatise on Evangelical Law⁴² is the high point of all legislation. St Thomas formulated a new definition of the Evangelical Law, by which he made it the foundation stone of moral teaching. His study was the fruit of a deep analysis of the Letter to the Romans together with Augustine's *De Spiritu et Littera* and his commentary on the Sermon on the Mount. His work brought out far more clearly the spiritual dimension of this Law, as well as the Christian character of St Thomas' moral teaching.

The definition of the Evangelical Law, as he presents it here,⁴³ is altogether remarkable. It is at once original and in accord with the scriptural and patristic tradition. The definition was new, and valuable for the distinction between the principal and the secondary elements of the evangelical law. This distinction, comments S. Pinkaers,⁴⁴ allows for an accurate assessment

⁴² *Summa Theologiae*, I-II, 106-108.

⁴³ *Ibid.*, I-II, 106, 1.

⁴⁴ S. Pinkaers, *The Sources of Christian Ethics*, 1995, p. 174ff.

of the various parts of the law and their functions. It emphasizes the action of the Holy Spirit, which was so important that it determined the very nature of this law and made it chiefly interior, inscribed upon the heart.

St Thomas says that, according to Aristotle, in his tenth book of Ethics, "the essence of a thing seems to be determined by whatever predominates in it. But what predominates in the New Testament Law, the source of its strength, is the grace of the Holy Spirit given through faith in Christ. Thus the New Law consists principally in the grace of the Holy Spirit given to the Christian faithful."⁴⁵

Thus the essence of the evangelical law, for St Thomas, is formed by the grace of the Holy Spirit, given in response to faith in Christ. Here he is in perfect accord with St Paul when he defines Christian action as life of the Spirit, and he places faith in Christ, rather than the Jewish law and Greek wisdom. Further on (cf. q. 108, 1), St Thomas would refine this by pointing out that faith works through charity.⁴⁶

In his latest commentary on the Letter to the Romans, St Thomas adds the following explanation on the expression "the law of the Spirit": "Firstly, it may mean the law that is the Spirit, for the Holy Spirit, dwelling in the souls of believers, does not limit himself to teaching them and enlightening their minds as to what they ought to do, but he moves their hearts to take action. Secondly, it may mean the law that is the effect or work of the

⁴⁵ *Summa Theol.*, I-II, 106. 2.

⁴⁶ *Ibid.*, I-II, 108, 1: "The New Law consists chiefly in the grace of the Holy Spirit, which is shown forth by faith that works through love." St Thomas drew inspiration from many sources, which he however interpreted freely. Here is his text: "This is clear from what the Apostle says to the Romans: (3:27). 'Where is your boasting? It is excluded. By what law? By the law that tells us what to do? On the contrary, it is by the law of faith'. He says still more explicitly (Rom. 8: 2): 'The law of the spirit of life in Christ Jesus has set you free from the law of sin and death'. This caused St Augustine to say in his work *De Spiritu et Littera* (chap. XXIV, 41): 'As the law of works was written on tablets of stone, so the law of faith was written in the hearts of the faithful'. And elsewhere in the same work (chap. XXI, 36): 'What are these laws of God written by God Himself in our hearts, if not the very presence of the Holy Spirit?' (*S.T.*, I-II, 106, 1).

Spirit, that is, faith operating through love, which teaches the believer interiorly and urges the heart to action.”⁴⁷

In agreement with St Paul and St Augustine, St Thomas describes the action of the Holy Spirit as lawgiver dwelling in the depths of human hearts, according to the promises of the Prophet Jeremiah (31:33): “*Deep within them I will plant my Law, writing it on their hearts*”; and Ezekiel (36: 26): “*I shall give you a new heart, and put a new spirit in you; I shall remove the heart of stone from your bodies and give you a heart of flesh instead. I shall put my Spirit in you...*” These texts proclaim a new covenant in the Spirit.⁴⁸

Clearly the definition of the Evangelical Law is in conformity with authentic tradition: Jeremiah, St Paul, and St Augustine. It brought together prophets, apostles, and Church Fathers, putting their thought in precise, theological terms.

The last part of the definition contains a very relevant observation: “The New Law also includes certain elements that dispose us to receive the grace of the Holy Spirit, or are related to the use of this grace, such as sayings or writings about what the faithful ought to believe or do, and in which they need instruction. This is a second group of elements of the New Law,”⁴⁹ which includes specially the Gospel text and the Sacraments, which communicate to us the grace of Christ.

The conclusion of the definition is brief: “Consequently we must say that the New Law is principally an ‘infused’ law and secondarily a written law.”⁵⁰ Only the Holy Spirit can act in this way within the human heart. And thus the New Law is wholly unique. The definition of the evangelical law as an interior ‘infused’ law, dependent upon the Spirit’s action, was a novel and clear form given it by St Thomas: “The Evangelical Law is the grace of the Holy Spirit given through faith in Christ.”

⁴⁷ St Thomas, *In Romans* 8, 11.

⁴⁸ *Summa Theol.*, I-II, 106, 1.

⁴⁹ *Ibid.*, 106, 1.

⁵⁰ *Ibid.*, 106, 1.

This has recently been confirmed by the Magisterium of John Paul II in his Encyclical *Veritatis Splendor*: "The Church receives the gift of the New Law, which is the "fulfillment" of God's law in Jesus Christ and in his Spirit. This is an "interior" law (cf. Jer. 31: 31-33), written not with ink but with the Spirit of the living God, not on tablets of stone but on tablets of human hearts (2 Cor. 3:3); a law of perfection and of freedom (cf. 2 Cor. 3:17); the law of the Spirit of life in Christ Jesus (Rom. 8; 2)." St Thomas writes that this law "can be called law in two ways. First, the law of the spirit is the Holy Spirit... who, dwelling in the soul, not only teaches what it is necessary to do by enlightening the intellect on the things to be done, but also inclines the affection to act with uprightness... Second, the law of the spirit can be called the proper effect of the Holy Spirit, and thus faith working through love (cf. Gal. 5: 6), which teaches inwardly about the things to be done... and inclines the affections to act."⁵¹

Conclusion: Law for St Thomas is a work of wisdom, first engaging the intelligence, and only then the will. He distinguishes five kinds of law: the Eternal law, divine source of all legislation; the Natural Law, which is the human heart's direct participation in this; the Human positive law, which derives from natural law. Revelation added the Old Law, centered in the Decalogue, also related to natural law, and the Evangelical Law or the New Law. These different laws are operatively interconnected, beginning with the eternal law, descending through natural law to positive human law, and ascending to God, reaching the summit in the evangelical law, the most perfect possible participation in the eternal law that can be found on earth, and the closest approximation to our ultimate end.⁵²

In proper theological perspective, St Thomas gave primacy to the Evangelical Law. For him, the Evangelical Law prevailed over Natural law and the Decalogue, obviously bringing them to

⁵¹ John Paul II: Encyclical *Veritatis Splendor*, n. 45; St Thomas in *Epist. Ad Rom.*, C. VIII, lec. 1.

⁵² In *Sum. Theol.*, I-II, 106, 4, St Thomas writes: "Now no state of the present life can be more perfect than the state of the New Law; since nothing can approach nearer to the last end than that which is the immediate cause of our being brought to the last end. But the New Law does this."

perfection. In this we see a very logical and consistent application of what was for him perhaps the most important moral principle, namely: "*Grace builds on and perfects nature.*" Indeed, his whole moral teaching, directed by these various kinds of laws, is effectively oriented to the Evangelical Law, as to their perfection and earthly culmination.

II. Harmonious Correlation of Natural Law Elements: Natural Inclinations, Precepts, Rights and Virtues.

In St Thomas' treatise on Natural Law there is a perfect correlation and harmony between the natural inclinations, the precepts of natural law, the rights, and the virtues. First of all, the law and our natural rights correspond with precision to personal qualities or virtues. Through their exercise, a person's natural inclinations are developed, and a profound harmony is established with the inner law written in the human heart, that is, in the very nature of our faculties of reason and will (cf Jeremiah, 31:31-33). Thus, for every inclination we have corresponding precepts, rights and virtues.

For St Thomas the virtues are more important than precepts, since they constitute the end and perfection of the inclinations, and the exercise of the virtues brings about a profound continuity and conformity of our inclinations with natural law and the virtues. In fact the natural inclination to goodness and happiness, which includes all other inclinations is expressed in the first principle of natural law "Good is to be done and evil avoided." And since good – the object of virtue – is defined as that which causes love and desire, we can also relate to this inclination the two fundamental precepts of love of God and neighbor, which are the most profoundly natural and sum up the whole law, according to the Gospel. They show clearly the primacy of the inclination and attraction to the good.⁵³

Natural Law and Morality

The core of the morality of human acts is knowledge, which gives content and meaning to love and the acts that lead to

⁵³ Ibid., I-II, 100, 1.

happiness. Human acts are good when they are according to right reason or conscience. The human action to be good must first be true,⁵⁴ which means that the objective, the real, is the measure of knowledge. In this priority of the real or of being over knowing, and of knowledge over willing, lies the basis of the possibility of a natural moral law.

The "mind" is for St Thomas the measure of morality throughout, ultimately the mind of God expressed in Christ who is the exemplar of all things that are made, and in the Eternal Law which is their governing Wisdom: Divine Providence mediated to us through Natural Law, concretized by the positive laws of the Church and State,⁵⁵ and applied to particular issues through the voice of conscience. Choice then is made and the imperative command of prudence follows bringing the action into execution.⁵⁶

The moral good is thus held in the mind evidenced by objective reasons, understood by other minds as in accord or conformity with a rule, norm, law or measure of conduct. Indeed, there is an objective body of moral values or an objective standard of morality revealed in the order of being and in human nature. This is Natural Law, which is not only an ideal for positive law or for legislation to realize; it is also a critical norm for the existing positive law. All laws require a moral foundation.

There is no law without morality. Law and morality are not separated; the identification of human life is an indication of the close connection of law and morality. Indeed, morality is nothing more than conformity with the rule which regulates human life – the rule of reason or law. Human life is reasonable life, morality is in accord with the rule of reason and law; it is an ordination, a direction of motion, an effective directive motion; so it is an act proceeding immediately from the intellect on the presupposition of the movement of the will. Life and law are as closely intertwined as motion and its direction to a goal.

⁵⁴ Ibid., I-II, 19, 1.

⁵⁵ Ibid., I-II, 95, 2.

⁵⁶ "No human law can violate the Natural Moral Law and still claim to be a law, because it cannot still pretend to aim at the ends of nature, the common good of the State and the individual." (I-II, 100, 1).

St Thomas accepts this by recognizing as supreme principle: "Good is to be done," that is, 'ought to be'; for being, truth and goodness are convertible. The law is truth, it wills what is good, and it presupposes knowledge of being. Accordingly, man's primary right is the right to do his duty, i.e., to achieve his end, to perfect himself, to realize his essential nature, and thus to attain true happiness, his subjective end, in this life and in the next.

The supreme measure [*"mensura heterogenea et transcendens"*] is the Eternal Law in the mind of God.⁵⁷ The proximate measure [*"mensura propinqua et homogenea"*] is the human reason, notably in the judgment of conscience.⁵⁸ In between the mind of God and the personal conscience are the ordinances of law. In the first place we have Natural Law, which represents the sharing in Eternal Law by creatures of intelligence in virtue of their origin: its principles are inbred in them and are not of their own making.

Natural law is a moral Law, not a physical category; and although related to the "laws of nature," especially in their physiological and psychological manifestations, its meaning relates specifically to human acts. This moral content [*"esse morale"*] is based on and is not to be separated from the natural nature [*"esse physicum"*] (the generic being) of the acts to which it refers, but it has its own tests or norms.

'Natural' means it comes from within without imposition from external authority. For the moralist, acting against nature means acting against rational and moral nature.⁵⁹ Thus, interfering with a human act of shared sexuality (contraception) is against nature. The objective proposed by Natural Law is a moral form, which is determined by its correspondence to purposes running according to internal finality, towards the ultimate and universal good of rational life.

Briefly, "natural" is used here by contrast with "positive" law and covers all those moral dictates which in theory can be discovered without the intervention of a human legislator; in fact

⁵⁷ Ibid., I-II, 19, 4.

⁵⁸ Ibid., I-II, 19, 3.

⁵⁹ Ibid., I-II, 70, 2.

they range from primary precepts, more or less generally agreed on, to secondary precepts and conclusions sustained by a reasoning that is often open to dispute. The test of difference is that by natural law certain things are right and therefore commanded, and by positive law certain things are commanded and therefore right.⁶⁰

In St Thomas view, Natural Law is an immanent ruling reason, which immediately directs all moral movement "from within." The norm or measure of morality is therefore intellectual, though involving necessarily "appetitional factors" or emotions also. Prudence is truly required to put motion and execution into moral meaning, for "there is no value in freedom as such, because freedom signifies only a mode of activity, not a formal content." Indeed, *good must first be true and moral truth must show meaning or value.*

Morality consists then in a relationship to the perfect end and intelligible good, which is the ultimate end of human activity, and to its subordinate goods, "*ea quae sunt ad finem.*" A relationship of conformity means that the activity is morally good, a relationship of nonconformity or rather of dis-conformity, means that the activity is morally bad. This is a real relationship founded on the nature of the activity performed, as entering or not the ultimate end, and not merely a logical relationship constituted by an extrinsic reference, made by the human mind. It really makes the act to be good or bad, and not to be as it were good or bad.

Therefore, the morality of human acts is intrinsic to them as related to the Good and the goods, which are its participation, as St Thomas says: "An inherent rightness in acts is by nature [*secundum naturam*'] and not only by statute [*non solum quasi lege posita*']".⁶¹

This rightness is measured by the eternal reasons in the mind of God, partially translated for us in the precepts of Natural Law. Conclusions are drawn by moral science from these precepts, which conclusions set out the general requirements for the art of politics and legislation in Church and State. The rightness is

⁶⁰ Ibid., I-II, 91, 2; 94, 1-4.

⁶¹ *Summa Contra Gentiles*, III, 129.

finally brought to the point of particular action through the judgment of individual conscience.

Therefore, the moral determinant comprises three factors: the specific determinant (which is an act's objective), the individual determinants (which are its circumstances), and the personal determinant (which is the intention of the end).

III. Applicability and Intelligibility of Natural Law-Right

Three Types of Law-Right

There are three types of Law-Right specifically different, namely, the purely Natural Law-Right, the purely Positive one and the *Ius Gentium* or the Law of Nations/Peoples.

a) The purely Natural Law essentially consists of the primary principles of the moral order, which are true and evident by themselves to all men that have the use of reason, i.e., the precepts, propositions or judgments of practical reason strengthened by *synderesis* that command to do what is intrinsically (objectively) and manifestly good, and prohibit what is intrinsically and evidently bad.⁶²

St Thomas clearly concludes that:

"Since the human morals depend on their relation to reason, which is the proper principle of human acts, those morals are called good which accord with reason and those are called bad which are discordant with reason. And every judgment of practical reason proceeds from principles known naturally, from which principles one may proceed in various ways to judge of various matters. For some matters connected with human actions are so evident, that after very little consideration one is able at once to approve or disapprove of them by means of these general first principles: while some matters cannot be the subject of judgment without much consideration of the various circumstances, which all are not competent to do carefully, but only those who are wise. And lastly there are some matters of

⁶² Cf. *Summa Theol.*, II-II, 57, 2ff.; I-II, 94.2.

which man cannot judge unless he is helped by Divine instruction. But there are certain things which the natural reason of every man, of its own accord and at once, judges to be done or not to be done.”⁶³

In St Thomas structure of natural law-right “the order of priority among precepts and rights of Natural Law is based on the order of natural inclinations” [*“Secundum igitur ordinem inclinationum naturalium est ordo preceptorum legis naturalis”*].⁶⁴ The desire of (inclination towards) the absolute universal good or happiness is higher than the desire or inclination to inferior or more limited goods. Example: The natural right and duty to preserve life (existence) is higher than the right or duty to propagate it, or to know the truth, or the right to property, etc. The desire of the good as such and of true happiness is the supreme principle of natural law, upon which all other principles are based.

According to Aristotle and St Thomas, every objective law or right is either natural or positive; because whatever is just and right is so either intrinsically by itself, by its own nature, or by the free determination and imposition of man. There is no intermediate law or right between natural and positive. However, the objective law and right considered formally can be realized only among persons considered either alone as individuals, or collectively as perfect societies like State or Nation. In fact, morality, rectitude and equity, are not limited to individuals or physical persons with the exclusion of the collectivities or moral persons, but they embrace all of them equally.

Thus, we have two kinds of natural law-right and two positive laws-rights, namely, one from individual to individual and another from nation to nation.

It should be observed that the right-law is not only a *Ius Gentium* [the law-right of people], but also *Ius inter Gentes* [the law-right between peoples or nations], taking the word “gentes” (peoples) to mean perfect and independent societies, and not only

⁶³ *Summa Theol.*, I-II, 100, 1.

⁶⁴ *Ibid.*, I-II, 94, 2.

individuals.⁶⁵ This was the innovation introduced by the Dominican Francisco de Vitoria, changing the Roman law definition, substituting the word "gentes" for "homines" [*Ius hominum*], thus giving rise to a new Natural International Law or Law of Nations.⁶⁶

The purely Natural Law-Right is given to all men without any effort on their part, and consists essentially in the primary principles of morality and of law-right, formulated by practical reason with *synderesis*. Principles or propositions self-evident and so intuitively and necessarily known by all men with the use of reason. It is the product of intuition. The other two types of law-right are based on the purely natural law and are derived from it, though in an essentially different manner.

b) *The purely Positive or Civil Law-Right* is derived by way of simple application or concrete determination of the primary principles. Example: by natural law we know that thieves and criminals must be punished, but the natural law does not specify the quantity, quality or way of doing it; that is determined by positive or civil law. It is the product of political prudence.

c) *The Ius Gentium – The Law of Nations* is, on the other hand, derived from the purely natural law by way of immediate and necessary conclusions from the primary principles of practical reason with *synderesis*. Example: from the primary principle 'Do not do to others what you do not want be done to you' is immediately, necessarily and very easily concluded (derived) that stealing, killing or injuring people should not be done. That is the *Decalogue* and the *Ius Gentium*.⁶⁷

⁶⁵ Santiago Ramírez, O.P., *o.c.*, pp. 62 ff., 190 ff.

⁶⁶ Francisco de Vitoria, OP, defined *Ius Gentium* as "Quod naturalis ratio inter omnes gentes constituit." Vitoria substituted the word "gentes" for "homines" of the Roman law definition. Thus he became the founder of *Ius Gentium* or *Natural International Law*, or *Law of Nations*, as distinguished from the positive Public International Law. In relation to this the Second Vatican Council affirms that: "The Council wishes to remind men that the natural law of peoples – the *Ius gentium* – and the universal principles still retain their binding force. According to the Council, the Natural and Evangelical Law is the moral norm for all human activity." (*Gaudium et Spes*, n. 10 and 79). Cf. Santiago Ramírez, OP, *o.c.*, pp. 190ff.

⁶⁷ This summary is based on Santiago Ramírez, OP, *El Derecho de Gentes*. Madrid. (1955), p.62ff. The author claims that this is the correct interpretation

Characteristics of the Natural Law-Rights

Human rights are founded on Natural Law, which is another way of saying that they are based on man's nature, and because of that they are inalienable and morally inviolable, like the right to life, for example, and the right to be treated as a free, intelligent human being, and similar ones, which in no way depend upon the State, simply because they are based in human nature.

First, the natural law-right is *common to all*. The natural law is the same for everybody. "It is evident," says St Thomas, "that with respect to *general principles* of both theory and practice what is true or right is the same for all and is equally recognized. With respect to particular conclusions of practical reason there is no general unanimity about what is true or right, and even when there is agreement there is not the same degree of recog-

of the true teaching of St Thomas on this matter with Aristotle, Cicero, Gaius, and St Albert the Great, as his predecessors. Cf. II-II, 57, 2ff.; I-II, 94.2.

Primary Natural Law-Right: Purely and strictly natural (of human nature, i.e. natural-intellectual) absolute law-right. This is contained essentially, properly in the primary (first) absolute principles of the Moral Order, true and evident by themselves, and known to all without error. These are the propositions of synderesis ordering the intrinsically good, and forbidding the intrinsically bad. These principles are known naturally and intuitively by natural reason and synderesis, and bind all. They are called the natural dictates of reason that express the primary principal natural (final) ends of man, to which tend the primary inclinations or intentions of the human will "ut natura" = "ut voluntas." They are willed. Some examples: a) Good is to be done, evil to be avoided; b) Do not do to others what you do not want be done to you; c) We should always act according to reason; d) Do no harm (to life, health or property); e) Render honor and gratitude to benefactors; f) Love and obedience to God; g) Fair treatment to all; h) Common ownership... In reality there is only one principle of synderesis of which all the others are potential parts. New modern formulation: a) Dignity of the human person (*Veritatis Splendor*, 50); b) Beneficence and Nonmaleficence; c) Practical reasonableness (*Synderesis*).

Secondary Human-Rational Law-Right: Strictly and specifically human, i.e. natural-rational; natural human rights derived, by human reason, from the primary as conclusions: natural and positive, comparative-rational. They are the Law of Nations = *Ius Gentium* = *Derecho de Gentes*; the Natural International Law; the Natural Human Rights. This is contained in the secondary principles, precepts or propositions of morality *derived* from the Primary Principles of synderesis as *proximate and immediate*, evident, universal and necessary conclusions by natural reason, with wisdom or natural prudence (common sense) of people. Characteristics: a) Easily known naturally by all (I-II, 95, 4 ad 1um); b) Contained mainly in the customs of all peoples; c) Common to all men; d) Inalienable;

dition.”⁶⁸ Therefore, as for the first common principles, here natural law is the same for all in requiring a right attitude towards it as well as recognition. As for specific points, which are like immediate conclusions drawn from the primary principles, here natural law is the same for most people in their feeling for and awareness for what is right. Nevertheless in fewer cases either the desire or the information may be wanting. The desire... and also the knowledge of what is right may be distorted by passion or bad custom or even by racial proclivity.⁶⁹

Second, the natural precepts are *unchangeable*. The natural law is formally immutable or unchangeable as to its moral rightness and juridical value. “All hold that it is true and right that we should act intelligently.”⁷⁰ “The first principles of natural law are altogether unalterable. But its secondary precepts, which are like particular conclusions close to the first principles, though not alterable in the majority of cases where they are right as they stand, can nevertheless be changed on some particular and rare occasions, because of some special cause preventing their unqualified observance. For example, to return to its rightful

e) Immutable; f) Cannot be abrogated nor dispensed with; g) Obligatory and normative for all men... These express the secondary natural end of man or necessary means to the primary ends to which tend the secondary natural-rational inclinations of man as rational (not biological) = Free will as such, ‘*ut ratio*’, chosen. Examples: a) You shall not kill; b) You shall not steal; c) Honor and respect Father and Mother; d) Marital Fidelity (=Monogamous marriage), contrary: polygamy and dissolubility; e) Right to claim indemnity; f) Private property; g) Deposits and borrowed goods must be restored; h) Agreements must be kept (*‘Pacta sunt servanda’*).

The Human Positive Law-Right is a particular application or determination derived by *governative prudence* from higher principles of natural law, or from its immediate universal conclusions. “Every human law has just so much of the nature of law as it is derived from the Law of nature... either as conclusion or as determination” (S.T., I-II, 95, 2). Positive Human Law is “a ‘prolongation’ of Natural Law, and so “when it contains anything contrary to the Natural Law, it is unjust and has no binding force” (*Ibid.*, II-II, 60, 5, ad 1um). Human law, by definition, is not self-evident. It is established only by the judgment and will of the legislator. That is why it is called a *positive law*. And the further the law-giver goes down into more detailed applications the greater the danger of error becomes (*Ibid.*, I-II, 94, 4).

⁶⁸ *Summa Theol.*, I-II, 94, 4c.

⁶⁹ Santiago Ramirez, o.c., p. 122ff.

⁷⁰ *Summa Theol.*, I-II, 94, 4c.

owner a deposit held in trust is required by natural law – the *Ius Gentium* – except when the owner intends to use it to kill somebody, “that would be injurious, and consequently unreasonable.”⁷¹ In St Thomas view, all basic human rights and duties are universal because they are due to every human being without discrimination, whether or not they are protected, defined, or amplified by the enactment of positive law. He also states that most men of sound intelligence and good will could be expected to agree on the fundamental rights, which arise from the Principle of Human Dignity.

Finally, we may add with St Thomas that there are acts ‘intrinsically evil’, ‘evil in themselves’, which may never be done ‘for any reason, in any way’, like the negative precepts of the Decalogue, which are absolute precepts. ‘We may never do evil even if it is for the sake of good’.⁷²

Implementation of the Natural Law-Right

Some times people ask: *why the natural law and basic human rights are not always implemented and observed* though they are ‘naturally and easily known by everybody’?

St Thomas, with his usual genius for conciseness and precision, answers in the following manner: “First of all, emotions and personal interest can overcome our better judgment. Experience shows that many people act against their better judgments... A man who is emotionally aroused fails to consider in particular what he knows in general (*“Ille qui est in passione constitutus non considerat in particulari id quod scit in universali.”*) “A man, who is under the influence of emotion, might be moved to make a particular judgment contrary to his general convictions.”⁷³ Again, “the desire to do right may be blocked by particular factors... and the knowledge also of what is right may be distorted by passion or bad custom or even by racial proclivity, and local culture.”⁷⁴

⁷¹ Ibid., I-II, 94, 5; 100, 11.

⁷² Ibid., II-II, 69, 2.

⁷³ Ibid., I-II, 77, 2c.

⁷⁴ Ibid., I-II, 94, 4c.

Those are some of the factors why some governments legalize – often with the consent of the people – actions, ‘crimes’, that are evidently against natural law, and basic human rights, like abortion, euthanasia, infanticide, etc.

Some political leaders, for instance, are against “human rights violations in general,” but when it comes to concrete cases, they often do not consider them “crimes” because of special interests or strong emotions!

“The man affected by passion,” says St Thomas, “might say out loud that something ought to be done, but in his heart knows well what he is going to do.”⁷⁵

In case of conflict it would be helpful to establish the priority order of natural rights and basic principles considering the following criteria:

First: Man as being: has right to life, (right to be).

Second: Man as animal: has right to ‘procreation and education of children, and similar ones.

Third: Man as rational and social: has the ‘right to knowledge, right to peaceable social life, and similar ones.

Fourth: To distinguish between “potential duties,” known as *prima facie* duties, and “actual duties,” those that must be performed. Only potential duties can come into conflict, and when they do, the one that is the “higher right-duty” becomes the “actual,” the “other” remains “potential,” i.e., gives way.

Remember that truths apprehended by intuition – *synderesis* – cannot be confirmed by experience, except perhaps with very basic rights and duties which are easily known by all. □

⁷⁵ Ibid. I-II, 77, 2c.

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OUTLINE OF THE THOMISTIC PHILOSOPHY OF LAW – RIGHT THE HUMAN (MORAL) LAW & OBJECTIVE (MORAL) RIGHT

NATURAL LAW – RIGHT. (I a) (Intrinsically good or bad)

PRIMARY NATURAL LAW-RIGHT

- PURELY AND STRICTLY NATURAL
(Of human nature, i.e. natural-intellectual)
absolute Law – Right.
This is contained essentially, properly in the:
- PRIMARY (First), absolute PRINCIPLES of the Moral Order,
true and evident by themselves, and known to all w/o error. These
are the PROPOSITIONS OF SYNDERESIS ordering the intrin-
sically good, and forbidding the intrinsically bad. These principles
are KNOWN naturally and intuitively by NATURAL REASON
AND SYNDERESIS, and bind all.
 Called: The Natural Dictates of Reason
 that EXPRESS the
- PRIMARY or Principal natural (final) ENDS of man, to
 which TEND the
- PRIMARY INCLINATIONS or Intentions of the human WILL
 ‘*ut natura*’, = ‘*ut voluntas*’. Willed.

EXAMPLES:

a) GOOD IS TO BE DONE, EVIL TO BE AVOIDED; b) Don't do to others
what you don't want be done to you; c) We should always act accord-
ing to reason; d) Do no harm (to life, health or property); e) Render
honor and gratitude to benefactors; f) Love and obedience to God; g) Fair
treatment to all; h) Common ownership...

= In reality there is only ONE PRINCIPLE OF SYNDERESIS, of
which all the others are potential parts. =

New modern formulation:

1. DIGNITY OF THE HUMAN PERSON (V.S. n. 50)
2. BENEFICENCE and NONMALEFICENCE.
3. PRACTICAL REASONABLENESS (= SYNMDERESIS).

NATURAL LAW – RIGHT. (I b)
(Intrinsically good or bad)

SECONDARY HUMAN – RATIONAL LAW-RIGHT

- Strictly and specifically human, i.e. natural-rational.
- Natural human rights derived, by human reason, from the Primary as

CONCLUSIONS

- Natural and positive.
 - Comparative – rational.
- = LAW OF NATIONS=IUS GENTIUM=DERECHO DE GENTES =
 = NATURAL INTERNATIONAL LAW =
 = NATURAL HUMAN RIGHTS =
- This is contained properly in:

- * SECONDARY PRINCIPLES, PRECEPTS or Propositions of morality derived from the Primary Principles of Synderesis as PROXIMATE and IMMEDIATE, evident, universal and necessary CONCLUSIONS by Natural Reason, w/ WISDOM or NATURAL PRUDENCE. (Common sense) of men.
 CHARACTERISTICS: a) Easily known naturally by all (1-2, 95, 4 ad 1um); b) Contained mainly in the customs of all peoples; c) Common to all men; d) Inalienable; e) Immutable; f) Cannot be abrogated nor dispensed with; g) Obligatory and normative for all men...

that EXPRESS the:

- SECONDARY natural ENDS of man or necessary MEANS to the primary ends.

to which TEND the

- SECONDARY natural-rational INCLINATIONS of man as rational (not biological) = FREE WILL as such, '*ut ratio*', Chosen.

EXAMPLES:

- a) YOU SHALL NOT KILL; b) You shall not steal; c) Honor and respect Father and Mother; d) Marital Fidelity (=Monogamous M.)-Contrary: Polygamy and Dissolubility; e) Right to claim indemnity; f) Private Property; g) Deposits and borrowed goods must be restored; h) Agreements must be kept.

**POSITIVE LAW – RIGHT (I c)
(The Purely Positive)**

The human POSITIVE LAW is a particular application or DETERMINATION derived by GOVERNATIVE PRUDENCE from higher PRINCIPLES of NATURAL LAW, or from its immediate universal CONCLUSIONS.

“Every human law has just so much of the nature of law as it is derived from the Law of nature... either as conclusion or as determination”.

Positive Human Law is “a ‘prolongation’ of Natural Law, and so “when it contains anything contrary to the Natural Law, it is unjust and has no binding force”.

Human law, by definition, is not self-evident. It is established only by the judgment and will of the legislator. That is why it is called a positive law. And the further the lawgiver goes down into more detailed applications the greater the danger of error becomes.

SCHEME OF NATURAL LAW-RIGHT AND BASIC PRINCIPLES

THE HUMAN LAW AND OBJECTIVE RIGHT

NATURAL LAW-RIGHT OBJECTIVELY GOOD OR BAD	PRIMARY NATURAL LAW-RIGHT	PRIMARY PRINCIPLES or Precepts of SYNDERESIS. Self-evident; known naturally and intuitively by all,
		that EXPRESS the
	* Objectively good or bad. * Purely Natural,	PRIMARY or Principal NATURAL ENDS OF MAN,
	Natural- Intellectual Contained in:	to which TEND the
		PRIMARY INCLINATIONS or Intentions of the human WILL ' <i>ut natura</i> ' = ' <i>ut voluntas</i> ' NATURALLY WILLED.
	SECONDARY NATURAL (Human) Rational	SECONDARY PRINCIPLES or PRECEPTS of PRUDENCE and MORAL SCIENCE. DERIVED as proximate and immediate CONCLUSIONS from the Primary Principles, and known with little effort, with some errors, by all,
	Law – Right.	that EXPRESS the
		SECONDARY NATURAL ENDS OF MAN as necessary MEANS to the primary ends, and
		to which TEND the
		SECONDARY natural-rational INCLINA- TIONS of man (as rational, not biological) = FREE WILL as such, i.e. ' <i>ut ratio</i> '.
		FREELY CHOSEN.
POSITIVE or CIVIL. Depend upon the judgment and will of men only. (National or International)		

THE NATURAL RIGHT-LAW AND OTHER DERIVED RIGHTS-LAWS

THE OBJECTIVE HUMAN RIGHT-LAW

NATURAL RIGHT-LAW The right – just by nature, objectively so	Between INDIVIDUALS (=Private) Called simply: NATURAL RIGHT-LAW Includes all natural (basic) human Rights – Goods and needs. (1-2, 94, 2)	EXAMPLES: a) The right to Life; b) The Right to physical (bodily) Integrity (1); c) The Right to Honor & prestige (Good name) (2); d) The Right to freedom of conscience (3); e) The Right to know the truth, (Contrary: To tell lies); f) The Right to peaceful social living; g) The Right to marry; h) The Right to procreation & education of children (Contrary: Poliandry). OPPOSED a) To kill; b) To steal; c) To harm; d) To calumniate (To libel); e) To defame or malign; f) To reveal professional secrets; g) To condemn w/o hearing; i) To plot intrigues to harm others.
COMMON LAW	Between all nations or peoples. Called: IUS GENTIUM = DE GENTES, or LAW OF NATIONS, The Natural International Law – Right. Includes all natural moral relations between nations or peoples.	EXAMPLES a) The Right of autonomy, sovereignty or independence; b) The Right to territorial integrity; c) The Right to honor, prestige and good name; d) The Right to conduct its own affairs without outside interference; e) Free communication by land, sea and air; f) Freedom of Religion. OPPOSED a) To deprive a nation of its independence; b) To rob a nation of its possessions; c) To calumniate, denigrate or defame them; d) To speak ill of –libel – a country; e) To interfere in the internal affairs of a country; f) To plot insidiously to harm other country; g) To isolate a country by breaking diplomatic relations without cause; h) To prevent free commerce; i) To force a country to change its legitimate political system.
POSITIVE RIGHT-LAW The right-just by free decision of man	Between INDIVIDUALS. Called simply POSITIVE Right-Law = CIVIL RIGHT-LAW Between NATIONS. Called: PUBLIC INTERNATIONAL LAW-RIGHT.	a) Inviolability of legates; b) Common use of the seas; c) Acceptance of guests, and refugees.

N.B.: (1) Principle of Totality and Integrity. (2) Principle of Respect for Human Dignity. (3) Principle of Free and Informed Consent.