

DOCTRINAL SECTION

NATURAL LAW

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Eternal law, objective and primary basis of morality, is the governing plan by which God directs all creation to the common good of the universe. Since it is identical with the divine essence, it is not known to us directly in this life. We discover it in its effects.

Thus, we discern, in the first place, that irrational creatures have set inclinations by virtue of which they seek what is convenient to them and flee from whatever harms them, with such unerringness and regularity as if they had a mind.¹

We likewise discern in man, not only the inclinations he shares in common with the inferior beings, but also others that are proper to him. When these inclinations, discerned by reason, are expressed by reason itself in the form of universal dictates or propositions, viz., life must be preserved and not destroyed, we have what is known as Natural Law. Since this is not the result of an autonomous reason—as the Kantian categorical imperative, would have it—but a reflection and echo of the Eternal Law, it entails true obligation in the internal forum: it has to be obeyed because it is laid down by God.

The existence of Natural Law is ascertained by the unanimous consent of all peoples: it has always been considered good to honour parents.

¹ As from the fact that the arrow hits the bull-eye we aver the existence of the archer that gave it movement and direction, so also from those instincts with which inferior creatures tend to their final end, we come to the knowledge of a first Motor and Ruler (Saint Thomas, *Summa Theol.*, I, 2, 3).

love the country, keep the pledged word. It is also established by the intimate experience of every individual: there is no one that is not aware of the dictate of reason that impels him to do good and avoid evil. It is attested to, above all, by Saint Paul when he says (Romans, Chaps. 1 and 2) that the gentiles, although ignorant of the Mosaic law, had engraved in their hearts that other law in the light of which they would be judged by God.

The practical reason, like the speculative, starts off from certain evident principles, then derives therefrom the immediate conclusions, accessible to all without great effort, and arrives, at length, at the most remote conclusions which are discerned exclusively by the persons devoted to these problems—the moralists, because they exact an uncommon application and a lengthy discursive process.

Just as being is what first falls within the speculative apprehension, so what the practical reason first apprehends is the good, since every agent, inasmuch as it tends towards a determinate thing, acts for an end to which it would tend if, in some way or measure, it were not convenient to it. For which reason, just as the double principle of contradiction and identity—based upon the reason of being and not being—is patent to everyone, so also every one knows the double practical precept—based upon the reason of good and evil—that reduces itself to this; what is good for man, he should seek for or do; what is evil, he should flee from or omit.

And since reason discerns as good for man or convenient to him those things to which man is naturally inclined, and as evil and inconvenient the contrary ones, and man's nature has something in common with the other living beings—thus, he naturally desires his conservation—, something in common with the other animals—so he naturally desires the propagation of the species—and something that is proper to him—so he naturally desires truth, society, etc.—. To the double precept above mentioned one must add, as naturally known by all, these other precepts: life must be preserved and suicide must be avoided,² for the proper educa-

² Id., *ib.*, II-II, 64, 5.

tion of the offspring the latter should be conceived within wedlock,³ truth must be sought for and ignorance and lying must be shunned from, one has to peacefully cohabit with his fellow citizens and avoid what disturbs social peace, etc.

To be sure, these precepts are considered in their universality when we deem them obvious to all men, for it is quite possible that in concrete cases; due to special circumstances, suicide may appear good to an individual thwarted in his wishes and that the rearing of the offspring may be assured out of wedlock and that certain truths displease us and selfishness may inspire us to enlarge our rights and diminish our civic duties.

It is also to be taken for granted that, since man is a rational agent, the inclinations he has in common with inferior beings do not belong to natural law, save in the degree that they are human and are regulated by reason, as in the case of matrimony; thence follows that every man understands that he must always behave himself reasonably and virtuously.⁴

Aside from those precepts obvious to all men, there are others that are their proximate conclusions, so proximate that the generality of men know them without effort. They require, true, a discursive process, for they are conclusions, but a discursive process so simple that even the unlettered people understand without difficulty their reason for being. Such are the general precepts of justice, for, if many imagine that they are the arbiters of what is theirs and can dispose of them at their pleasure,

³ Id., ib., Suppl. 41, 1: 3 *Contra gentiles*, cap. 122.

⁴ "Omnes inclinationes quarumcumque partium humanae naturae, puta concupiscibilis et irascibilis, secundum quod regulantur ratione, pertinent ad legem naturalem et reducuntur ad unum primum preceptum" (Id., *Summa Theol.* I-II, 94, 2, 2m). "Inclinatur autem unumquodque naturaliter ad operationem sibi convenientem secundum suam formam: sicut ignis ad calefaciendum. Unde cum anima rationalis sit propria forma hominis, naturalis inclinatio inest cuilibet homini ad hoc quod agat secundum rationem" (Id., ib., a.3). "Sicut ratio in homine dominatur et imperat aliis potentiis, ita oportet quod omnes inclinationes naturales ad alias potentias pertinentes ordinentur secundum rationem. Unde hoc est apud omnes communiter rectum, ut secundum rationem dirigantur omnes hominum inclinationes" (Id., ib., a.4,3m).

everything that belongs to another is his and it is not lawful to wrest it away from him or retain it without his consent.⁶ That is why the moral precepts of the Decalogue, given by God directly to the Hebrew people, are precepts of justice⁷ and not of other virtues.

To the natural law also belong those other precepts that are less proximate conclusions of the first and which, requiring more attention and detailed study, are discerned by the learned or versed in moral sciences and, through them, are made known to the people at large.⁸ Nothing, indeed, is taken away from the validity of a law just because the subjects should come to know of it directly by reading it in a reliable paper instead of in an official organ or bulletin. Neither is any prejudice done to the rigour of the precept, because this should come to the knowledge of man through a discursive process or reasoning rather than through immediate evidence resulting from a mere comparison of its terms. Even the obligation to offer sacrifice to God is considered by Saint Thomas a precept of the natural law.⁹ To the latter, then belong all the conclusions, that with intimate and necessary connection, flow logically from the mentioned principles.

⁶ "Manifestissime ratio debiti, quae requiritur ad preceptum, apparet in iustitia, quae est ad alterum, quia in his quae spectant ad seipsum, videtur primo aspectui quod homo sit sui dominus, et quod liceat ei facere quodlibet; sed in his quae sunt ad alterum, manifeste apparet quod homo sit alteri obligatus ad reddendum ei quod debet" (Ib., ib., II-II, 122, 1).

⁷ "Praecepta decalogi sunt illa quae immediate populus recipit a Deo . . . Unde oportet praecepta decalogi talia esse quae statim in mentem populi cadere possunt" (Id., ib., I-II, 100, 5, 1m). — "Praecepta decalogi ponuntur in lege sicut prima principia, quae statim debent esse omnibus nota. Et ideo praecepta decalogi debuerunt esse principaliter de actibus iustitiae, in quibus manifeste invenitur ratio debiti" (Id., ib., II-II, 140, 1, 3m).

⁸ "Ratio debiti in aliis virtutibus est magis latens quam in iustitia. Et ideo praecepta de actibus aliarum virtutum non sunt ita nota populo sicut praecepta de actibus iustitiae" (Id., ib., I-II, 100, 3, 3m).

⁹ "Necesse est quod omnia praecepta moralia pertineant ad legem naturae, sed diversimode . . . Quaedam vero sunt quae subtiliori consideratione rationis a sapientibus iudicantur esse observanda. Et ista sic sunt de lege naturae, ut tamen indigeant disciplina, qua minores a sapientioribus instruantur" (Id., ib., a. 1).

⁹ Ib., ib., II-II, 85, 1.

All these precepts, depending upon one to which, in the ultimate analysis, they may be reduced, do not militate against the unity of that same law.

One of the most questioned properties of the natural law is that referring to its universality, i. e. whether it is the same for all men in such way that whatever it decrees to be good or evil for some would also be good and evil for the others.

To solve this question correctly one has to begin, as does the Angelical Doctor,¹⁰ by distinguishing between speculative reason and practical reason and recalling that the former, dealing with necessary things, are always true both in regard to the principles and the conclusions; practical reason, on the other hand, concerns contingent things, i.e., human acts; hence, their most general principles are always right, but not so with their conclusions. By way of example we have it that it is always true that one must act in keeping with reason; from this principle it follows that one ought to return to the owner what he has left in deposit. This precept, however, fails in some cases, for it may happen that what has been deposited be a sword and that the owner should ask it back to wreck treason upon his country or to kill an innocent; it is clear that in such cases, the deposited sword should not be returned. And the conclusion derived from the most general principles is more liable to fail the more it descends to the concrete, such as if we were to say that a deposit should be returned to its owner with such and such a guarantee, in this or that other form, since, in the degree that conditions are multiplied, there will be many more cases in which the precept may not find application.

Thence the Angelic Doctor argues that the natural law, in regard to the first principles, is the same for all men as to their righteousness; but certain other precepts, that are like conclusions derived from those principles, are valid, yes, in the generality of cases, but not in all, due to definite circumstances.

¹⁰ Id., *ib.*, I-II, 94, 4.

But even in those cases, many or few, when a precept fails the natural law does not. It is more, a conflict of precepts where the superior defeats and annuls the inferior and makes the observance of the latter not only cease being obligatory, but even prohibited and evil.¹¹ That is when one does not prefer to say that what is generally a matter of this definite precept ceases being so in the present circumstances, as St. Thomas points out when speaking of the sword that is had in deposit: its return is exacted by natural law if the sword is regarded as a useful good; from the moment it becomes harmful, because asked for by an irate person, it ceases being a matter of this law.¹²

Another disputed property of natural law is its immutability. It is clear that, since human nature has been and will always be the same, the natural law corresponding to this nature may not change essentially. But certain events mentioned by Holy Scriptures have compelled theologians to propose themselves the question whether there is room for derogation or dispensation of all or, at least, some of its precepts.

Saint Thomas¹³ denies it absolutely in regard to the first precepts of that law. They reflect the elements and essential ends of the human nature and may not be annulled or supplanted by a superior precept. There will never be a single case when it would be lawful for man to act unreasonably or commit an injustice.

¹¹ "Cuiuslibet virtutis actus debitis circumstantiis limitatur: quas si praetereat, iam non erit virtutis actus, sed vitii. Unde ad pietatem pertinet officium et cultum parentibus exhibere secundum debitum modum. Non est autem debitus modus ut plus homo intendat ad colendum patrem quam ad colendum Deum... Si ergo cultus parentum abstrahat nos a cultu Dei, iam non esset pietatis parentum insistere cultui contra Deum" (*St. Thomas, Summa Theol.*, II-II, 101, 4). — The same Saint invokes much later this beautiful text of the *Glosa*: "Si quid iusserit curator, numquid tibi faciendum est is contra proconsulem iubeat? Rursum, si quid ipse proconsul iubeat, et aliud imperator, numquid dubitatur, illo contempto, illi esse serviendum?" (*Id.*, *ib.*, q. 104, a.5).

¹² "Quanto res restituenda apparet graviter noxia ei cui restitutio facienda est vel alteri, non ei debet tunc restitui; quia restitutio ordinatur ad utilitatem eius cui restituitur; omnia enim quae possidentur sub ratione utilis cadunt" (*Ib.*, *ib.*, q. 62, a. 5, 1m).

¹³ *Id.*, *ib.*, I-II 94, 5.

In regard to the other precepts, conclusions of the former, there may be some sort of derogation or dispensation, being able to fail (as we have seen) in particular cases, where a superior precept asserts itself or prevails. Thus, it is possible to talk of derogation of the precept of returning the sword that is had in deposit. But this derogation is to be understood in a broad and improper sense, since in the mentioned case what has changed is the matter of the precept not the precept itself. While the conclusions are necessarily linked to the principles, there can be no derogation of the law properly speaking: it may happen that none is innocent, but it is not conceivable that the innocent should deserve being deprived of his life.

Thence it is that the derogation and even dispensations that seem granted by God in the Old Testament import a true change in the matter of the natural law. Since we are not the owners of life (ours or others') it is not lawful for us to kill the innocent; but God is master of that life and may take it away even from the innocent whenever and howsoever it pleases Him; whence it follows that, in regard to God, the life of the innocent is not a matter of that law.¹⁴

That is why when the Angelic Doctor takes up the question of the dispensation of the moral precepts of the Decalogue,¹⁵ he holds that there can be no dispensation from the prohibition against polytheism, idolatry, blasphemy, perjury, for the matter of these precept is not subject to change; yet, in the matter of vows, although not lawful to break them, still God can return to him who has taken the vows whatever he offered or gave Him—even among men tokens of friendship are returned when that friendship is broken.

¹⁴ The permission for polygamy (if we prefer not to speak of mere tolerance) has an easier explanation since it deals about a precept of natural law which does not run counter with the primary purpose of marriage — the propagation of the species—, but with a secondary precept — the harmony and mutual respect the couple owe each other —, hence, when propagation was more necessary, God dispensed with law, sacrificing the particular for the common good (Id., *ib.*, q. 97, a.4.3m; II-II, 64, 3, 3m; Suppl. 65, 1 and 2).

¹⁵ Id., *ib.*, I-II, 100, 8.

In the second Tablet God could order Oseas to cohabit with a prostitute, not because he would allow him to fornicate (with a free woman), but because He was giving her to him as his legitimate wife; he could allow the Jews to cart away the booty of the Egyptians, not because he would legitimise robbery for them, but because such was owed them as just compensation for the unrewarded services or because God, absolute and supreme owner of things, can take them away from some to give them to others. What may not be done is to permit sodomy, falsehoods, lies, etc., whose matter is not susceptible of change.

One last problem: Can there be invincible ignorance of the precepts of natural law? Antecedent ignorance, that is to say, in regard to those who either never knew those precepts or came to know them too late, is discussed in another article. It suffices now to speak of subsequent ignorance of those who having known those precepts, fall later into such grievous error as to persuade themselves that what they formerly knew to be prohibited is now lawful.

Saint Thomas holds¹⁶ that the principles of natural law may never be erased from the human mind, since their righteousness stands out clearly upon sheer consideration of their terms: no one will deny that he ought to act according to reason, even if, in absurd cases, all would think that reason was on their side. In regard, however, to the conclusions, specially the remote ones, of those principles, the same causes that may make them not known by all, at least for some time, may cause the acquired knowledge to be forgotten or misrepresented: such is, for instance, the influence of passions and bad habits, envenomed education, adverse environment.

Pius XII opportunely called the attention towards a complaint heard from not a few Catholics who had received excellent moral and religious training and yet, pretend to excuse themselves from sin with this argumentation: No one is bound to do the impossible; therefore, God has not imposed upon us, with his natural law, precepts the compliance with which surpasses our strength. It would suffice, the Pope says to invert

¹⁶ Id., *ib.*, 94, a.6.

the terms of the argument to show its weakness: God does not command the impossible; but he commands this; therefore, it is not impossible. And he cites, in confirmation thereof, text from the Tridentine Council, based upon the eloquent words of St. Augustine: God does not command us to do the impossible, but when he commands us something, He wants us to do what we can and ask for that which we cannot do and He makes, through His help, possible for us to do what exceeds our sufficiency.¹⁷

¹⁷ Pius XII, *Address to the Italian Midwives*, 29 October, 1951; AAS 43 (1951), p. 846 and ff.