



NATURAL LAW, THEORETICAL AND PRACTICAL REASON.

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“Multa renascentur quae jam cecidere”².

Resumo. Este artigo expõe uma breve análise das principais questões referentes à teoria ética de Tomás de Aquino. A idéia é mostrar que a teoria da lei natural em Tomás de Aquino implica uma grande escala de conceitos e questões. Entre todos eles, enfocarei a relação entre a razão teórica e a razão prática, particularmente de acordo com a Suma Teológica. Nesta consideração, analisarei o termo latino ‘extensio’ do uso teórico ao prático, à luz da teoria dos transcendentais que possibilita relacionar a noção metafísica de bem (bonum) com o bom ou bonum rationem, específico do tema moral.

Palavras-chave: Tomás de Aquino, Lei Natural, Razão Prática, Transcendentais.

Abstract. This paper expose a brief analysis of some of the main approaches to the ethical theory of Thomas Aquinas. The idea is to show that the natural law theory in Thomas Aquinas implies a whole range of concepts and issues. Among all of them, I will focus in the relation between theoretical reason and practical reason, particularly, according to Summa Theologiae. In this framework, I will analyze the latin term of ‘extensio’ from theoretical to practical, in the light of the transcendentals theory which allows to connect the metaphysical notion of good (bonum) with the goodness or bonum rationem specific of moral matters.

Keywords: Thomas Aquinas, Natural Law, Practical Reason, Transcendentals.

1. INCOMMENSURABLE READINGS OVER AQUINAS’ NATURAL LAW THEORY

According to Jeffrey Stout, Thomism is “one prominent form of natural law theory”³. However, on the other hand, e.g., Vernon Bourke, contends that the term ‘natural law’ should be replaced by the idea of “right reason” (*recta ratio*)⁴. Between these two perspectives there are many different accounts, some of them even more extreme. For example, the classical work of A.P. d’Entrèves which regards natural law as the basis of morality, in Thomas’s

¹ I am grateful to the “Asociación de Amigos de la Universidad de Navarra”.

² HORACIO, *Ars Poetica*, I, 70.

³ Jeffrey STOUT, ‘Truth, natural law, and ethical theory’, in *Natural Law Theory: Contemporary Essays*, edited by Robert P. George (Oxford: Clarendon Press, 1994): 71-102.

⁴ Vernon BOURKE, ‘Is Thomas Aquinas a natural law ethicist?’, *The Monist* 58 (1974): 66.



conception. Though, he pays no attention to the place of virtue. He does, however, insist strongly on the metaphysical foundation of Aquinas's natural law doctrine, seeing this as supposing the world to be governed by divine providence⁵. As another example, we can analyze the perspective of Oliver O'Donovan, who wants to avoid the use of the 'classic term' because due to the ambiguity that he sees in attributing universality not only to being but also to knowledge⁶.

It is true that the concept of natural law has several meanings. Needless to say, there is not merely one theory of natural moral law, rather, there are many such theories. "The important point is that, while the concept of natural law has a long history, there is no single theory; the common core is that in some sense or other the basic principles of morals and legislation are objective, accessible to reason and based on human nature. The doctrine of natural law inclinations is very important— a set of dispositions or tendencies to act and react that we have in virtue of our nature"⁷.

In addition, focusing on the *corpus thomisticum*, a moral issue in Aquinas's thought is linked with many other issues from anthropology, metaphysics, and theology, as Pamela M. Hall shows⁸. Inasmuch the terms used by Saint Thomas have many different meanings and connotations. Moreover, the interpretations of Aquinas's thought also differ in too many ways. Nevertheless, I think that it is possible to give some keys to situate the place of Natural Law theory in the context of the whole of Aquinas's work. Following this, I will focus on the relevance of the relation between *ratio speculativa* and *ratio practica* in the comprehension of Aquinas's concept of Natural Law.

2. NATURAL LAW IN AQUINAS'S WORK

The question about natural law, one of the most widely read text of the *Summa Theologiae* has only a single *quaestio* (*ST*, I-II, 94), in the midst of nineteen *quaestiones* (90-108), three of which deal with human law, eight with the Mosaic law, and three with the New Law of the Gospel. "This one question has received an inordinate amount of attention and, abstracted from

⁵ A.P. D'ENTRÈVES, *Natural Law: An Introduction to Legal Philosophy* (London: Hutchinson, 1951, revised 1970): 42 ff.

⁶ Oliver O'DONOVAN, *Resurrection and Moral Order: An Outline for Evangelical Ethics*, 2nd edn. (Leicester: Apollo, 1994): 87.

⁷ Fergus KERR, *Alter Aquinas. Versions of Thomism* (Malden, MA: Blackwell Publishing company, 2002): 98.

⁸ Pamela M. HALL, *Narrative and the Natural Law: An Interpretation of Thomistic Ethics* (Notre Dame, IN: University of Notre Dame Press, 1994):

its context, as it usually is, may be rather misleadingly expounded. Treating the treatise on law, let alone the single question on natural law, in isolation from the rest of the *secunda pars* is plainly to get things out of proportion”⁹.

Thus, it is important to trace the history of the idea of natural law through all of Thomas’s work. In the Commentary on the *Sentences* and on *Matthew*, he shows that law is treated in the light of the virtue of Christ. In the *Summa Contra Gentiles* and in the *Compendium Theologiae* law is treated in the light of God as creator. In the *Summa Theologiae*, by contrast, law is discussed neither via Christology nor in *de Deo Creatore*, but in the context of the theology of the moral agent as (the) *imago Dei* returning to God; law is the exterior principle that moves the human being to do well, ultimately to attain beatitude in the communion of saints. Law, in the *Summa Theologiae*, seems to be oriented to beatitude¹⁰.

Needless to say, we must not ignore the theological background on Aquinas’s work, as John Bowlin states¹¹. “Bowlin reminds us of how the *secunda pars* unrolls. God made us for beatitude, that is to say, for the perfect activity of our highest or deepest powers, with the assistance of ‘law’, analogously understood, inscribed as ‘inclinations’ in our nature as rational creatures, partly translatable into legislation by the political community, revealed as Torah and Gospel, in the historical economy of salvation, with the deforming virtues of faith, hope, and charity, and the cardinal virtues – all badly disrupted in our sin-prone condition”¹².

In short, and as Servais Pinckaers said, abstracting Thomas’s questions on natural law from those on the Old Law and the New Law, and from questions on beatitude and virtue, produces nothing but confusion; because Thomas never saw natural law as functioning independently of the eternal law which is nothing other than the creator¹³.

3. NATURAL LAW IN THE *SUMMA THEOLOGIAE*

⁹ Fergus KERR, *Alter Aquinas. Versions of Thomism* (Malden, MA: Blackwell Publishing company, 2002): 104.

¹⁰ See for this text the protestant scholar study of Thomas’s theology, despite our reserves of some other ideas in his work. *Vid.*, Ulrich KÜHN, *Via Caritatis: Theologie des Gesetzes bei Thomas von Aquin* (Göttingen: Vandenhoeck & Ruprecht, 1965).

¹¹ Far from being an attempt to provide a morality common to all human beings, a perfectly worthy venture, Thomas was out to provide an exegetical principle for discerning those elements of Torah still incumbent upon Christians. John BOWLIN, *Contingency and Fortune in Aquinas’s Ethics* (Cambridge UK: Cambridge University Press, 1999).

¹² Fergus KERR, *Alter Aquinas. Versions of Thomism* (Malden, MA: Blackwell Publishing company, 2002): 111.

¹³ Servais PINCKAERS, *The Sources of Christian Ethics* (Washington, DC: Catholic University of America Press, 1995).

In the *Summa Theologiae*, the most mature work of Aquinas on law and virtues, Thomas characterizes the relation between theoretical and practical reason as ‘extension’. Aquinas says that theoretical reason is made practical *per extensionem*¹⁴. Hence, human reason is not the measure of things, but the measure of what is to be done by man. In forming its judgments, practical reason is aided by law, that is, “a rule and measure of acts through which someone is led to acting or is held back from it”¹⁵. One of these laws is natural law. In the first place, in the *Summa Theologiae* I-II, q. 94.2, we can find an elaboration of a structure for practical science that runs parallel to that of theoretical science. This original element in Aquinas’s ethics, forms the starting point of his exposition¹⁶. In fact, he works out this parallelism at various places in his work. In practical reasoning what most matters is not purely knowledge. The important thing about the *praxis* (‘practical’) is to know how to perform it, to practice it well, and this is only attained through virtue. The value of knowledge about *praxis* is the practical value of such knowledge. Therefore, if a virtue is the important thing in *praxis*, how can we talk about natural law in practical reasoning? It is in this sense that the idea of *extension* turns into the master key of comprehension.

Practical and theoretical reason have the same formal structure of rationality: both proceed from first principles to conclusions. Nevertheless, the domain of practical thought is different from that of theoretical thought. Each one has its own first principles. The distinction between practical and theoretical reason is an indication of the autonomy of ethics from metaphysics. However, this does not mean a radical separation between theoretical and practical reason. There are not two different powers but different ends of one and the same faculty (*potential*). “Practical reason knows truth, just as theoretical reason does, but regards the known truth as the norm (*regula*) of action”¹⁷. The term ‘extension’ means that human reason is theoretical prior to its becoming practical. To understand the place of natural law in the *corpus thomisticum* it is required to know the sense of ‘priority’ which is found in I-II, 94.2. This understanding supposes some classical teachings of Aquinas: the distinction self-evident propositions *quoad omnes* or *quoad*

¹⁴ *S. Th.*, I-II, 79.11, *sed contra*. See also, *De Veritate*, 14.4, *In III Sententiarum*, 23.2.3.2.

¹⁵ *S. Th.*, I, 90.1.

¹⁶ “The precepts of natural law are to practical reason as the first principles of demonstrations are to theoretical reason, for both are self-evident principles (*principia per se nota*)” *S. Th.*, I-II.94.2.

¹⁷ Jan A. AERTSEN, *Medieval Philosophy and the Transcendentals. The case of Thomas Aquinas* (Leiden: E.J.Brill, 1996): 327.

*sapientibus*¹⁸ and the distinction between the apprehension of the most common notions, the transcendentals (*communia*): being and so on¹⁹.

The argument of I-II, 94.2 continues with the transition from theoretical to practical reason: just as 'being' is what first falls under apprehension *simpliciter*; so 'good' is what first falls under 'the apprehension of practical reason'. Being is what is first known in the absolute sense, but 'good' is the first concept of practical reason, for practical reason is directed to action, and every agent acts for an end, which has the nature of good²⁰.

In the 'extension' of theoretical to practical reason, the good, which is last in the order of transcendentals, becomes first. "This extension leads to another understanding of the good. When we consider the good theoretically, we consider it under the aspect of *true*. So we can define 'good' and reflect on its *ratio*. When we consider good practically, we consider insofar as it is the end of an action. Good is then considered *as good*, and is manifested in its practical character"²¹.

Finally, just as theoretical reason proceeds from principles which are naturally known, practical reason proceeds from principles which are precepts of natural law. The *habitus* of these practical principles is called *synderesis*, described by Thomas as "the law of our intellect insofar as it is the habit containing the precepts of natural law, which are the principles of human actions"²².

¹⁸ "Quaedam vero propositiones sunt per se notae solis sapientibus, qui terminos propositionum intelligunt quid significant, sicut intelligenti quod Angelus non est corpus, per se notum est quod non est circumscriptive in loco, quod non est manifestum rudibus, qui hoc non capiunt. In his autem quae in apprehensione omnium cadunt, quidam ordo invenitur". *S. Th.*, I-II, 94.2.

¹⁹ "Et ideo primum principium indemonstrabile est quod non est simul affirmare et negare, quod fundatur supra rationem entis et non entis, et super hoc principio omnia alia fundantur, ut dicitur in IV metaphys.. Nam illud quod primo cadit in apprehensione, est ens, cuius intellectus includitur in omnibus quaecumque quis apprehendit". *S. Th.*, I-II, 94.2.

²⁰ "Sicut autem ens est primum quod cadit in apprehensione simpliciter, ita bonum est primum quod cadit in apprehensione practicae rationis, quae ordinatur ad opus, omne enim agens agit propter finem, qui habet rationem boni". *S. Th.*, I-II, 94.2.

²¹ Jan A. AERTSEN, *Medieval Philosophy and the Transcendentals. The case of Thomas Aquinas* (Leiden: E.J.Brill, 1996): 329.

²² "Synderesis dicitur lex intellectus nostri, in quantum est habitus continens praecepta legis naturalis, quae sunt prima principia operum humanorum". *S. Th.*, I-II, 94.1.2.



4. A KEY FOR COMPARING DIFFERENT VISIONS OF AQUINAS'S NATURAL LAW

In Fergus Kerr's, *After Aquinas. Versions of Thomism* (2001), we can find an important range of views exploring the alternatives to the standard understanding of Aquinas's writings. The comprehension of the relation in Aquinas between practical and theoretical thought, as Jan Aertsen has explained, allows us to weigh the ways of approaching Aquinas's work.

This distinction becomes even more important if, as Hittinger asserts, there is now a generation of Catholic moralists who have come to think that the rudiments of the moral order ought to be discussed without any reference to divine government, or, for that matter, to created nature²³.

Indeed, if a scholar does not understand the connection between ethics with reason, not even in theology nor in natural theology, but in metaphysics itself, it is probable that one would think that the idea of natural law is a borrowed term taken from moral theology. This seems to be the mistake of Michael Keeling, who thinks that the difficulty of appealing to natural law in Christian ethics, according to Michael Keeling, is that it becomes "almost inevitably, the preserve of ecclesiastical authority"²⁴. On the other hand, if someone wishes to understand the idea of law only in a modern perspective, and also to follow Thomas's thought, he will inevitably fall victim to some kind of pseudo-naturalism. In fact, to prevent one mistake, this kind of thought errs at the opposite extreme. For example, Howard Mounce contends that, according to Thomas, moral reasoning depends on principles which do not themselves depend on reasoning but are given us by nature.

Our reaction against murder, according to Mounce, is an example of what Thomas means by saying that we have moral principles which are not founded on reasoning but are given us by nature. For Thomas, moral reasoning is convincing only to the extent that it is framed and informed by principles that are given to us by our nature. We know the difference between right and wrong not because we have discovered it by reasoning but because it is given us as a natural disposition, 'a natural way of reacting to good and evil when they appear'. Given that by nature we are drawn to the good and inclined to resist evil, we have a 'natural law' which then requires us to reason,

²³ Russell HITTINGER, 'Natural law and Catholic moral theology' in *A preserving Grace: Protestants, Catholics, and Natural Law*, edited by Michael CROMARTIE (Washington, DC: William B. Eerdmans, 1997): 1-30. See, Fergus KERR, *Alter Aquinas. Versions of Thomism* (Malden, MA: Blackwell Publishing company, 2002): 103.

²⁴ Michael KEELING, *The Mandate of Heaven: The Divine Command and the Natural Order* (Edinburgh: T. and T. Clark, 1995): 17.



in particular cases. Of course we have to reason; our natural reactions will not do everything. According to Thomas, as for common sense, there is something given to us and something that we have to do ourselves.

Moreover, it is a mistake to think that for Thomas, the natural law enables us to have solutions to every moral problem. In short, we always have to work when any moral problem arises. With our practical reason we have “a natural participation in the eternal law” – “according to certain general principles” – but “not as regards the particular determinations of individual cases”²⁵.

In spite of the portion of truth in some of Mounce’s observations, we also can see a naturalist *bias* in the desire to avoid a link between natural law and reason, in the way that the doctrine of *synderesis* does. As we can see, by the exposition of these shorts examples, the comprehension of Aquinas’s doctrine of natural law demands a right view of the relation between theoretical and practical reason. Indeed, this relation requires the understanding of the order and hierarchy between the transcendental properties of *entia* and human action²⁶.

5. BIBLIOGRAPHY

AERTSEN, Jan A., *Medieval Philosophy and the Transcendentals. The case of Thomas Aquinas* (Leiden: E.J.Brill, 1996).

—, ‘Natural Law in the Light of the Doctrine of Transcendentals’, in ELDERS, L. J. and HEDWIG, K., *Lex et Libertas. Freedom and Law according to St. Thomas Aquinas* (Città del Vaticano: Libreria Editrice Vaticana, 1987).

BOURKE, Vernon ‘Is Thomas Aquinas a natural law ethicist?’, *The Monist* 58 (1974).

BOWLIN, John, *Contingency and Fortune in Aquinas’s Ethics* (Cambridge UK: Cambridge University Press, 1999).

DAVIES, Brian (ed.), *Philosophy of Religion: A Guide to the Subject* (London: Cassell, 1998).

D’ENTRÈVES, A.P., *Natural Law: An Introduction to Legal Philosophy* (London: Hutchinson, 1951, revised 1970).

ELDERS, Leo J., *L’Éthique de Saint Thomas D’Aquin. Une Lecture de la Secunda Pars de la Somme de Théologie* (Paris: Les Presses universitaires de l’IPC, 2005).

²⁵ H.O. MOUNCE in Brian DAVIES (ed.), *Philosophy of Religion: A Guide to the Subject* (London: Cassell, 1998): 270 ff.

²⁶ See AERTSEN, Jan A., ‘Natural Law in the Light of the Doctrine of Transcendentals’, in ELDERS, L. J. and HEDWIG, K., *Lex et Libertas. Freedom and Law according to St. Thomas Aquinas* (Città del Vaticano: Libreria Editrice Vaticana, 1987).



- GEORGE, Robert P. (ed.), *Natural Law Theory. Contemporary Essays* (Oxford: Clarendon Press, 1994).
- HALL, Pamela M., *Narrative and the Natural Law: An Interpretation of Thomistic Ethics* (Notre Dame, IN: University of Notre Dame Press, 1994).
- HITTINGER, Russell, 'Natural law and Catholic moral theology' in *A preserving Grace: Protestants, Catholics, and Natural Law*, edited by Michael Cromartie (Washington, DC: William B. Eerdmans, 1997).
- LISSKA, Anthony J., *Aquinas's theory of natural law: an analytic reconstruction* (New York: Clarendon Press, 1996).
- KEELING, Michael, *The Mandate of Heaven: The Divine Command and the Natural Order* (Edinburgh: T. and T. Clark, 1995).
- KERR, Fergus *Alter Aquinas. Versions of Thomism* (Malden, MA: Blackwell Publishing company, 2002).
- KÜHN, Ulrich, *Via Caritatis: Theologie des Gesetzes bei Thomas von Aquin* (Göttingen: Vandenhoeck & Ruprecht, 1965).
- MOUNCE, H.O., in Brian DAVIES (ed.), *Philosophy of Religion: A Guide to the Subject* (London: Cassell, 1998).
- O'DONOVAN, Oliver, *Resurrection and Moral Order: An Outline for Evangelical Ethics*, 2nd edn. (Leicester: Apollo, 1994).
- PINCKAERS, Servais, *The Sources of Christian Ethics* (Washington, DC: Catholic University of America Press, 1995).
- STOUT, Jeffrey, 'Truth, natural law, and ethical theory', in *Natural Law Theory: Contemporary Essays*, edited by Robert P. George (Oxford: Clarendon Press, 1994).
- THOMAS AQUINAS, *Summa theologiae*, in *Sancti Thomae Aquinatis, Opera Omnia iussu impensaue Leonis XIII*, tomus IV, V, VI, VII, cum Commentariis Thomae de Vio Caietani O. P., (Romae: Commissio Leonina 1888, 1889, 1891, 1892).
- WESTBERG, Daniel, *Right Practical Reason. Aristotle, Action, and Prudence in Aquinas* (Oxford: Clarendon Press, 1994).