Natural Right, Natural Justice, and Natural Law in Aquinas

Randall Smith[*]

ABSTRACT: In the *Summa of Theology*, Aquinas defines justice as "a habit [*habitus*] whereby a man renders to each one his due [*ius*] with a constant and perpetual will." How should we understand *ius*, often translated "right"? Some of the confusion has arisen because Aquinas often seems to use the terms *ius naturalis* and *lex naturalis* synonymously. In this article, I attempt to clarify what Aquinas means by *ius* and then show how a proper understanding of that concept illuminates our understanding of the relationship between *ius naturalis*, *lex naturalis*, and natural *iustitia*. I will also seek to show how both the Mosaic Law and grace are essential to Thomas's full teaching on the moral life and our obligations of natural justice.

EARLY IN PLATO'S *REPUBLIC*, Socrates asks young Polemarchus: "[W]hat is it that you affirm that Simonides says and says rightly about justice?" To this the younger man replies: "[I]t is just [*dikaion*] to render to each his due." [1] This was good for a start. But Socrates has a few more questions, and the rest, as they say, is the *Republic* – and history – and in the centuries that followed, as Alfred North Whitehead once said, a long series of footnotes to Plato.

So, for example, in his *Rhetoric* Aristotle defines justice (*dikaiosunē*) as "the virtue which assigns to each man his due."[2] Cicero describes justice in *De finibus* as "assigning to each his own" (*suum cuique tribuens*).[3] The early Christian bishop

---

[*] *Randall Smith* is professor of theology at the University of St. Thomas, Houston.

[1] For example, Plato, *Republic* 1.331e: "Tell me, then, you the inheritor of the argument, what it is that you affirm that Simonides says and rightly says about justice." "That it is just," he replied, "to render to each his due" (τὸ τὰ ὀφειλόμενα ἑκάστῳ ἀποδιδόναι δίκαιόν ἐστι). Cf. *Republic* 4.433e: "Will not this be the chief aim of their decisions, that no one shall have what belongs to others or be deprived of his own? Nothing else but this." "On the assumption that this is just [δικαίου]?" "Yes."

[2] Aristotle, *Rhetoric* 1.9.7 (1366b9): "Justice is a virtue which assigns to each man his due" (ἔστι δὲ δικαιοσύνη μὲν ἀρετὴ δι ἣν τὰ αὐτ ν ἕκαστα ἔχουσι). Aristotle also discusses justice in terms of what is due and injustice in terms of taking more than what is due in *Nicomachean Ethics* 5.2.1130a20. In book 5, Aristotle also talks about justice in terms of equality and legality, calls it a "middle," and affirms that "it involves relationship with someone else" and that it, alone of the virtues, is "the good of others." See 5.1.1130a1.

[3] Cicero, *De finibus*, 5.23.65, trans. H. Rackam, Loeb Classical Library (Cambridge,

Ambrose, in his treatise *On Duties*, speaks of "justice, which gives to each what is his" (i*ustitiam, quae suum cuique tribuit*).[1] St. Isidore in his influential *Etymologies* states that "a man is said to be just because he respects the right of others" (*iustus dicitur quia ius custodit*) – or perhaps more literally, "because he is a custodian of *ius*."[2] And centuries after Plato, we still find in the first words of Justinian's famous law code: "Justice is a constant and perpetual will to render to each one his due" (*Iustitia est constans et perpetua voluntas ius suum cuique tribuens*).[3]

This last definition is the one Aquinas adopts in the *Summa of Theology* where he defines justice as "a habit [*habitus*] whereby a man renders to each one his due [*ius*] with a constant and perpetual will."[4] Elsewhere he uses slightly different formulations to say essentially the same thing. So, for example, in some places he says that "justice involves a relationship to another, to whom it renders what is due" (*debitum*),[5] in others he says that "justice consists in rendering to each that which is his own" (*quod suum est*).[6] Each of these has verbal antecedents in the tradition, as we have seen.

One of the sticking points in modern interpretations of Aquinas, however, is how to understand that little word *ius*, which Aquinas in the very first article of his questions on justice calls the "object of justice."[7] Some of the confusion has arisen because Aquinas often seems to use the terms *ius naturale* and *lex naturalis* synonymously, causing people to wonder whether *ius* is something like a law. But is it?

In what follows, I will attempt to clarify what Aquinas means by *ius* and then show how a proper understanding of that concept illuminates our understanding of the relationship between three terms in Aquinas that are often confused: *ius naturale*, *lex naturalis*, and *iustitia*. So, for example, is *ius naturale* the same as *lex naturalis*? Some translators render both as "natural law." And what is the relationship between *ius naturale* (natural right) and *iustitia* (justice, or what commentators sometimes designate as "natural justice")? What, then, is *ius* (right), and how do we distinguish it from modern notions of "a right," such as when contemporary people speak of "inalienable rights." It will be the work of this paper

---

MA: Harvard University Press, 1931).

[1] Ambrose, *De officiis*: "justice, which allows everyone to have what is rightfully his" (*iustitiam, quae suum cuique tribuit*].

[2] Isidore, *Etymologiae*, bk. 10, no. 124. I have quoted the Latin version in Thomas's *Summa.* Modern editions of the *Etymologies* have "Iustus dictus quia iura custodit."

[3] *Institutiones* of the *Corpus iuris civilis*, 1.1: "Iustitia est constans et perpetua voluntas ius suum cuique tribuens." This passage is quoted from the Roman jurist Ulpian.

[4] *ST* II-II, q. 58, a. 1.

[5] *SCG* 2.28.2.

[6] *SCG* 2.28.3.

[7] *ST* II-II, q. 57, a. 1.

to attempt to sort through these questions.

Since, as Aquinas says, "justice" (*iustitia*) is "the constant and perpetual will to render to each person his right" (*ius*), we will begin our reflections with an analysis of the meaning of *ius*.[1]

Ius Is Not the Same as a Modern "Right"

The first confusion we must avoid is mistaking what Aquinas is referring to when he uses the word *ius* with our modern notion of "a right." The Latin word *ius* was translated into the Anglo-Saxon *recht*, which implies "aligned" or "fitting," a proper measure. This communicates something of the nature of *ius*, since as Aquinas says, the matter of *iustitia* "is external operation, in so far as an operation or the thing used in that operation is duly proportionate to another person, wherefore the mean of justice consists in a certain proportion of equality between the external thing and the external person."[2] In the modern world, however, "a right" is now taken to be a universal, inalienable, subjective claim that something is due to everyone regardless of the circumstances.

However, this modern use of the word "right" blinds us to the fact that a "right" always involves an *obligation* on someone else. Modern folk have little trouble believing that they have rights that should be respected. They have more difficulty accepting that they have *obligations* to others that they have not *chosen*. If I have a "right" to health care, then someone must supply me with health care. Who is obligated to do that? Anyone? No one? Without a clear answer, the claim to have such a "right" is empty. Indeed, the difficulties that we have answering this question are reflected in the way that some authors have claimed these subjective

[1] I will advise the reader in advance that I will not be as concerned with the issue of the passions of the will in this analysis of the virtue of justice. In this paper I am more concerned with what we might call the *object* of justice rather than the habitual act of the will enabling the act. The goal is to clarify some conceptual confusions that arise in modern conceptions of Thomistic natural right and natural law.

[2] *ST* II-II, q. 58, a. 10: "materia iustitiae est exterior operatio secundum quod ipsa, vel res cuius est usus, debitam proportionem habet ad aliam personam. Et ideo medium iustitiae consistit in quadam proportionis aequalitate rei exterioris ad personam exteriorem." This discussion of justice as a "mean" and a "proportion" is important in both Aristotle and Aquinas since, as Aristotle makes clear, the relationship between the farmer and the shoemaker cannot be a mean (a "middle") is the sense of a strict "equality," since shoes and stocks of wheat are not of the same value. If there is to be a "common good" shared by members of the community, made possible by certain citizens specializing in certain tasks (defense, agriculture, metal working, shoemaking), it will be essential to determine the right "measure" between the items each person has to offer. One shoe is not the same value as one metal shield. See Aristotle, *Ethics* 5.3 and Thomas's *Commentary* 5.4.934-935.

"rights" do not exist. Bentham described them famously as "nonsense upon stilts."[1] Alasdair MacIntyre claims in *After Virtue* that belief in rights is "one with belief in witches and unicorns."[2]

The tendency among many modern lawyers is to think of justice in terms of obedience to certain laws or fundamental rules. The most common tendency among the rest of the citizens in contemporary society is to think of justice in terms of absolute, individual "rights." Ask most young adults what justice is, and they will tell you it involves protecting and expanding individual *rights.* Whatever the pros and cons of either view, neither captures the fullness of the Thomistic understanding of natural right as the basis of natural justice.

On this account, we have obligations to others and they to us, but they are not always "universal" and "absolute" as is the case with the modern notion of "rights."[3] Nor is the Thomistic understanding of "right" (*ius*) a universalizable principle of "rightness" such as generated by Kant's categorical imperative. On the Thomistic account, and for the entire premodern world, a "right" can be limited, and often is, depending upon the persons, the circumstances, and the relationship involved, considered within the context of concern for the common good.[4]

---

[1] See Jeremy Bentham, *Rights, Representation, and Reform: Nonsense upon Stilts and Other Writings on the French Revolution*, ed. P. Schofield, C. Pease-Watkin, and C. Blamires, The Collected Works of Jeremy Bentham (Oxford: Oxford University Press, 2002), 317-401.

[2] Alasdair MacIntyre, *After Virtue* (Notre Dame, IN: University of Notre Dame Press, 1981), 69.

[3] For a good introduction to the origin and distinctive character of modern "rights talk" in contemporary U.S. jurisprudence, see Mary Ann Glendon, *Rights Talk: The Impoverishment of Political Discourse* (New York: The Free Press, 1991). For a good overview of the scholarly debate about "rights" in Aquinas, see Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law, 1150–1625*, Emory University Studies in Law and Religion 5 (Atlanta: Scholars Press, 1997), esp. 257–60, and the special series of articles that appeared subsequently in *Review of Politics* 64, no. 3 (Summer 2002): Brian Tierney, "Natural Law and Natural Rights: Old Problems and Recent Approaches," 389-406; John Finnis, "Aquinas on *Ius* and Hart on Rights: A Response to Tierney," 407-10; Douglas Kries, "In Defense of Fortin," 411-13; Michael P. Zuckert, "Response to Brian Tierney," 414-15; and Brian Tierney, "Author's Rejoinder," 416-20. Two more recent excellent considerations of the topic can be found in Jean Porter, "Justice, Equality, and Natural Rights Claims: A Reconsideration of Aquinas's Conception of Natural Right," *Journal of Law and Religion* 30 (2015): 446–60, and Dominic Legge, O.P., "Do Thomists Have Rights?" *Nova et Vetera* 17, no. 1 (Winter 2019): 127-47, esp. 134 n. 23 for examples of various forms of *ius*.

[4] On this, see the classic article by Michel Villey, "Abrégé du droit naturel classique," in *Leçons d'histoire de la philosophie du droit* (Paris: Dalloz, 1962).

Natural Justice: Respecting the Natures and Ends of Things

In his magisterial work on the virtue of justice, Josef Pieper explains: "We cannot state the basis of a right and, hence of a judicial obligation, unless we have a concept of man, of human nature."[1] "Right" (*ius*), on this view, and the obligations we have toward others *in justice*, are bound up with their nature and ends as we discover them through experience and reason or as those obligations have been revealed to us by the Creator, especially in the moral precepts of the Old Law.

And yet, we must distinguish. A *debitus* or *ius* can arise in two ways, says Aquinas. On the one hand, a thing might be due to a person on the basis of agreements, treaties, promises, or legal decisions.[2] I contract with my plumber to fix my sink; she does; and I pay her the $200 we agreed upon. She owes me a fixed sink; I owe her $200. This is "contractual" *ius*. We might also ask whether this price is "just," whether the proper proportional "mean" has been reached between the value of the work completed and the money rendered. If not, then the *debitum* (what is owed contractually) would not be *iustum* (and thus not "owed" in a second sense).[3] But this second sense of *ius* would be "natural" *ius*, on which more in a moment.

In classical and medieval usage, we find *ius* applied to many contractual relationships of this sort – as for example, in land contracts, where one person may have had the *ius utendi*, the right to use property without destroying its substance, while another person had concurrently a *ius fruendi*, the right to reap some fruits or profits of the property. There were many such "rights" (*iura*) in the ancient and medieval world, specifying what was due and what obligations were expected.[4]

---

[1] Josef Pieper, *The Four Cardinal Virtues* (Notre Dame, IN: University of Notre Dame Press, 1966), 49.

[2] *ST* I-II, q. 57, a. 2.

[3] In this way, natural *ius* can serve as a "measure" of contractual *ius*.

[4] So, for example, in addition to the *ius utendi*, someone might also have had (or might not have had) the *ius abutendi*, the "right of disposal," the right to dispose of property, that is, by alienation, inheritance, or otherwise, or "the right to destroy or use up the *res* altogether." In the ancient Roman world, inheriting an estate could bring unwanted entanglements or debts, so one had the *ius abstinendi*, the right to refuse the bequest. Note again, one might have the "right of use" of some land without having the full "right of its fruits." Or one might have the "right of its fruits" without having the "right of disposal" of it. What *we* in the modern world think of as the absolute "right" to private property was called *dominium*. The fourteenth-century jurist Bartolus de Saxoferrato (1313 –1357), one of the most celebrated jurists of his day, gave the following definition of *dominium*: "What, then, is ownership? Answer: it is the right of complete disposal over a corporeal thing, as long as it is not prohibited by law." (Bartolus a Saxoferrato, *In primum Digesti Novi partem Commentaria*, ad D 41.2.17.1 n. 4 (1574; electronic ed. by A. J. B. Sirks, 2004). fol. 73va: "Quid ergo est dominium? Responde, est ius de re corporali perfecte disponendi, nisi lege prohibeatur.") Notice that, even here, *dominium* is defined in terms of *ius*. It is a *perfecte ius disponendi*. But note as well that even this *ius perfecte* might still be prohibited

In addition to these contractual "rights," however, there are also things due to others, says Aquinas, based on the nature of the thing, *ex ipsa natura rei*. This, says Thomas, is called "natural right," *ius naturale*.[1] What creates a "natural right" as opposed to a "contractual right"? One answer is that things have the intrinsic value they have – the value we are called upon to respect—because they have been created by God and given specific natures in accord with which they flourish. Hence to know what is required "by right" (*ius*) "in justice" (*iustitia*), we must first, as Josef Pieper has said, understand something about the nature of the thing or about the person with whom we are dealing, and then we must understand our relationship to that person within the context of the common good.[2]

On this view, we are made "in the image of God." Just as "divine providence provides for all things according to their measure,"[3] so too we, as human beings, are called upon to be provident for God's creation in accord with the natures of things as God has created them. Now, as this knowledge is not always clear to us because of our fallen nature or our natural limitations, God has revealed some of what this care and concern for others requires of us in the precepts of the Old Law, especially the Decalogue. We will have more to say on that topic in due course.

On Aquinas's account, what distinguishes human beings from other creatures is that we can come to know, understand, and respect the natures and ends of other beings. We are likely to go wrong, however, when we fail to understand the natures of things and try to use them in ways contrary to their proper ends. Becoming a mature adult entails understanding the natures and ends of the things in the world and taking proper account of these in deciding upon my purposes.[4] Instead of simply trying to manipulate things in accord with my purposes, my purposes should respect the nature and ends of the things I encounter. My dog is not a horse, therefore my purposes should be in accord with the dog's nature and end. I should not try to ride

---

by law, something that clearly indicates Bartolus and his contemporaries did not consider *ius* and *lex* to be the same thing. This definition influenced conceptions of property law for many centuries. It is, for example, repeated almost verbatim in the French *Code civil*, article 544: "La propriété est le droit de jouir et disposer des choses de la manière la plus absolue, pourvu qu'on n'en fasse un usage prohibé par les lois ou par les règlements." These examples were only the most prominent of the *iura* associated with property "rights" in the ancient Roman world. There were others associated with other areas of life, such as marriage, child-rearing, office-holding, and many more.

[1] *ST* I-II, q. 57, a. 2.

[2] For an interesting discussion of the relational character of *ius* in Aquinas's treatment of justice, see Christopher A. Franks, "Aristotelian Doctrines in Aquinas's treatment of Justice," in *Aristotle in Aquinas's Theology*, ed. Gilles Emery and Matthew Levering (Oxford: Oxford University Press, 2015), 143–47.

[3] *SCG* 3.148.2.

[4] For an excellent discussion, see Robert Sokolowski, "What is Natural Law? Human Purposes and Natural Ends," *The Thomist* 68, no. 4 (2004): 507-29.

him like a horse or make him pull a plough like an ox.

So too, *a fortiori*, my fellow human beings have a distinctive nature and ends that I should respect. If my purpose is to build a pyramid in Egypt or a tower in modern New York, I should not treat the workers as if they were oxen, mules, or machines. I should respect the natural limitations of their bodies and respect their natures as both *rational* and *free*. They too have goals, purposes, hopes, and fears just as I do. I may not simply ignore them when I consider my own purposes. These extra dimensions of human nature are precisely what makes dealing with humans so much more fruitful but so much more complicated than dealing with horses, dogs, or machines.

When a woman in the rural South says of a man who has impregnated her, "He needs to do right by me," she is expressing something of this classical sense of "right." She does *not* mean "I have a universal, inalienable *right* that makes a claim on every person." She might mean that if she were proposing that every pregnant woman in the country has a "right" to be supported by the state. Rather, in the colloquial sense intended, she means that, because this man has impregnated her, because he is the *father* of their child, he now has a *duty* to help support that child. Being a father means that one has the duties of a father.

Why would she claim this and why would society agree that he has this duty? On the Thomistic account, it would be because he is the *father* of this child and because human children, unlike the young of many other species, need a long period of nurture and education within the context of a stable marriage between both parents.

Would it be essential to believe in a personal Creator God in order to accept the notion that there are "natural" rights (*iura*)? Not necessarily. One might simply have an intuitive sense of the respect due to nature or due to things of various natures, and plenty of non-Christians and nontheists throughout history have had this sense of things.

Christians believe that divine revelation helps to reinforce something we know, at least in part, by human reason. The more we discover either by reason or revelation about the *nature* and *dignity* of created things, the better respect we can show for them – provided that we are of a mind to *respect* them rather than to use our knowledge merely to manipulate them in accordance with our own will in an attempt to control the world as though *we* were its "god." This temptation to reconstitute and control the world according to our own will, "like a god," is the fundamental temptation of the serpent in the Garden. On the contrary, we observe the "right" relationship with another or with others when we conform our will and actions with the wisdom of the divine law has constituted nature as it is. We are called upon to conform our will and actions to *reality* as it has been created and

revealed by God.[1]

Different Categories of Rights and Justice

"Right" (*ius*), says Thomas, "depends on commensuration with another person" (*dicitur per commensurationem ad alterum*).[2] But we can distinguish two basic senses of "another." Someone may be "simply" *other*, as when two people are not subject to one another but both are subjects of the same state. Or someone may be said to be "other," not simply (*simpliciter*), but "as belonging in some way to that something else" (*sed quasi aliquid eius existens*). For example, a son who has received his existence from his father is "other than" his father but also in a certain way "part of him" (*quia quodammodo est pars eius*). Thus there will be a difference between the sort of "right" appropriate to the relations between a father and a son, or a husband and a wife and the sort of "right" appropriate to the relations between the citizens in the state.

Within the civil sphere – that is to say, within the state – there are also distinctions to be made between the "right" (*ius*) proper to, for example, the military, the magistrates, and the priests (*ius militare vel ius magistratuum aut sacerdotum*). These are still *natural* rights, but they are also associated with various "offices" necessary to the civil state.[3]

Note, however, that all forms of justice, whatever the *ius* involved – whether it has to do with the military, governmental officials, or priests – are to be directed ultimately to the common good. "The good of any virtue," says Thomas, "whether such virtue direct man in relation to himself, or in relation to certain other individual persons, refers to the common good, to which justice directs: so that all acts of virtue can pertain to justice, in so far as it directs man to the common good."[4]

When the subject is justice, people tend to think of either commutative or legal justice. But there is also "distributive justice." In Aquinas's discussion of distributive justice, it is even clearer that *ius* often depends on social position or rank. In distributive justice, says Aquinas, "a person receives all the more of the common goods, according as he holds a more prominent position in the community." "Hence in distributive justice, the mean is observed, not according to equality between thing and thing, but according to proportion between things and persons: in such a way

---

[1] *Ius* and *iustitia* are *ad alteram*, according to Aquinas, thus essentially "relational." That relationship could be what I owe *this particular person* in *this particular situation*. But it could also be what I owe this person or group within the context of the common good. So, for example, I might owe my neighbor more help than usual if the community has just suffered a natural disaster and certain crucial supplies I have in adequate supply are now lacking in the stores.

[2] *ST* I-II, q. 57, a. 4.

[3] *ST* I-II, q. 57, a. 4, ad 3.

[4] *ST* I-II, q. 58, a 5.

that even as one person surpasses another, so that which is given to one person surpasses that which is allotted to another."[1] Poor people, for example, often need *more* help than those whose wealth allows them to "weather the storm" more easily. Government officials often need more security than citizens, both because of the increased danger to their lives and because of the important role they have in the community.[2]

Aquinas frequently speaks of what is "right" with respect to a role or position within society. Most of the questions in Aquinas's discussion of "justice" in judicial proceedings consists of designating what is proper to various offices and what is not. It is not proper for a judge to pass judgment on a man not subject to his jurisdiction or on a man who has not been accused.[3] Nor can a judge licitly remit the punishment (*poenam relaxare*) on a person convicted of a crime. Why not? Because, says Thomas, on the part of the accuser it is "right" (*ius*) that the guilty party should be punished, and it is not "in the power of a judge to remit such punishment, since every judge is bound [*tenetur*] to give each man [what is] right [*ius*]."[4] As for the accused, although he is in duty bound to tell the judge the truth, the judge is bound in judicial proceedings by what is often translated as "the form of law" (*secundum formam iurus*). Thus, if the judge asks the accused that which he should not ask "in accordance with the order of [what is] right" (*secundum ordinem iuris*), he is not bound to answer, although he is still not permitted to lie.[5]

There are many such uses of "right" to be found in Aquinas, as also in all of his contemporaries.[6] Permit me to mention a few more from domains other than those involving judicial proceedings. It is "right" that a king should have "" his authority respected. But by the same token a free citizen has a "right" of speaking against a ruler (*ius contradicendi*) if the ruler passes an unjust law.[7] Priests have a "right" to receive tithes (*ius accipiendi decimas*). This "debt" (*debitum*) is owed (*debenter*) to "ministers of the altar for the expenses of their ministry. And hence this right is applicable to them alone (*competit hoc ius habere*).[8] Moreover, by baptism, a person becomes a participant in the unity of the Church, whereby he also receives the "right to approach the table of the Lord" (*ius accedendi ad mensam domini*).[9] And finally, a man who has purchased a field and subsequently finds a treasure there has the "right of possessing" (*ius possidendi*) the whole treasure, but only if the treasure is

---

[1] *ST* II-II, q. 61, a. 2.
[2] *ST* II-II, q. 58, a. 10, ad 3.
[3] *ST* II-II, q. 67, aa. 1 and 3.
[4] *ST* II-II, q. 67, a. 4.
[5] *ST* II-II, q. 69, a. 1.
[6] For a good list, see Legge, "Do Thomists Have Rights?" 134 n. 23.
[7] See *ST* I-II, q. 58, a. 2.
[8] *ST* II-II, q. 87, a. 3.
[9] *ST* III, q. 67, a. 2.

"unappropriated" (*pro derelictis*) and does not belong to another.[1] Note in all these cases the relationship between privileges and obligations following upon a certain role, relationship, or office.

Indeed, nearly every people and culture has had a sense of the duties owed to people in various roles and relationships, such as the duties of a father or a grandparent or an employer. This understanding prevailed – until the universalizing and standardizing tendencies of the French Revolution dominated every discipline so that, along with standardized calendars, currencies, weights, measurements, and language, societies felt compelled to adopt standardized "rights" general enough that they would not differ from place to place and could be published throughout the nation in a standardized list. This modern conception of an absolute, subjective "right" that the individual can assert absent any consideration of or obligation to the common good is a distinctly modern, Western creation, not something recognized by all people and cultures.

The demand for equal "rights" seems good if the inequality is that aristocrats and rich people getting better treatment than others in the law courts. Problems arise, however, when the demand for equal "rights" is taken to mean that if abortion and euthanasia are permitted in the Netherlands as a "right," this means access to it must be protected everywhere. And if "rights" are "trumps," as is commonly asserted, then the "right" to own a gun "trumps" the social benefits that might accrue to the common good by restricting widespread gun ownership, and the "right" to gun ownership must be protected as vigorously in urban Chicago as it is in rural Michigan, no matter how many people vote for such restrictions.[2]

We want political and legal justice. Often we assume that this has something to do with conformity to *law*, as though "justice" was determined solely by *law*. If we then complain (as we often do) that laws should be "just," we could do so only failing to recognize that the way we have defined "justice" precludes this complaint. If "justice" is defined as obedience to law, we cannot complain that the laws are "unjust" unless we recognized the existence of a "higher" form of law – one that accurately embodied a natural *ius* or *debitum* owed to others.

We may call this "higher law" the "natural law" to make clear that it is an expression of natural justice, based on respecting the fundamental nature of the human person. Then we can say *either* that human law should be in accord with "natural law" (*lex naturalis*) *or* that it should be in accord with what is "naturally owed" a person (a *debitum*) based on his or her nature and flourishing (*ius naturale*). Granted, this might lead people to think we were using the two terms *ius naturale*

---

[1] *ST* II-II, q. 66, a. 5, ad 2.

[2] The view that rights should be considered "trumps" against any utilitarian "balancing" of social benefits is most prominently associated with Ronald Dworkin. See his *Taking Rights Seriously* (Cambridge: Harvard University Press, 1978).

and *lex naturalis* synonymously, but there would still be an important difference between the two.

The Measure of Justice

What, then, are my obligations toward others "in justice"? The answer cannot be given in one sentence or in one book. Being "just" on this view is not a matter of reading off a list of *a priori* rules and abiding by them. Rather, developing the virtues of prudence, justice, temperance, and fortitude means seeking to understand the natures of things and persons more deeply, so that one can respond more fully to them with appropriate care. Nature and persons, individually and communally, make a claim on us. How dutifully we attend to those claims will reveal what sort of character we have and what sort of person we have become. It will disclose whether a person is – someone who is fully realizing his true nature as a rational seeker of the truth of things, made "in the image of God," exhibiting a wise and providential care over the creation God has entrusted to us, especially for the lives and well-being of those connected with me in my community.

My obligations toward others in justice are not purely *subjective.* They are based upon the objective nature of the thing or person. And yet they are not *universal* in the way modern "rights" are often taken to be. *Every person* has an intrinsic "right" (a *ius* or *debitum*) such that they are owed respect for their lives, but it does not follow on the classic notion of *ius* that *in justice* I owe the exact the same things to all people. I have certain obligations to my family and friends that will differ from my obligations to my professors, my fellow teammates, and to the fellow members of my community and nation.

I must consider what I owe "by right" – according to the proper "just" proportion – as a citizen to the political society as a whole (legal or general justice). If I have money and/or special talents that others lack, I will likely owe more, especially if the city is in grave need. So too I must consider what I owe "by right" – according to the proper just proportion – to fellow citizens in the city. If they are my "equals," I owe them an equal return (commutative justice). If I have money and/or a position superior to my fellow citizen, I may owe more, depending upon the nature of the exchange. And finally, there is the question of what those who have been given the responsibility to care for the common good owe to each of the citizens (distributive justice). This is not something citizens can determine for themselves since each of us has largely only our own needs and interests in view, whereas the common good includes the good of all the citizens as a whole.

In each case, what I owe others depends on who I am, my skills and abilities, my position in society, and my relationship to the parties involved. In all the virtues, there is a certain "balance" or "measure" to be achieved. With temperance and fortitude, the "measure" is often something internal. How much alcohol is too much?

The answer depends upon how big I am, how much I have eaten, how accustomed I am to drinking alcohol, along with a host of other factors. I also must often gauge the situation. I can drink a certain amount with my friends but likely should drink less when I am out to dinner with fellow employees. I need to know how much I can drink before certain results occur, and I have to understand my relationship with the people I am with or the situation I am in (driving, walking, social, business) if I am to make wise judgments.

When justice is under consideration, the *measure* is less "internal" and has more to do with the objective nature of the person or relationship involved. Is this *my* child? If not, then although I have certain default obligations toward him or her, I do not have the *same* obligations as the child's parents. Even if the child is unknown to me, I can and should take care that the child does not run out into the street and get hit by a car or does not get bitten by a stray dog. But I would be acting beyond what is "right" were I to discipline the child as if the child were my own or give the child a ride on my motorcycle without the permission of his or her parents.

Note, however, that what prudence dictates regarding these more particular matters might change with circumstances. Some cultures or groups in certain neighborhoods may find it acceptable to give a child a ride on a motorcycle, while others might not. The danger from a fast-moving brush fire might dictate my spiriting the child away to safety even when in other circumstances it would not be in accord with what is "right" according to the relationship between me, the child, and the child's parents.

Or consider another famous case. Thomas argues that it would be "unjust" to baptize Jewish children against the wishes of their parents because this would constitute a violation of the parent's "right of parental authority" (*ius patriae potestatis*). From whence arises this "right"? Thomas answers that, since children before the age of reason cannot care for themselves, they must be under the care and protection of their parents. "Hence," says Aquinas, "it would be contrary to natural justice [*contra iustitiam naturalem*] if a child, before coming to the use of reason, were to be taken away from its parents' custody, or anything done to it against its parents' wish."[1] Only when one attains the age of reason and has the capacity to make a free choice can the person be baptized against the wishes of his or her parents.

Parents would still have an obligation to care for their children and educate them in the virtues, and children would still have an obligation to obey their parents when it comes to the common good of the household. But there is no "universal, absolute right" to baptism that would "trump" the respect owed parents. And yet there is also no universal, absolute "right" of parents to oppose baptism that would

[1] *ST* II-II, q. 10, a. 12. Cf. *Quodlibet* 2, q. 4, a. 2.

keep a young person from choosing it when he or she comes of age.

According to the modern notion of "universal rights," a student's mother and a student's teacher both have equal "rights." This may be true in certain respects and with regard to certain things. Both the student's mother and the student's teacher have an equal "right" to the due process of law and freedom of speech. And yet it is clear that the student does not *owe* the teacher the same things that he owes his mother. He owes his teacher behavior that is respectful and does not disturb others in class. He owes his mother much, much more, and he owes her an attentive listening even more than he owes it to his teacher. A student is not only allowed to argue with one's instructor, but in some classes is often encouraged to do so. Thinking that one can engage in the same sort of dialectical arguments with one's mother that one engages in with one's instructor or one's classmates is to make a serious category mistake. "Justice" on the classical, Thomistic view means treating each appropriately, giving to each what is appropriate to their position and dignity, usually also with a view to the common good.[1]

Justice will sometimes demand that I *always* refrain from doing certain things that are simply contrary to human nature, as, for example, killing an innocent person or committing adultery.[2] On the Christian understanding, a good list of such basic prohibitions can be found in the precepts of the Decalogue. Again, more on that in due course. And yet, although we universally owe to others not to lie to them, we do not owe everyone the same amount of the truth. I may owe my mother or a priest to whom I am confessing all the details of my exploits "by right," whereas those details are ones I would not owe my theology professor, to whom the student might say no more than "I have been having troubles at home."

Natural Right and Social Contract "Rights"

Consider the difference between the traditional Catholic view of distributive justice and the modern social contractarian view, which holds that the "justice" and

[1] The idea that justice must be connected not only with *ius* but also with the common good can be traced back in the Latin tradition to Cicero. Cf. Cicero, *De inventione* 2.53.160: "Iustitia est habitus animi communi utilitate conservata suam cuique tribuens dignitatem." ("Justice is a habit of mind which gives every man his desert [what is his according to his dignity] while preserving the common advantage.") Many Christian thinkers followed this line of thought.

[2] Cf. John Paul II, *Veritatis splendor*, 52: "The negative precepts of the natural law are universally valid. They oblige each and every individual, always and in every circumstance. It is a matter of prohibitions which forbid a given action *semper et pro semper*, without exception, because the choice of this kind of behaviour is in no case compatible with the goodness of the will of the acting person, with his vocation to life with God and to communion with his neighbour. It is prohibited — to everyone and in every case — to violate these precepts. They oblige everyone, regardless of the cost, never to offend in anyone, beginning with oneself, the personal dignity common to all."

"injustice" that governs business practices is solely *contractual*. I owe to others only what I have contracted to give. People owe me only what *they* have contracted to give. Making a judgment between "good" or "bad" contracts is based solely on whether both parties entered into the contract freely.

While the Christian tradition has long respected contracts as establishing a set of mutually beneficial obligations and responsibilities, the Church, following Aquinas, has long understood that such contractual "rights" must also be in accord with proper respect for the natural *ius* that should govern both parties in their relations with and obligations to each other and/or the community as a whole. Catholics who follow St. Thomas can say that a contract is "unjust" when it does not respect the proper *debitum* between the persons – as, for example, when an employer is not treating an employee with the dignity and respect due a *person*, but treating him or her instead like a machine or a pack mule, working more hours without rest than would be healthy or in unsafe conditions.[1]

So too the "right" to private property responds to an important human need to have stability in one's affairs and, as Pope St. John Paul II argued, to be able to have resources on which one can exercise one's personal creativity and workmanship.[2] Society is obligated not to intrude lightly on that which "belongs" to another in this way. And yet, on the Catholic view, that "right" is not absolute, nor can it be abstracted from considerations of the common good. Although society owes its members a certain respect for their individual privacy and "property" – we are bound to give others a certain "space" for their own efforts and creativity, time to think and consider how they will choose to face the fundamental questions of meaning that challenge all human beings – still and all, the members of a society also have obligations to the common good: the fruits of their labors should serve the well-being of others, and their property should not be hoarded while others suffer and starve.[3]

For Hobbes, contracts are primary. There is no natural justice *before* the social contract, so justice necessitates first and foremost preserving contracts into which we have freely entered. For Aquinas, contracts are secondary and must be subservient to natural justice, a determination based on ranking the goods due to human persons and to the common welfare.

It is difficult to understand how, on a Hobbesian view, the state could judge any contract to be illicit or "unjust" unless it was not freely entered into or unless it endangered public order, such as in times of war or natural disaster. This, of course,

---

[1] Cf. among the many possible examples, Paul VI, *Octogesima adveniens*, 14; John Paul II, *Laborem exercens*, 9, 16; *Centesimus annus*, 43; Benedict XVI, *Caritatis in veritate*, 36, 63.

[2] Cf. esp. *Laborem exercens*, 9 and 12.

[3] Cf. esp. *Centesimus annus*, sec. IV.

was the essentially view the U.S. Supreme Court took early in the twentieth century when it struck down state labor laws governing working hours and worker safety.[1]

For Aquinas, one can determine the justice of such contracts, but not as we often do, with the big sledgehammer of universal rights. Owners have a "right" to private property, yes, but it is not unlimited, as many Americans assume. Workers have a "right" to a dignified wage, but it too should be tailored to specific circumstances. Is a minimum wage meant for the single wage earner in a household appropriate (is it a *debitum*) for employers who employ mostly teenagers making money for gas and video games? There is an "unjust" wage, but it is not "unjust" merely because it does not mean a standardized, universal "right."

Employers have obligations to workers; workers have obligations to each other and to employers. Both have obligations to the common good of the community. What governs these obligations is not *merely* the contracts individuals have made. Nor is this merely a question of what individual "rights," either of the owner or the worker, apart from considerations of the common good. Nor should we think of distributive justice as though it were commutative. We should recognize in each transaction the obligations we have to another or to others in the context of the common good of the whole of the political society.

A Brief History of Ius and Its Uses

There is not sufficient space here, nor would it be entirely relevant to our current discussion, to attempt an adequate account of the history of *ius* and its uses from Cicero to Aquinas.[2] But a brief, necessarily simplified account may provide some needed context, primarily to lend context to certain developments in the thought of Aquinas.

For Thomas, and for all medieval writers of the age, one of the most important authorities when it came to law, justice, and "right" (*ius*) was the twelfth-century canon lawyer Gratian, who began his highly influential *Decretum* with these words.[3]

---

[1] On this, see Glendon, *Rights Talk*, chap. 2. The most famous of these cases was *Lochner v. New York* (1905), the central case in what has come to be known as "The Lochner Era."

[2] A nice survey of some of the relevant medieval material can be found in Kenneth Pennington, "Lex Naturalis and Ius Naturale," *Jurist* 68, no. 2 (2008): 569-91. The reader should be aware, however, this this author fundamentally misunderstands the thought of Aquinas.

[3] For the sake of clarification, the *Decretum Gratiani* was the shorter name of the book also known as the *Concordia discordantium canonum* or *Concordantia discordantium canonum* (Concordance of Discordant Canons), an influential collection of various canon laws. It forms the first part of the collection of six legal texts, which together became known as the *Corpus Juris Canonici*.

Human kind is ruled by two things: namely natural *ius* and *mores.* The *ius* of nature is what is contained in the law (*lex*) and the Gospel, by which each person is commanded to do to others what he wants done to himself and is prohibited from inflicting on others what he does not want done to himself. Whence Christ says in the Gospel: "All things whatsoever you would that men should do to you, do you also to them. For this is the law (*lex*) and the prophets." (Matt 7:12).[1]

There are three key terms in this passage, which I have indicated with the original Latin either in the text or in parentheses: *ius* (often translated "law," but more properly "right"), *mos* (custom), and *lex* (written law).

Among these three, we should not confuse *ius* with *lex*. Gratian notes that what distinguishes *lex* is that it is *written*. Citing one of the many specious etymologies from Isidore's *Etymologiae*, Gratian proposed that "*lex* is so named because it binds, or because it is read as writing" (*Lex dicitur quia ligat, uel quia legatur utpote scripta*). Even though the etymology is specious, it shows that he understood *lex* to be something written.[2] This is likely why he changed terms from *ius* to *lex* in the passage quoted above. He used *ius* when he was referring to the *ius* of nature (*ius naturae*) and switched to *lex* when he was referring to the written law of the Old Testament. *Ius* is said to be "contained in the law" (*continenter in lege*); it is not identical with it. *Ius* is generally something *unwritten*, whereas *lex* is written.

This distinction will break down when we get to Thomas's discussion of the natural law (*lex naturalis*) and the eternal law (*lex aeterna*), both of which are unwritten. But Thomas is not unaware of the problem. Although he says in *ST* I-II, q. 90, a. 4 that one essential element of any law is that it must be *promulgated* – echoing Gratian's comment that laws (*leges*) are established when they are promulgated (*promulgantur*) – Thomas hedges this part of the definition a bit when it comes to the natural law by claiming that "the natural law is promulgated by the very fact that God instilled it into man's mind so as to be known by him naturally."[3] With regard to the eternal law, the promulgation is though "the Divine Word and the

---

[1] *Decretum Gratiani*, first recension, working edition of Gratian's *Decretum* produced by a team under the general editorship of Anders Winroth, revised 5 Oct. 2019, a Project of the Stephan Kuttner Institute of Medieval Canon Law, Yale University, D. 1 d.a.c. 1. This, to my mind, is the best version of this portion of Gratian's text currently available. "Humanum genus duobus regitur, naturali videlicet iure et moribus. Ius nature est, quod in lege et evangelio continetur, quo quisque iubetur alii facere, quod sibi vult fieri, et prohibetur alii inferre, quod sibi nolit fieri. Unde Christus in evangelio: 'Omnia quecumque vultis ut faciant vobis homines et vos eadem facite illis. Hec est enim lex et prophete.'"

[2] Gratian, *Decretum*, D.1 c.3 s.v.: *Lex est constitutio scripta.… Lex dicitur quia ligat, uel quia legatur utpote scripta.*

[3] *ST* I-II, q. 90, a. 4, ad 1. Cf. Gratian, *Decretum*, D. 4 d.p.c. 3: "Leges instituuntur, cum promulgantur," after which he adds that they are "made firm when they are approved with customary use" (*firmantur, cum moribus utentium approbantur*).

writing of the Book of Life." This is not exactly "promulgation" in the sense implied in the definition of law in *ST* I-II, q. 90, a. 4, but it is, we might say, analogically related. It is there for us to "see" and to "read" at least in a metaphorical sense, but not directly.[1] Strictly speaking, for Thomas, "law is not the same as right itself, strictly speaking, but an expression of right" (*lex non est ipsum ius, proprie loquendo, sed aliqualis ratio iuris*).[2]

Since *ius* and *lex* are so often confused with one another, it will be worth making a brief digression to consider the context of this last statement (taken from *ST* II-II, q. 57, a. 1, ad 2) for the light it will shed on our later considerations. According to Thomas, just as there preexists in the mind of the craftsman a *ratio* of the things to be made externally by his craft, which expression is called the rule of his craft (*regula artis*), so too there preexists in the mind an expression of the particular just work that the reason determines and that is a rule of prudence (*ita etiam illius operis iusti quod ratio determinat quaedam ratio praeexistit in mente, quasi quaedam prudentiae regula*). If this rule is expressed in writing it is called a "law," which according to Isidore is a "written decree" (*si in scriptum redigatur, vocatur lex, est enim lex, secundum Isidorum, constitutio scripta*); hence the conclusion: law is not the same as right itself strictly speaking, but an expression of right. The importance of this point will become clear in due course as we seek to distinguish between natural law (*lex*) and natural right (*ius*).

Another important development in the idea of natural *ius* was its connection with the idea of the common good. One problem that might arise when one conceives of natural law or natural *ius* in terms of "giving to another what is due" is that we can begin to think of justice purely or primarily in terms of the one-to-one relationships characteristic of commutative justice and fail to see these interactions within the broader context of our obligations to the common good. This problem often characterizes our modern use of "rights" language. Modern citizens claim a "right" to smoke, publish pornographic material, or build a forty-story building in a residential neighborhood regardless of the consequences on the community as a whole.

Even in ancient Rome, however, disputes could arise over the "rights" associated with land ownership, since in the early republican period, one needed to be a landowner to serve in the military. When these men were away fighting for Rome, their farms were sometimes left untended and had to be sold off by their families to wealthier property holders. This accumulation of land in the hands of larger landholders became the source of much tension in the Roman republic over many years and was one of the points-of-dispute that led to the famous conflict

[1] *ST* I-II, q. 91, a. 1, ad 2.
[2] *ST* II-II, q. 57, a. 1, ad 2.

between the Senate and the Gracchi brothers. Should the "right of possessing" (*ius possidendi*) the land by those who had purchased it be allowed to trump the threat to the common good presented by decreasing numbers of small landowners to serve the increasing needs of the Roman legions? The Gracchi brothers argued that the land should be redistributed; Cicero held that it should not.[1] But this had more to do with different understandings of what constituted the common good than it did with any conception of an absolute character of the landholder's "right" (*ius*). Cicero himself, although he opposed the reforms of the Gracchi, defined justice as "a habit of mind that gives every man his desert while preserving the common advantage" (*Iustitia est habitus animi communi utilitate conservata suam cuique tribuens dignitatem*).[2]

Many Christian thinkers followed this line of thought.[3] A nice example can be found in the *Sententiae* of Peter Abelard (c. 1079–1142), who says: "The philosophers define justice as the 'habitus' of the mind to render to every person what is his as long as the common good is preserved" (*Iustitiam uero sic definiunt philosophi: Iustitia est habitus animi reddens unicuique quod suum est, communi utilitate seruata*). Here, it seems clear he is quoting Cicero. But then he continues: "Justinian [more properly, Ulpian] defined this concept in his definition when he would say, 'Justice is the constant and perpetual will,' etc." Abelard comments on that famous definition, claiming "'His' can refer to the receiver as well as to the giver. If it refers to the receiver then it ought to be regulated by the preservation of the common good (*communi utilitate seruata*)." Summing up, he concludes: "Justice refers to the common good in all matters" (*Iustitie siquidem est omnia ad communem utilitatem referre*).[4]

---

[1] For background accounts of the dispute, see P. A. Brunt, *Social Conflict in the Roman Republic* (New York: Norton, 1974), chaps. 4–5, and David Stockton, *The Gracchi* (Oxford: Oxford University Press,1979), chaps. 3–8.

[2] Cicero, *De inventione* 2.53.160.

[3] On this, see Stephan Kuttner, "A Forgotten Definition of Justice," *Mélanges Gérard Fransen* (Studia Gratiana 20: Rome, 1976), 76-110, reprinted in *The History of Ideas and Doctrines of Canon Law in the Middle Ages* (London: Variorum, 1980).

[4] Peter Abelard, *Sententie magistri Petri Abaelardi*, ed. David Luscombe et al. (Corpus Christianorum, Continuatio Mediaevalis 14; Turnhout: Brepols, 2006) 134–35: "Iustitiam uero sic definiunt philosophi: Iustitia est habitus animi reddens unicuique quod suum est, communi utilitate seruata. Hoc idem Iustinianus sua diffinitione notauit cum diceret sic: Iustitia est constans et perpetua uoluntas, etc.... 'Suum' potest referri tam ad accipientem quam ad tribuentem. Si ad accipientem referatur, tunc determinandum est communi utilitate seruata. Iustitie siquidem est omnia ad communem utilitatem referre." It is not certain that this text is Abelard's. It had been attributed to a certain Hermannus; see Luscombe's introduction to his edition, pp. 10*–12*.

Sorting through the Sources in the Summa

It was common for canonists and authors writing treatises *de legibus* in the twelfth and thirteenth centuries to provide their own list of definitions and distinctions.[1] This was essentially what Thomas was providing in *ST* I-II, qq. 90-97. It is characteristic among scholars to call this section of the *Summa* Thomas's "Treatise on Law." This is problematic for two reasons. First, there are no separate "treatises" in the *Summa*. Each section is intimately tied to the others. But second, even if one wanted to separate out a section "on the laws," one would have to include all the material from q. 90 up through q. 108, which includes the sections on the Old Law and the New Law. In these later *quaestiones*, Thomas will make his own use of the material handed down to him from Gratian and from Gratian's predecessors, especially Ulpian, Cicero, and Aristotle, as did nearly every other author of the period. It was a commonplace for medieval authors to craft their own sets of definitions and distinctions, borrowing heavily from their authorities, but rarely identical with them either.

So we need to keep clear in our minds that Thomas was navigating through a rough sea of constantly shifting verbiage. As he did so, he also had to avoid various intellectual and doctrinal mines that could explode if he failed to steer carefully around them. We can identify at least three major challenges he had inherited from his sources.

The first challenge involved reconciling the classical natural law tradition with Gratian's claim that the natural law was "what was contained in the law and the Gospel." This problem was exacerbated by the common association among Christian authors of the natural law with St. Paul's statement in Romans 2:14-15 about "the Gentiles, who have not the law," but who "do by nature those things that are of the law" and thereby show that the law is "written in their hearts." Next to this passage in the "ordinary gloss" on the Bible, Thomas found the comment: "Although they have no written law, yet they have the natural law [*legem naturalem*], whereby each one knows, and is conscious of, what is good and what is evil."[2] In other versions of the gloss, he would have found in the margin the words, "i.e., *ius naturale*."

Why would this pose a problem? For one reason, because Gratian had defined natural *ius* as "what is contained in the law and the Gospel," prompting the question: How can Gratian's comment make sense if natural *ius* is defined precisely by being

---

[1] To get a sense of these, see Michael Crowe, *The Changing Profile of the Natural Law* (The Hague: Martinus Nijhoff, 1977), 72-110. And for an analysis focusing on Aquinas's more proximate theological predecessors, see Beryl Smalley, "William of Auvergne, John of La Rochelle, and St. Thomas Aquinas on the Old Law," in *St. Thomas Aquinas, 1274-1974: Commemorative Studies* (Toronto: P.I.M.S., 1974), 2:11-72.

[2] Thomas quotes the gloss in the *sed contra* of his discussion of the question, "Whether there is a natural law?" Cf. *ST* I-II, q. 91, a. 2, sc.

unwritten and "the law" is written? So too, according to St. Paul, the law "written in the hearts" of the Gentiles was *unwritten*, unlike the written law of the Jews. Moreover, how can natural *ius* be "contained in" the Jewish written law and the Christian Gospel, when both of these are objects of divine revelation, not natural reason? And then there is the problem of imagining that all those very specific laws in the Old Testament could be considered expressions of natural *ius* – laws about what to eat and not eat, what to wear and not wear, how many elders should be appointed to the head council, how many years before a foreigner could become a member of the Jewish people, how many turtledoves, goats, or oxen should be sacrificed for various things, and that sparrows should be sacrificed in the case of leprosy. Could any of these be counted among the precepts of the "natural law"?

Second, Thomas had inherited various traditions concerning "natural law" (*lex naturalis*). Some understood it to be simply the order of nature that suffuses the world. Ulpian had said that it was "what nature has taught all animals." And Gratian, as we have seen, described it as "what is contained in the law and the gospel."[1] Thomas had to sort through these different authoritative accounts without entirely rejecting any of them.

And third, along with inheriting the various bits and pieces of a complex natural law tradition, Thomas had also inherited a Christian tradition of the virtues that had been given new form and force by the reception of the major works of Aristotle in the mid-thirteenth century. How, then, to understand the relationship between the natural law, the written Mosaic Law, grace, and the virtues, especially with regard to the role of the virtues of prudence, charity, and justice? Fortunately Thomas was an expert at sorting through and putting an intelligible order on just such confusions.

The Need for a Revealed Written Law to Express Natural Ius

Let us begin with how Thomas navigated around the first of these potential difficulties: confusions that can arise over the relationship between the classic understanding of the "unwritten" natural *ius* and what Gratian had said about "what is contained in the law and the Gospel."

On Thomas's account, as we have seen, just as there preexists in the mind of the craftsman a *ratio* of the things to be made externally by his craft, which expression is called the rule of his craft (*regula artis*), so too there preexists in the mind an expression of the particular just work that the reason determines and that is a kind of rule of prudence (*quasi quaedam prudentiae regula*). This rule, if expressed in writing, is called a "law" (*lex*). So, for example, I might determine, as a general rule of prudence, the basic conclusion that one should never kill an

[1] For the relevant references, see below, nn. 70-72.

innocent person. I could then commit that statement to writing, either as a reminder to myself or to help inspire others or to communicate a prohibition the community intends to enforce. But even if I committed the statement to writing, it must have preexisted in my mind as a precondition of my writing it down.

Justice is the virtue of properly recognizing and acting upon a natural *ius* "right" or "obligation" out in the world. When we recognize that we have an obligation to preserve the life of another – this might be a conclusion we draw from the fact that the other is a creature beloved by God, made in the image of God and thus of infinite value and dignity, or simply because I know I would not wish to be harmed – I can also draw the general conclusion that "I should not murder an innocent person." Thus, if the act I am contemplating would result in the death of an innocent person, I would say to myself I "ought not to do it." That general principle that I should not take the life of another person, which I hold in my mind "as if by habit," is what Thomas identifies with "the natural law." It is an expression of a *ius* that I recognize as something "due" to other persons because of their inherent dignity and worth as the kind of creature they are with the kind of nature God has imparted to them. I would not owe the same forbearance, for example, to a cow or a chicken.

If we were to write down the general principle in the form "Do not murder innocent persons," this would be an expression of the natural obligation that we each have to others. As written, it is an expression of both a natural *ius* and natural *law*, even though, strictly speaking, they are not the same. If we wrote the precept down in a civil code, it would become part of human law. Human law, however, will likely also have "positivistic" elements tailored to specific conditions (for example, under what circumstances a police officer may or may not use deadly force; what constitutes killing in the first, second, or third degree; what kinds of punishment are due to those who kill with various degrees of intent; and so on). There would be even more need for specifications tailored to particular conditions when it comes to the general prohibitions against harming others in their property (issuing in the general precept against stealing) or harming others with words (such as lying or bearing false witness), specifying what kinds of false statements constitute "slander" (lying to one's mother is not slander), what kinds of "taking" constitutes "stealing," and how grave various forms of theft should be considered when determining punishment.

The problem with our natural powers – including both our will and the power of our natural reason to judge what is "just" and thus to know what ought to be done and what ought to be avoided – is that these powers have been corrupted by sin, especially original sin. As Thomas often explains, one must consider human nature in two ways. In the first way, we can think of human nature in its full integrity or wholeness (*in sua integritate*), as it was in the first man before he sinned. Secondly,

however, there is human nature as it exists in us now, corrupted due to original sin (*corrupta in nobis post peccatum primi parentis*).[1]

At his creation, before the fall, man was able to act in accord with the natural law. It was at that point, says Thomas, "according to his proper natural condition that [man] should act in accordance with reason"; indeed, "this law was so effective in man's first state, that nothing either outside or against reason could take man unawares." After man turned away from God, however, "he fell under the influence of his sensual impulses," which began to rule him as though they themselves were a kind of law. This law, the law of the *fomes peccati* (tinder for sin), is, says Thomas, "a deviation from the law of reason."[2] The more man fell under its sway, the more he "departed from the path of reason" – so much so that Thomas proclaims elsewhere, rather starkly, that "the law of nature was *destroyed* by the law of concupiscence" (*lex naturae per legem concupiscentiae destructa erat*).[3] The result, according to Thomas, is that in his present fallen state, man is largely *not* able – that is, no longer able – to do the good proportioned to his nature.[4]

God has not left us to our own devices since the fall, however. He directs us to the good, says Thomas, which is union with himself, both by "teaching us by means of his law" and "aiding us by means of his grace."[5] In our fallen state, our intellects are often blinded by sin, and even when we know the good, we often cannot discipline our will to do it. Because we do not always recognize what obligations follow from the natures of things; because we suffer from a fallen human nature which has damaged both our intellect and will; because we get confused and pass unjust laws – that is to say, laws that are not in accord with, or a direct violation of, natural law, natural *ius*, and natural justice – God has given us a *written* law. He has revealed some of the basic obligations of natural *ius* in the written commands contained in the Mosaic Law, or what Thomas calls "the Old Law."

The Distinctions and Ordered Hierarchy of the Precepts of the Old Law

Thomas is aware of the problem of associating the written Old Law with the unwritten natural law.[6] So, as was his custom, he made some necessary distinctions to clarify matters. Some precepts, says Thomas, are clear expressions or "dictates"

---

[1] See, for example, *ST* I-II, q. 109, a. 2.

[2] *ST* I-II, q. 91, a. 6.

[3] Thomas Aquinas, *The Commandments of God: Conferences on the Two Precepts of Charity and the Ten Commandments*, trans. L. Shapcote, O.P. (London: Burns Oates, 1937), prol., p. 2.

[4] *ST* I-II, q. 109, a. 2.

[5] *ST* I-II, q. 90, prol.

[6] For more on this topic, see Randall B. Smith, "What the Old Law Reveals about the Natural Law According to Thomas Aquinas," *The Thomist* 75, no. 1 (January 2011): 95-139.

(*dictamen*) of the natural law. Others are a mix of natural law and divine positive law. Those which are "dictates" of the natural law, Thomas calls "moral precepts" (*moralia*). Those which are applications of the natural law to the situations in which the Jewish people found themselves before the coming of Christ were either "ceremonial precepts" (*ceremonialia*) or "judicial precepts" (*iudicialia*). We will have more to say on their continuing value presently.

Among the "moral precepts," says Thomas, there are three grades (*gradus*), distinguished according to their degree of universality or particularity and thus according to their accessibility to human reason. Thomas's account is based on an analogy between speculative and practical reasoning. As every judgment of the speculative reason proceeds from the natural knowledge of first principles, so too every judgment of the practical reason proceeds "from certain naturally known principles" (*ex quibusdam principiis naturaliter cognitis*). These principles of practical rationality are what Thomas calls "the first and common precepts of the natural law" (*prima et communia praecepta legis naturae*), "which are *per se nota* to human reason."[1] As *per se nota*, these precepts need not (and indeed cannot) be deduced from principles that are prior. According to Thomas, the two precepts that are "the first and common precepts of the natural law, which are self-evident to human reason" (*prima et communia praecepta legis naturae, quae sunt per se nota rationi humanae*), are the two commandments that Christ himself calls the "first and most important," and that sum up the law and prophets, namely, to "love the Lord your God with all your heart, soul, and mind," and to "love your neighbor as yourself."[2]

Thomas makes clear elsewhere that there are alternative forms of this second commandment to "love your neighbor as yourself": namely, "Do unto others as you would have them do unto you," or the negative form of the same commandment: "Don't do to others what you wouldn't want them to do to you," or sometimes he says more simply, "Do harm to no one."[3] Such commandments constitute for Thomas the primary precepts of the natural law.

The precepts of the second grade are derived from those of the first and are related to them "as conclusions to common principles." They still concern matters

---

[1] See *ST* I-II, q. 100, a. 3, ad 1.

[2] *ST* I-II, q. 100, a. 3, ad 1.

[3] "Do harm to no one" may seem too broad and general, but there are important precedents. The *Digest* 1.1.3 quotes Ulpian's assertion that there are three basic principles of *ius*: to live honorably (*honeste vivere*), not to harm another (*alterum non laedere*), and to render to each his own (*suum cuique tribuere*). So too, Plato, in the *Crito* (49d) argues: "it is never right to do wrong (κακ ς) or to requite wrong with wrong, or when we suffer evil to defend ourselves by doing evil in return. And in *Symposium* 1.335e: "For it has been made clear to us that in no case is it just to harm anyone."

so evident (*adeo explicita*), says Thomas,[1] that "at once, after very little consideration" (*statim, cum modica consideratione*), "one is able to approve or disapprove of them by means of these common first principles." This is a relatively simple moral judgment, insists Thomas, of which everyone, even the untrained, is capable.[2] As examples of the second grade of precept – those which "the natural reason of every man of its own accord and at once, judges ought to be done or not done" (*quae statim per se ratio naturalis cujuslibet hominis dijudicat esse facienda vel non facienda*) – Thomas lists[3] the following: "Honor your father and mother," "Thou shalt not kill," and "Thou shalt not steal."

The third grade of precept, finally, are those that require a more complex moral judgment. These, says Thomas,[4] require not a "slight consideration" (*modica consideratione*), as do the precepts of the second grade, but "much consideration" (*multa consideratio*) of the various circumstances. Not all are able to do this carefully, says Thomas, "but only those who are wise; just as it is not possible for all to consider the particular conclusions of the sciences, but only for those who are philosophers." As an example of the third grade of precept – those "which are judged by the wise to be done after a more subtle [*subtiliori*] consideration of reason" (*quae subtiliori consideratione rationis a sapientibus judicantur esse observanda*) – Thomas lists[5]: "Rise up before the hoary head, and honor the person of the aged man." Thomas insists[6] that even the precepts of this third grade "belong to the law of nature" (*de lege naturae*), but they are such that "they need to be taught, the wiser giving instruction to the less wise" (*indigeant disciplina, qua minores a sapientioribus instruantur*).

Thomas summarizes the essential elements of this threefold hierarchy once again in *ST* I-II, q. 100, a. 11 (emphases added for the sake of clarity).

> The moral precepts derive their efficacy from the very dictate of natural reason [*dictamine naturalis rationis*].... Now of these there are three grades.
>
> (1) For some are most certain [*certissima*], and so evident as to need no promulgation [*ideo manifesta quod editione non indigent*]. Such are the commandments of the love of God and our neighbor, and others like these [such as "Do unto others as you would have them do unto you]...which are, as it were, the ends of the commandments; and so no man can have an erroneous judgment about them.
>
> (2) Some precepts are more particular [*magis determinate*], the reason of which any person, even an uneducated one, can at once easily grasp [*quorum rationem statim quilibet, etiam popularis, potest de facili videre*]; and yet they need to be promulgated, because human

[1] *ST* I-II, q. 100, a. 1.
[2] *ST* I-II, q. 100, a. 11.
[3] *ST* I-II, q. 100, a. 1.
[4] Ibid.
[5] Ibid.
[6] Ibid.

judgment, in a few instances, happens to be led astray concerning them. These are the precepts of the decalogue.

(3) Again, there are some precepts the reason for which is not so evident to everyone, but only to the wise [*quorum ratio non est adeo cuilibet manifesta, sed solum sapientibus*]; and these are the moral precepts added to the decalogue....

This third class of precept – those "added to the Decalogue" – might include relatively simple moral norms such as "Honor the aged" (as mentioned above) or "Don't commit acts of prostitution," or a relatively more complex moral determination such as "Don't evade the truth by giving in to the judgment of the majority." (See Ex 23:2: "Neither shall you yield in judgment to the opinion of the majority, to stray from the truth.") Numerous examples of such moral precepts exist throughout the Old Testament for those need to be taught, "the wiser giving instruction to the less wise."

Now the nature of this "teaching" can take two forms, according to Thomas. For there are certain moral precepts of the Old Law that are derived as "conclusions from principles." So, for example, if I am bidden to "honor my father and mother," and if I am supposed to "do unto others as I would have them to unto me," then, by extension, not only am I called upon to honor *my own* father and mother, but also I should respect the fathers and mothers of others, hence "respect the elderly."

Other precepts of the Old Law are derived, however, as specifications of the general principles to specific circumstances. These precepts involve elements of divine positive law; God has determined what was best for particular circumstances. So, for example, according to Aquinas, the best form of government is "mixed," which he describes as follows.

the best form of government is in a state or kingdom, where one is given the power to preside over all; while under him are others having governing powers: and yet a government of this kind is shared by all, both because all are eligible to govern, and because the rules are chosen by all. For this is the best form of polity, being partly kingdom, since there is one at the head of all; partly aristocracy, in so far as a number of persons are set in authority; partly democracy, i.e. government by the people, in so far as the rulers can be chosen from the people, and the people have the right to choose their rulers.[1]

This is the form of government, says Thomas, which God provided for the Jewish people during their time of wandering in the desert, specifying it to their particular situation.

Such was the form of government established by the Divine Law. For Moses and his successors governed the people in such a way that each of them was ruler over all; so that there was a kind of kingdom. Moreover, seventy-two men were chosen, who were elders in

[1] *ST* I-II, q. 105, a. 1.

virtue: for it is written (Dt. 1:15): "I took out of your tribes wise and honorable, and appointed them rulers": so that there was an element of aristocracy. But it was a democratic government in so far as the rulers were chosen from all the people; for it is written (Ex. 18:21): "Provide out of all the people wise men," etc.; and, again, in so far as they were chosen by the people.[1]

This is but one example, but there are many others in Aquinas's text whereby he shows how God provided wisely for the Jewish people. We can learn valuable lessons from these examples, if we read them as Aquinas did – namely, in relation to the basic principles of natural right and natural justice they instantiate. We can learn even from these more particular precepts because they show us how divine wisdom applied the general principles of natural right and natural justice to specific conditions. These general lessons can be learned even though we are not bound to obey the particulars of these precepts: It is not necessary, for example, that the Senate should have exactly seventy-two members, or that we should have only a unicameral legislature instead of the bicameral legislature we currently possess, simply because the conditions of the Jewish people made this particular arrangement apposite at the time.[2]

Inclinations to Goods Distinctive of Human Nature and Commandments

One question that would likely arise about the material I have just presented on Thomas's understanding of the relationship between the natural law and the Old Law is how any of that matches up with the famous discussion in *ST* I-II, q. 94, a. 2 about the three "inclinations." There has been a great deal of discussion of these inclinations – indeed, entire moral systems have been developed out of them – so I beg the reader's pardon in advance if I presume to dispose of them here in fairly short order. There is obviously more that would need to be said to defend properly the position I am about to propose, but all that can be provided now is simply an overview.

As I mentioned above, Thomas inherited several traditions associated with the natural law. One held that the natural law was simply the order of nature that suffuses the cosmos. This the view many Stoic authors seems to have held.[3] Yet another view, expressed most famously by the Roman jurist Ulpian, was that the natural law was "what nature has taught all animals" (*quod natura omnia animalia docuit*), although Ulpian adds in the same place that this sense of the natural law is not "proper" to mankind but is common to all animals (*nam ius istud non humani*

[1] Ibid.

[2] See Randall B. Smith, "How Faith Perfects Prudence: Thomas Aquinas on the Wisdom of the Old Law and the Gift of Counsel," in *The Virtuous Life: Thomas Aquinas on the Theological Nature of Moral Virtues* (Leuven: Peeters, 2017), 143-62.

[3] A good example can be found in the works of Seneca, but see, in particular, his essay *On Providence*.

generis proprium, sed omnium animalium… commune est).[1] And Gratian handed down the notion (controversial among modern commentators) that the natural law is "what is contained in the law and the gospel" (*quod in lege et evangelio continetur*).[2]

In order to produce an ordered hierarchy of these three, Thomas made use of a well-known text from Cicero's *De officiis* (1.4.11). "First of all," Cicero had stated, "Nature has endowed every species of living creature with the instinct of self-preservation, of avoiding what seems likely to cause injury to life or limb, and of procuring and providing everything needful for life – food, shelter, and the like."[3] This passage corresponds very clear to the similar point in *ST* I-II, q. 94, a. 2: "[I]n man there is first of all an inclination to good in accordance with the nature that 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."[4] Thomas transformed Cicero's point, which was about animals, to a deeper *metaphysical* point: *All* substances seek to preserve their own being.

Thus, while on the one hand human beings are united to all existing things in certain ways and are *like* them – we seek to preserve our being – yet even here, human beings do this in their own distinctive ways. As Cicero points out, we need "food, shelter, and the like." Nature has often provided other animals with instinctual abilities to obtain these things – beavers build dams, birds build nests, and bees make hives – whereas human beings must *learn* to build shelters, gather food, and, unlike other creatures, *make* our clothing because we have not been provided with a tough hide, feathers, scales, or other natural covering to protect us from the elements.

But there should be no mistake here, and it is an important point to remember when we are talking about human nature and human flourishing, that we are *physical* beings, and we need sufficient food, clothing, housing, and shelter. Thus, if one were raising a child to become a mature adult, teaching him how to obtain these essential

---

[1] *Digest*, 1.1.1.3: "Ius naturale est, quod natura omnia animalia docuit." Note, however, that in the original, the term used is "*ius*" not "*lex*."

[2] *Digest*, D. 1 d.a.c. 1.

[3] "Principio generi animantium omni est a natura tributum, ut se, vitam corpusque tueatur, declinet ea, quae nocitura videantur, omniaque, quae sint ad vivendum necessaria anquirat et paret, ut pastum, ut latibula, ut alia generis eiusdem."

[4] "Inest enim primo inclinatio homini ad bonum secundum naturam in qua communicat cum omnibus substantiis, prout scilicet quaelibet substantia appetit conservationem sui esse secundum suam naturam. Et secundum hanc inclinationem, pertinent ad legem naturalem ea per quae vita hominis conservatur, et contrarium impeditur."

elements of survival would be foundational.

What else? "A common property of all creatures is also the reproductive instinct," writes Cicero, "(the purpose of which is the propagation of the species) and also a certain amount of concern for their offspring."[1] In the *Summa* Thomas says this: "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.'"[2]

Notice that Thomas has relegated Ulpian's definition to this second level, not the third, which is "proper" to human beings, which was true in Ulpian's original text as well. But the point here is that human beings as a species, like other animals, propagate offspring and care for them as they grow. Not all animals do this; snakes, lizards, and fish (among others) do not care for their young as they mature. But like all other mammals, human beings do. This is another important aspect of our nature. We have to *raise* new members of the species; we cannot simply lay them as eggs on the beach and let them hatch the way turtles do.

Moreover, just as young human beings have to be *taught* how to get food, build shelters, and clothe themselves against the weather, they also need to learn how to propagate and rear their young. This too is not entirely "natural" to them. Like other human activities, it must be brought under the consideration of *reason* and the *affections*. Other animals may propagate out of instinct, but we are meant to reproduce and raise children in *love* and with human *understanding, care, and compassion*. Turtle mothers do not dote over their young; they lay their eggs and move on. But human mothers do. This has something to do with the fact the human beings take quite a long time to develop to maturity relative to other species.

"But the most marked difference between man and beast," says Cicero, is this:

> the beast, just as far as it is moved by the senses and with very little perception of past or future, adapts itself to that alone which is present at the moment; while man – because he is endowed with reason, by which he comprehends the chain of consequences, perceives the causes of things, understands the relation of cause to effect and of effect to cause, draws analogies, and connects and associates the present and the future – easily surveys the course of his whole life and makes the necessary preparations for its conduct. Nature likewise by the power of reason associates man with man in the common bonds of speech and life; she implants in him above all, I may say, a strangely tender love for his offspring. She also *prompts men to meet in companies, to form public assemblies and to take part in them*

[1] "Commune item animantium omnium est coniunctionis appetitus procreandi causa et cura quaedam eorum, quae procreata sint."

[2] "Secundo inest homini inclinatio ad aliqua magis specialia, secundum naturam in qua communicat cum ceteris animalibus. Et secundum hoc, dicuntur ea esse de lege naturali quae natura omnia animalia docuit, ut est coniunctio maris et feminae, et educatio liberorum, et similia."

themselves; and she further dictates, as a consequence of this, the effort on man's part to provide a store of things that minister to his comforts and wants – and not for himself alone, but for his wife and children and the others whom he holds dear and for whom he ought to provide; and this responsibility also stimulates his courage and makes it stronger for the active duties of life. *Above all, the search after truth and its eager pursuit are peculiar to man*. And so, when we have leisure from the demands of business cares, we are eager to see, to hear, to learn something new, and we esteem a desire to know the secrets or wonders of creation as indispensable to a happy life. Thus we come to understand that what is true, simple, and genuine appeals most strongly to a man's nature.[1]

Here is Thomas's abbreviated version:

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.[2]

Human beings have reason and understanding. They can search for the causes of things. They can eat a certain food today, notice over a long period of time whether it fostered health or, although delicious, just made us fat and lethargic. We can note these things and adapt our behavior accordingly. Indeed, we can gather together with others, ask them to relate *their* experiences, and find out what *they* have learned. We can plan for the future, not only storing up food for the winter, as squirrels do, but storing up provisions for some year when there is a drought or a flood. We can save money to send our children to college or for retirement. Spouses buy life insurance so that, even after they have died, the one who survives will have money to live on.

---

[1] Emphasis added. "Sed inter hominem et beluam hoc maxime interest, quod haec tantum, quantum sensu movetur, ad id solum, quod adest quodque praesens est se accommodat, paulum admodum sentiens praeteritum aut futurum. Homo autem, quod rationis est particeps, per quam consequentia cernit, causas rerum videt earumque praegressus et quasi antecessiones non ignorat, similitudines comparat rebusque praesentibus adiungit atque adnectit futuras, facile totius vitae cursum videt ad eamque degendam praeparat res necessarias. Eademque natura vi rationis hominem conciliat homini et ad orationis et ad vitae societatem ingeneratque inprimis praecipuum quendam amorem in eos, qui procreati sunt impellitque, ut hominum coetus et celebrationes et esse et a se obiri velit ob easque causas studeat parare ea, quae suppeditent ad cultum et ad victum, nec sibi soli, sed coniugi, liberis, ceterisque quos caros habeat tuerique debeat, quae cura exsuscitat etiam animos et maiores ad rem gerendam facit. Inprimisque hominis est propria veri inquisitio atque investigatio. Itaque cum sumus necessariis negotiis curisque vacui, tum avemus aliquid videre, audire, addiscere cognitionemque rerum aut occultarum aut admirabilium ad beate vivendum necessariam ducimus. Ex quo intellegitur, quod verum, simplex sincerumque sit, id esse naturae hominis aptissimum."

[2] *ST* I-II, q. 94, a. 2.

This passage from Cicero and the abbreviated form found in Aquinas express in essence two famous statements about human nature found in the works of Aristotle, although Aristotle is far from the only one in the ancient Greek world to give voice to these judgments. The very first words of Aristotle's *Metaphysics* are these: "All men by nature desire to know." Aristotle goes on to argue that not only do human beings desire to know, they want to know the ultimate *causes* of things.[1] And in the *Politics*, Aristotle famous says that "man is by nature a political animal" (*politikon zoon*).[2]

Thomas's abbreviation of Cicero's text to emphasize these two inclinations "proper to" human beings that are perfective of a person's nature – to know the truth, especially about the ultimate cause or causes of things and to live in society – help clarify their connection with the two "first and common precepts" of the natural law: namely, to love God with all one's heart, mind, and strength, and to love one's neighbor as oneself.

It should be clear enough how the commandment to love one's neighbor as oneself and the related "second table" commandments serve to nurture and protect the human good of living socially, in the society of beings who deserve our respect for their dignity as we would wish for them to respect ours. But what about our inclination to the good of knowing the truth, especially about the ultimate cause or causes of things?

Without peace among citizens in the *polis*, without the necessary cooperation between the members of a society, without the freedom that comes from trusting that others are telling the truth and not "bearing false witness," the human inclination to know the truth would be frustrated and remain unfulfilled. So too, for a Christian author such as Aquinas, the "highest cause" and the source of all goodness was thought to be found only in God, so failure to open one's heart to that truth and strive after it with all one's mind and strength would also cause one fail to realize the supreme good of the human person, which was fully realized only in union with the First Cause, the Truth Itself, which, as Aquinas says, "all men call God." So along with the provisions to "love one's neighbor as oneself" and "do unto others," we also have been given the commandment to "love God," along with its related commandments not to put anything before the Truth or to mistake anything else for the First Cause, the Highest Truth, and the Source of All Goodness *other than* the One who fits those descriptions in reality. It would be a crucial mistake, for example, to confuse the lying, adulterous, not-altogether-admirable god Zeus depicted in Homer and Hesiod with "the Good" or "the One" Plato refers to in several of his dialogues.[3] As is well known, Socrates was unhappy with the association of the two

[1] See Aristotle, *Metaphysics* 1.980a and 1.981a.

[2] Aristotle, *Politics* 1.1253a.

[3] See, for example, *Republic* 454c-508e.

and with the stories of the gods recounted by Homer and Hesiod, especially because of the immorality it inspired or legitimated in human beings.[1]

The is a major difference between saying a man like Achilles is "godlike," when the model one is imitating is Zeus or Ares as opposed to claiming that a person is acting "in the image of likeness of God" when the model is the God who is Goodness Itself, the Creator God of Justice and Love who selflessly sacrificed himself for our salvation. So too it makes a difference when one is bidden to "love your neighbor," even your enemies, "as God has loved you," if you believe that God is not merely an unknowing "principle" of Goodness but a conscious, willing God who created us out of an infinite love, who has been provident for us continuously even in our sinfulness, and who emptied himself of his divinity, embracing our humanity, dying for us on a cross. Nor would we wish to overlook the fact that, for Thomas and the Christian tradition of which he is a part, the ultimate end of mankind, that which is the only thing that can satisfy his longing for true beatitude, is union with God, which for Thomas means knowing God in the beatific vision.

Since the two highest goods that are perfective of human nature are (to put it very simply) to know the truth, especially about the ultimate cause or causes of things – or as Thomas says, in his even more abbreviated version, "to know the truth about God" – and to "live in society," so the most basic principles of the natural law are to "love God" and to "love one's neighbor as oneself." And along with these, we also have the ten precepts of the Decalogue God has revealed to us to help guide and protect us.

It is from this understanding of the natural law that Thomas (and others before him, back to Gratian) can claim that the natural law is, as it were, "contained in the law and the Gospel." The natural law is contained in the Old Law, primarily in the two commandments to love God and neighbor and the Ten Commandments derived from them, but also in other, related moral precepts. On Thomas's account, the commandments are *based on* and *grounded in* human nature, but they do not by themselves cover the entire spectrum of natural justice, nor are they meant to. So, for example, if we want to know how to treat animals, or if we want to know the best form of government (as we saw above), then we need to look beyond the Ten Commandments to the judicial precepts of the Old Law. A host of examples can be found in Thomas's discussion of the "causes" of the ceremonial and judicial precepts, which serve as what I have described elsewhere as a "textbook for prudence."[2] The Old Law, if it is understood properly in relation to its most basic

[1] See, for example, *Republic* 379a–380c.

[2] See my article, "How Faith Perfect Prudence." And for a discussion of how widespread this interest in the Old Law was at Paris in the thirteenth century, likely due to the influence of Maimonides' *Guide of the Perplexed*, see Beryl Smalley, "Auvergne, La Rochelle, and Aquinas on the Old Law," in *Commemorative Studies*, vol. 2. Cf. also

principles, can *teach* us, as St. Paul says, as a *pedagogue*, a teacher or tutor (cf. Gal 3:24).

And yet prudence is not a matter of merely following the law. Nor is it a matter of merely knowing certain universal principles or rules, although this is an important first step. Understanding is one of the integral parts of prudence.[1] But prudence requires much more. For Thomas, it requires things like memory, quick-wittedness, and the ability to size up a situation. But above all, the more we know about the natures of the things or persons we are dealing with, the more we know how they react to different situations of cause-and-effect, the more likely we will be to make judgments that are wise, prudent, and just.

Anyone who thinks we do all this and do it well habitually *without* the teaching of others, the constant support of a community of virtue, and the help of God's grace has not only misunderstood Thomas, he has greatly overestimated the capacities of human nature. That person should read the section in the *Summa* on the New Law and our need for God's grace, by which "charity is spread abroad in our hearts." There, he or she will find that, along with the law to *teach* us the natural law, we need the grace of the Gospel to *fulfill* it.

The Need for the New Law to Fulfill the Natural Law

We have discussed how the natural law is "contained in" the law. What about "the gospel"? As Thomas says in the prologue to those famous questions on law, after God has "instructed us by means of the law," it was still necessary for him to "assist us by means of His grace."[2] After the teaching provided by the Old Law, we still need the New Law, the law of grace, by which "charity is spread abroad in our hearts."[3]

As we have seen, the "natural law has been effaced by sin" – not completely but in substantial and critical ways. In this regard, there is a difference between our two major faculties, intellect and will. With regard to the first, our *knowledge* of the natural law has not been completely eradicated, as Thomas makes clear in many places. We still know, for example, what he calls "the first and common precepts of the natural law" such as to "Love your neighbor as yourself" and "Do unto others as you would have them do unto you." These cannot be abolished from the heart of man. As to the secondary precepts, such as "Do not lie" or "Do not steal," these can in some instances be abolished from men's hearts, claims Thomas, but generally only due to "vicious customs and corrupt habits, as among some, theft, and even

---

Maimonides, *Guide of the Perplexed*, esp. bk. 3, chaps. 30-50.

[1] See *ST* II-II, q. 49, a. 2.

[2] *ST* I-II, q. 90, prol.

[3] *ST* I-II, q. 106, a. 1.

unnatural vices...were not considered sinful."[1]

What *has* been effaced substantially since the fall, however, is the ability of our will to do the good that we know. This is St. Paul's point in Romans 7:19: "for the good which I would do, I do not: but the evil which I would not, that I do." It is Thomas's point too. For we must recall, as we saw above, that there are *two* stages of remediation that come through the divine law. On the one hand, we are "instructed by means of God's law" – that is, by the written precepts of the Old Law that were given as a "remedy for human ignorance."[2]

But after man had been "instructed by the Law," it was still necessary that he should be "assisted by God's grace": Because "after man had been instructed by the Law, his pride was convinced of his weakness, through his still being unable to fulfill what he knew.[3] For the natural law to be fulfilled completely, then, it is not enough for those precepts to be written, as it were, merely on our minds, they must be, to use the language of the Bible, written once again "on our hearts." And that is the role of the New Law, the law of grace, by which, as Thomas says repeatedly, quoting Romans 5:5, "charity is spread abroad in our hearts."[4] And so too Thomas quotes St. Augustine, saying that "as the law of deeds was written on tables of stone, so is the law of faith inscribed on the hearts of the faithful"; and "What else are the Divine laws written by God Himself on our hearts, but the very presence of His Holy Spirit?"[5]

Thus, we must not treat the natural law as if it were simply a moral calculus, the way people often treat deontological or utilitarian ethics. We must not forget that the "teaching" of the natural law – even the divinely authorized teaching of the natural law such as is found in the moral precepts of the Old Law – is merely the first part of a twofold moral remediation. Thus after God "instructs us by means of His Law," it remains for him to "assist us by means of His grace." The second and truly essential step in restoring in us the "law written on our hearts" at our creation, but effaced by our own sin, comes with the advent of the new covenant when, as the prophet Jeremiah says, God will "give His laws into our minds and in our hearts will He write them" and when, as the prophet Ezekiel promised "God will give us a new heart and a new spirit, spreading charity abroad in our hearts, so that we may walk in the Lord's commandments and keep them" (Ezek 36:26-7). For we know that we are children of God, as the Apostle John tells us, when we love God and keep his commandments, and when keeping his commandments is not burdensome (1 Jn 5:1-3). Or as Thomas puts much the same thing:

---

[1] *ST* I-II, q. 94, a. 6.
[2] *ST* I-II, q. 98, a. 6.
[3] Ibid.
[4] See, for example, *ST* I-II, a. 107, a. 1, ad 2.
[5] *ST* I-II, q. 106, a. 1. Cf. Augustine, *On the Spirit and the Letter*, 24 and 21.

> Now [fulfilling the Law] is very difficult to a man without virtue: thus even the Philosopher states (Ethic. v, 9) that it is easy to do what a righteous man does; but that to do it in the same way, viz. with pleasure and promptitude, is difficult to a man who is not righteous. Accordingly we read also (1 Jn. 5:3) that "His commandments are not heavy": which words Augustine expounds by saying that "they are not heavy to the man who loves; whereas they are a burden to him that loves not."[1]

It is worth noting the association Thomas makes here between the "pleasure and promptitude" in doing the righteous act that a man has when he possesses the virtue of justice and something similar that happens when acts are animated by love. Recall that at the heart of the Ten Commandments were the two commandments to love God and neighbor. Thus we are to see the commandments as more particular expressions of the fundamental obligations I owe to others *in love*. That is to say, if I love my grandmother, I cannot steal from her. If I love my mother, I cannot dishonor her. If I love my friend, I cannot lie to him. If I love my wife, I cannot harm her. Indeed, one might say that these are not usually experienced as "obligations" the way we often "feel" obligated to do something. When I love my grandmother, I wouldn't even consider stealing from her. If I love my spouse, "harming" her in any way would be the farthest thing from my mind. I would never even consider it. Quite frankly, it would seem the only "logical" or "natural" choice. Harming my wife and loving her are simply contradictory, similar to the way that saying "All men are mortal" and "No men are mortal" are simply contradictory. I don't experience the precept "Don't harm your wife" as *burdensome*, the way I experience "Wash and dry all the dishes before you go to bed" to be burdensome.

Just as the precepts of the law should be seen as particular expressions of the fundamental obligations to love God and love my neighbor as myself, so too we should understand that, to fulfill the law in the spirit in which it was given by God – they are commandments given in love to help us become once more the loving creatures God made us to be, that is to say, "in His image and likeness" – we are called upon to act animated *by love*.[2] The law, as St. Augustine says, must be written not only in our minds but also in our hearts. And it must also eventually be stamped on our emotions and in our very bodies.

Two questions present themselves. First, how are we to become loving, or *more* loving? The answer for Christians has to do with opening ourselves up to and cooperating with God's grace. The second question, however, concerns how we can transform ourselves – intellect, will, appetites, emotions, and body – in accord with the respect for the dignity of others we owe. The answer here, for Thomas, brings

---

[1] *ST* I-II, q. 107, a. 4.

[2] For a fuller discussion, see Randall B. Smith, "Natural Law and Grace: How Charity Perfects the Natural Law," in *Faith, Hope, and Love: Thomas Aquinas on Living by the Theological Virtues*, ed. H. Goris et al. (Leuven: Peeters, 2015), 233-57.

us to a consideration of the *virtues*.

Virtues

Consider that important text from book 1 of Cicero's *De officiis* that Thomas used in the famous text on the several human "inclinations" in *ST* I-II, q. 94, a. 2. At the conclusion of that passage in Cicero's *De officiis* 1.10-14, he writes that "[i]t is from these elements that is forged and fashioned that moral goodness which we seek" (*Quibus ex rebus conflatur et efficitur id, quod quaerimus, honestum*).[1] And then at the beginning of the very next section, he announces, "You see here…the very form and as it were the face of moral goodness" (*Formam quidem ipsam…et tamquam faciem honesti vides*).[2]

What has been translated here as "moral goodness" is the Latin *honestum*, which in its original context does not mean merely "honest." Cicero and his Roman contemporaries would often speak of the *bonum honestum*, which is not the "honest good" but, rather, the goodness that is worth choosing for its own sake: the noble good, the good of the noble person, as opposed to the *bonum utile* or "useful good," the good that is merely "advantageous" to the doer. In the *Digest* of Justinian, a text from Ulpian stated that there were three precepts of *ius*: "to live honorably (*honeste vivere*), not to harm another (*alterum non laedere*), and to render to each his own (*suum cuique tribuere*)."[3]

So, having described the basic elements of human nature, what then does Cicero call the "form" of this "moral goodness" (*honestum*)? He says:

> [A]ll that is morally right (*honestum*) rises from some one of four sources: it is concerned either (1) with the full perception and intelligent development of the true; or (2) with the conservation of organized society, with rendering to every man his due (*tribuendoque suum cuique*), and with the faithful discharge of obligations assumed; or (3) with the greatness and strength of a noble and invincible spirit; or (4) with the orderliness and moderation of everything that is said and done, wherein consist temperance and self-control. Although these four are connected and interwoven, still it is in each one considered singly that certain definite kinds of moral duties (*certa officiorum genera*) have their origin.[4]

Clearly we have here a description of the four cardinal virtues: (1) wisdom (or prudence), (2) justice, (3) courage, and (4) temperance.

And so too we find in Thomas's *Summa* that, after providing a general account of the law (in *ST* I-II, qq. 90-97), he focuses special attention on the Old Law (qq. 98-105), the New Law (qq. 106-08), and grace (qq. 109-14) and then proceeds in the

---

[1] Cicero, *De officiis* 1.14.
[2] Cicero, *De officiis* 1.15.
[3] *Digest* 1.1.10.
[4] Cicero, *De officiis* 1.15.

secunda secundae to give a more detailed account of, first, the "theological virtues" of faith, hope, and love, and then of the more specific obligations related to the four cardinal virtues of prudence, justice, temperance, and fortitude. These questions are too often left unread, as though Thomas's moral theory ends with his general consideration of the natural law in *ST* I-II, qq. 90-97. Quite the contrary, what Thomas says in the prologue to the *secunda secundae* is that "after a general consideration [*commune considerationem*] of virtues, vices, and other things pertaining to moral matters," which is what he presented in the *prima secundae*, "it is necessary to consider each of them [the virtues and vices] in particular [*singula in speciali*]. For universal moral discourse [sermones…morales universal] is less useful, since actions are singulars [*actiones in particularibus sunt*]."[1] This comment clearly suggests the relative importance of this later material on the individual virtues.

Although some contemporary scholars treat Thomas as though he was a "natural law ethicist" while others treat him as though he was a "virtue ethicist," the truth is, he was both, and this is made plain by the fact that both the natural law ethicists and the virtue ethicists usually trace the origins of their school of thought back to Aquinas. Thomas united both traditions, just as Cicero and Aristotle had done before him, within a context provided by Christian theological reflection.

I will not enter here into the complicated debate that has arisen in recent years about whether in his discussion of the cardinal virtues in the *secunda secundae* Thomas treats them as infused cardinal virtues or acquired virtues.[2] As Thomas makes clear, charity is the "form" of the virtues (*caritatem esse formam virtutum*),[3] and therefore without charity there is no true virtue (*Ergo sine caritate vera virtus esse non potest*).[4]

Given what we have seen concerning the natural law, however, we might presumptively say something like this. Just as the New Law does not do away with the Old Law but, rather, perfects and completes what is begun by the Old Law, in accord with Thomas's consistent principles that "grace does not violate nature but perfects it," so too the infusion of charity into the cardinal virtues does not violate the nature of the virtues but completes and perfects them. The problem, of course, is that, just as I as a fallen creature could obey the moral precepts of the Old Law merely out of *fear* or out of a desire to justify myself, and not "freely," out of a deep concern for the dignity and well-being of the person involved, so too I might inculcate in myself a certain kind of discipline that would *resemble* a virtue but not

---

[1] *ST* II-II, q. 1, prol.

[2] For a good overview, see the articles on this topic in *The Virtuous Life: Thomas Aquinas on the Theological Nature of Moral Virtues* (Leuven: Peeters, 2017).

[3] *ST* II-II, q. 23, a. 8, sc.

[4] ST II-II, q. 23, a. 7, sc.

be a "true virtue." I might, for example, be like the sort of Roman about whom Augustine complained in *The City of God*, who was admirably courageous in a certain sense (braved danger for the sake of the city) but did so for personal glory, not necessarily out of a selfless love for his fellow citizens.

An important caveat we might wish to add, however, is that God can choose to infuse his grace on anyone. So just as it is impossible for us to judge the interior motivations of a person when it comes to the law, so also we often will not be able to discern from our external perspective whether a person is motivated by the gift of charity spread abroad in his or her heart, or something else. All we can say is that, *if one is* motivated by selfless charity, that selfless charity must have been a gift of God's grace, made possible by the sacrifice of Christ on the cross, his resurrection, ascension, and sending of the Holy Spirit, whether the agent doing the act is aware of the Giver of the gift or not. We needn't deny the existence of such loving acts outside of the Christian fold, but we also cannot really *know* in any particular case which virtues are animated by God's gift of selfless charity and which are not. And this is true of both Christians and non-Christians alike. Only God can truly know, although we *might* be able to know (as in the case of a canonized "saint") if God revealed this information to us.

Reading in Context, Understanding Connections, Avoiding Unfortunate Mistakes

It is important to understand Thomas's thought on both the natural law and the virtues within his historical and intellectual context if we are to learn from Thomas what he has to teach us. As Pope John Paul II has right noted, "To understand a doctrine from the past correctly, it is necessary to set it within its proper historical and cultural context."[1] If we fail to do so, we make ourselves subject to a series of unfortunate misunderstandings and mistakes.

We might, for example, mistake what Thomas means by respect for a "right" (*ius*) within the context of concern for the common good with the social contractarian notion of a "right" (usually based on the preservation of life and property) or with the post-Enlightenment notion of a universal, subjective "right" that "trumps" social benefits and must be respected apart from all but the most egregious threats to the common good.

So too we might be tempted to think of "justice" and "right" primarily or solely in terms of commutative justice in relations between individuals, forgetting almost entirely the categories (and different character of) distributive justice and general justice, both of which force a greater concern for the common good.

Lacking the proper historical and textual context, we might be tempted to make the natural law into a moral calculus not unlike the universal principles of Kant's

[1] John Paul II, *Fides et ratio*, 87.

categorical imperative. Prudence, on this view, would be understood as little more than applying the general principles of law to specific circumstances rather than taking prudence to be a much more finely honed instrument that takes into account social roles, social circumstances, past experiences, and possible future outcomes. Prudence on the authentic Thomistic view is something more like a skill requiring not only a firm understanding of the fundamental principles, but also memory, docility, shrewdness, reason, foresight, and the proper amount of both circumspection, and caution.

By the same token, we must also not imagine we can discuss the role of prudence in applying general principles to specific cases without being guided by the fundamental exceptionless norms of the Ten Commandments and the foundational precepts to love God and neighbor.

We would also, if we were guided by Aquinas, not imagine that we can do "ethics" without concern for the fall and its consequences on human nature, both our intellect and our will. We would not imagine that the natural law or the virtues could be taken as stand-alone ethical systems that operate without a proper understanding of human nature and without the help of divine revelation and God's grace.

To these, we could and should add a long list of other potential problems that arise from not appreciating the importance of a proper understanding of the divine order within the cosmos, and over misunderstandings about the relationship between God's permissive will and its relation to human free choices, to name but two. These are topics that would need to be treated. There is simply no space to treat them properly here.

Summary

What we can gather from Thomas's writings can perhaps be summarized this way. We become aware, either through reason or revelation, of certain obligations and responsibilities that are incumbent upon us by nature (that is to say, through a consideration of the nature of things and their natural ends) or by custom and convention. These objective obligations we have to others because of the nature of our relationship to them within the context of the common good, Thomas would characterize with the term *ius* (singular) or *iura* (plural).

We discipline and train ourselves to discern these obligations rightly, judge properly between them, and act accordingly by developing the virtues of *prudence* and *justice*. [1] Fortitude and temperance are also important, but they are more self-

[1] We will not labor to disentangle these two virtues right at the moment, as would otherwise be needed. For Thomas, prudence in the "form" of the other virtues. All the other cardinal virtues require a prudent judgment for them to be virtues. But if the prudent judgment issues in a decision about the proper balance in matters of food and drink, this would be prudence informing temperance. If the prudent judgment issues in a decision

regulating than other-regarding. It is true, however, that a person will often fail to be just because he or she lacks the fortitude to stand up to adversity or danger, or because he or she is unwilling to lose access to certain physical benefits or pleasures. Hence the need for fortitude and temperance.

Judging correctly between my various obligations to others and to the common good and fulfilling them properly – in the right way, *freely*, and out of a concern for the objective dignity and worth of others – is the means by which we realize our flourishing as the kind of creatures God has made us to be. Made in the image of God, each individual is possessed of an infinite dignity and value, and so cannot be instrumentalized toward the end of achieving some other valued goal or collection of values. Made in the image of the Triune God, we are also fundamentally *social* and *relational*. Thus, if we are to live well in community with others and continue to be able to pursue truth to the highest degree, we must perfect our faculties of intellect and will by means of the virtues – most prominently prudence, justice, temperance, and fortitude.

Since our integral nature has been damaged by sin, in our fallen state our intellects are often blinded to what objectively we owe to others and what we therefore *ought* to do. God, therefore, out of his love for us, has revealed the most fundamental obligations we have toward him and others in the Ten Commandments of the Mosaic Law. God, who is our Creator, and "who alone is good, knows perfectly what is good for man, and by virtue of his very love proposes this good to man in the commandments."[1] But after God has taught our intellects by means of his law, we often find ourselves still incapable of fulfilling the law fully, in such a way as to achieve our true human flourishing. And it is for this reason that we need God's grace, by which charity is spread abroad in our hearts.

So too, on this account, the virtues must be animated by this same selfless love of *charity*, if they are to free us from sin and make us truly capable of perceiving the truth – the truth about the love of God for the world, the truth about the dignity of each human person, and the more particular truths we need to know to give to others what they need, what is their "due," treating them with the respect they are owed "by right" – according to their intrinsic dignity and relation with us in the context of the common good.

Are "right" or "justice" *derived from* law? No. They are the preconditions of law. Hence we say that the human law must be in accord with and not be in

---

about the proper mean between the extremes of cowardice and rashness, this would be prudence informing fortitude. And if prudence issues in a judgment about one's obligations and duties to others, this would be prudence informing justice. More would need to be said in this regard, especially about the relationship between the judgments of reason and the obedience (or lack thereof) of the will. But that is a much more complicated discussion.

[1] Cf. John Paul II, *Veritatis splendor*, 35.

contradiction to the basic principles of the natural law. But of course we are obligations to do much more "in justice" than merely follow the law, especially since the law is framed of necessity in terms of negative prohibitions.[1] Not everything we owe to others can be contained within the general statements of the natural law found in the Ten Commandments. These precepts are a *sine qua non*, a beginning, a starting point that informs our prudence. But it is meant to guide our prudence, not replace it.

Is prudence nothing more than an application of these general principles? No. These principles are simply too general to cover all cases. They are helpful and apply fairly easily in a good number of situations we encounter from day to day. But life is often more complicated. Thus we need to *learn more* from the Old Law than merely the basic principles.

We need to learn more about nature and human nature. We need to strengthen our ability to judge wisely in prudence by developing the related, integral virtues of memory, understanding, reason, shrewdness, foresight, circumspection, caution, as well as my ability to be taught and/or coached by others with great wisdom and experience. On this view, developing prudence takes both experience and practice, watching what others who are wise and just and loving do, seeing how certain acts result in certain consequences, noticing how even though my goal was x, I did not achieve that goal. Doing x brought about z instead of y. Thus, I need to modify my approach. But I cannot lie, steal, or kill. My modifications cannot involve a violation of any of those fundamental principles. Even so, I still have fairly wide breadth of possibilities.

And yet, it is important to note that, apart from clear violations of these basic principles contained in the Ten Commandments, people of good will can disagree about various ways to achieve an end. There will be people who are wiser and more prudent than others in various areas, but even among the wise there may be disagreements. Which is why we need wise leaders to bring various groups together, see the pros and cons, and make *one judgment* based on the best appraisal of the collective wisdom of the *polis* for the common good. This is why wise political leadership becomes so essential.[2]

The sort of selfless love that we need to fulfill the commandments and that is meant to animate the virtues is the kind Christ showed on the cross; it is not

---

[1] Cf. ibid., 52: "[T]he fact that only the negative commandments oblige always and under all circumstances does not mean that in the moral life prohibitions are more important than the obligation to do good indicated by the positive commandments. The reason is this: the commandment of love of God and neighbor does not have in its dynamic any higher limit, but it does have a lower limit, beneath which the commandment is broken."

[2] For a good discussion, see Yves Simon, *A General Theory of Authority* (Notre Dame: University of Notre Dame Press, 1962).

something of which we are capable on our own, however, especially in our fallen state with corrupted natures. So God must give that virtue to us as a gift of his grace – a gift we must act upon, but that is unmerited nonetheless. Thomas associates this grace with what he calls "the New Law," the law of love, the law instilled in us by God's own Holy Spirit, distinguishing it as the necessary second part of the "divine law," along with "the Old Law."[1]

Allow me to conclude, then, with several passages from Pope John Paul II's encyclical *Veritatis splendor*, each of which helps sum up the substance and goal of the moral life. Though these passages were not written by Aquinas, they communicate what I take to be an accurate account of what lies at the heart of Thomistic moral theology and what animates its spirit. In this regard, they serve as a fitting conclusion to our discussion.

> The Christian, thanks to God's Revelation and to faith, is aware of the "newness" which characterizes the morality of his actions: these actions are called to show either consistency or inconsistency with that dignity and vocation which have been bestowed on him by grace. In Jesus Christ and in his Spirit, the Christian is a "new creation," a child of God; by his actions he shows his likeness or unlikeness to the image of the Son who is the first-born among many brethren (cf. *Rom* 8:29), he lives out his fidelity or infidelity to the gift of the Spirit, and he opens or closes himself to eternal life, to the communion of vision, love and happiness with God the Father, Son and Holy Spirit.[2]

Furthermore, Jesus reveals by his whole life, and not only by his words, that freedom is acquired in *love,* that is, in the *gift of self.* The one who says: "Greater love has no man than this, that a man lay down his life for his friends" (*Jn* 15:13), freely goes out to meet his Passion (cf. *Mt* 26:46), and in obedience to the Father gives his life on the Cross for all men (cf. *Phil* 2:6-11). Contemplation of Jesus Crucified is thus the highroad which the Church must tread every day if she wishes to understand the full meaning of freedom: the gift of self in *service to God and one's brethren.* Communion with the Crucified and Risen Lord is the never-ending source from which the Church draws unceasingly in order to live in freedom, to give of herself and to serve.[3]

It is in the saving Cross of Jesus, in the gift of the Holy Spirit, in the Sacraments which flow forth from the pierced side of the Redeemer (cf. *Jn* 19:34), that believers find the grace and the strength always to keep God's holy law, even amid

---

[1] The New Law and man's freedom are, on this view, not mutually contradictory but complementary. God's grace frees man's will from its slavery to sin and elevates it to greater love of God and neighbor. It would be odd for someone to complain, "Yes, I did that good deed for my mother, but I did it out of a deep and profound love for her, so I didn't do it freely."

[2] John Paul II, *Veritatis splendor*, 73.

[3] John Paul II, *Veritatis splendor*, 87.

the gravest of hardships. As Saint Andrew of Crete observes, the law itself "was enlivened by grace and made to serve it in a harmonious and fruitful combination. Each element preserved its characteristics without change or confusion. In a divine manner, he turned what could be burdensome and tyrannical into what is easy to bear and a source of freedom."… This is what is at stake: the *reality* of Christ's redemption. *Christ has redeemed us!* This means that he has given us the possibility of realizing *the entire* truth of our being; he has set our freedom free from the *domination* of concupiscence.[1]

No human sin can erase the mercy of God, or prevent him from unleashing all his triumphant power, if we only call upon him. Indeed, sin itself makes even more radiant the love of the Father who, in order to ransom a slave, sacrificed his Son: his mercy towards us is Redemption. This mercy reaches its fullness in the gift of the Spirit who bestows new life and demands that it be lived.[2]

[1] John Paul II, *Veritatis splendor*, 103.

[2] John Paul II, *Veritatis splendor*, 118. I am grateful to Michel Bastit for reading an earlier draft of this article and for his generous and wise comments.