

How Natural is Natural Law? On Aquinas's Presuppositions

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In the recent decades, political and moral philosophy has seen a revival of interest in natural law, and oftentimes these projects are carried out under the banner of Aquinas. This essay seeks to illustrate how Aquinas' notion of the natural law is deeply enmeshed in his metaphysical and theological presuppositions. It suggests that any project to recover a properly Thomistic natural law in the 21st century has to account for these presuppositions, whether they are to be rejected and replaced or modified and defended.

INTRODUCTION

This essay attempts to articulate a basic attitude to approaching the question, “how natural is natural law?” In this essay, I will argue that Aquinas's theory of natural law depends overtly on theological and metaphysical presuppositions. My basic argument is that any natural law theory that claims to be Thomistic must take into account these key features of Aquinas's thought, which in broad strokes are (1) the relation between the eternal and natural law, and the participatory metaphysics and theology behind it (2) the notions of being, goodness, and desirability, and the metaphysical assumptions behind it. I argue that a rejection of these features will need to account for the losses, which suggests—though definitely not

conclusively—that outside the Christian tradition, natural law will seem quite unnatural to the 21st century agnostic.¹

I. ETERNAL AND NATURAL LAW: PARTICIPATIONIST METAPHYSICS AND THEOLOGICAL IMPORT

One key feature of Aquinas's natural law is his clear conceptual link between the eternal and natural law. His initial definition of natural law makes this clear: “Accordingly it is clear that natural law is nothing other than the sharing in the Eternal Law by intelligent creatures.”² Upon closer examination, this link depends on numerous theological and metaphysical presuppositions, such as participatory

¹ In this article I am indebted to the interpretive work of three excellent sources: Craig A. Boyd, “Participation Metaphysics in Aquinas's Theory of Natural Law,” *American Catholic Philosophical Quarterly* 79, no. 3 (2005): 431–45; Eleonore Stump, *Aquinas, Arguments of the Philosophers* (London: Routledge, 2003); Michael Zuckert, “The Fullness of Being: Thomas Aquinas and the Modern Critique of Natural Law,” *The Review of Politics* 69, no. 1 (2007): 28–47.

² Thomas Aquinas, *Summa Theologiae*, trans. Blackfriars, 60 vols. (London: Eyre and Spottiswoode, 1966), IaIIae Q91a2. In the following footnotes I shorten the title to *ST*.

metaphysics, the Christological explanation of the eternal and natural laws, and the relation of human reason to the image of God.

W. Norris Clark identifies three key elements to any participation structure: “(1) a source which possesses the perfection in question in a total and unrestricted manner; (2) a participant subject which possesses the same perfection in some partial or restricted way; and (3) which has received this perfection in some way from or in dependence on the higher source.”³ Aquinas’s position thoroughly fits this description. Aquinas thinks that the eternal law is perfect, since the eternal law is a divine exemplar in the mind of God. Since God is omniscient and providentially governs the universe, like an artist who has the image of his or her painting in mind before painting, God’s mind contains all of creation: “the Eternal Law is nothing other than the exemplar of divine wisdom as directing the motions and acts of everything.”⁴ The eternal law is thus the perfect and coherent nature within God, which is reflected in his providential ordering of the universe. Humans, as part of this universe, bear the unique status of rational creatures. Creatures participate in the “radiance of the Eternal Law,” though Aquinas qualifies that humans are not God, and so cannot “know the things of God as they are in themselves.”⁵ Thus humans come to know the eternal law from its effects, just as humans cannot stare directly into the sun but can perceive it from daylight.

What about the third feature of participation: that the participating subject receives an analogous perfection from or dependent on the higher source? Here, we should consider the peculiar status of rationality within Aquinas’s conception of a human. For Aquinas, by its very definition, humans are rational animals. Rationality is the distinguishing feature of humans, and in this sense the primary differentiating component in determining the essence of humans. Thus it might be argued that Aquinas does not depend on any sort of participation to

ground the essential features of the participating subject. In other words, the claim is that we can conceive of human rationality quite apart from any participatory metaphysic.

There is some merit to this objection—Aquinas’s arguments for the unique status of human rationality do partly stand on a theory of kinds, in which a differentia determines the essential features of the species, rather than some emanation or sharing in God’s divine light. Some natural law theorists such as Anthony Lisska draw on this insight as a foundation for a natural law theory that is not predicated upon theological claims.⁶ But this is mistaken, since it does not take into account the way in which participatory metaphysics underlies a theory of kinds—or more properly put in medieval terms, the order of being—or the explicit theological characterizations of human rationality. I consider each in turn.

Firstly, Aquinas explicitly argues that the order of being comes about because being emanates from God, who is perfect being. This is most clear in *Prima Pars*. In answering whether Aquinas thinks that every being was necessarily created by God, he concludes, “Therefore all beings apart from God are not their own being, but are beings by participation. Therefore it must be that all things which are diversified by the diverse participation of being, so as to be more or less perfect, are caused by one First Being, Who possesses being most perfectly.”⁷ In other words, Aquinas’s metaphysical proposal of what creaturely being “consists of” relies upon a participation structure, in which God’s being—which is highest and most perfect sense of being, essence and existence in perfect harmony—provides the fount of all being.⁸ Aquinas’s dependence on this emanation structure underlies his theory of kinds: a human is not *just* a rational animal, but also belongs properly to the genus of substance, corporeal, sentient, animate, and so forth. Hence theories of natural law which seek to jettison Aquinas’s participationist metaphysics through appeal to a theory of kinds or human

³ Quoted in Boyd, “Participation Metaphysics,” 441. See also W. Norris Clarke, “The Meaning of Participation in St. Thomas,” *Proceedings of the American Catholic Philosophical Association* 26 (1952): 145–57.

⁴ *ST IaIIae Q93a1*.

⁵ *ST IaIIae Q93a2*.

⁶ Boyd, “Participation Metaphysics,” 432–36.

⁷ *ST Ia Q44a1*.

⁸ *ST Ia Q44-45*.

rationality fail to consider how the very conception of rational animal is predicated upon a peculiar hierarchy, a hierarchy that depends on a particular ordering of the universe in which God is at the center, and where humans have a distinct placement in relation to this center. That Aquinas thinks the universe is ordered in such a manner is apparent throughout the *Summa Theologiae* (*ST*), most notably in Aquinas's claim that the first cause is also the final cause.⁹ Created order emanates from God and, like a ripple that has reached the edge of the pond, proceeds toward the center from which the ripple sprung forth. Thus the teleological drag that results from human nature is not derived simply from the common observation that humans are rational animals, but that the universe is ordered in a particular manner toward certain ends, the final end consisting of God who is the wholly simple culmination of the true and good.

Admittedly, one could argue for a version of Aquinas's theory of kinds based on empirical observation, and draw from other areas of the *ST*. For instance, when Aquinas defines a self-evident proposition, he uses the statement, "man is a rational animal," though he concedes that this is not a self-evident proposition for one who has not grasped the essence of humans, much in the same way that someone who does not know what a triangle is could agree to the proposition "all triangles have three sides."¹⁰ Thus we might think the rationalist approach that begins with God and proceeds down the order of being can be traded for an empiricist approach that emphasizes our observations of what differentiates humans from other things. I think this approach is plausible, though if a recognizably Thomistic account of natural law *claims* to eject Aquinas's participationist metaphysics and theological presuppositions and be coherent on its own grounds,

this account must answer the claim that humans are rational animals *without* appeal to these rejected features.¹¹

Second, Aquinas's exploration of the eternal law is not only buttressed by participation structures, but also explicitly depends on theological themes. The most obvious theological concepts are those he uses to explain the eternal law: God's providence, omniscience, wisdom and mind. In general, Aquinas uses these theological concepts to show that God's coherent and simple nature is reflected in the natural law in a partial and incomplete (though not antagonistic) manner. Equally important is how Aquinas blends in Christology. Craig Boyd notes how Aquinas uses terms such as "divine wisdom," "exemplar," "Word," and "Eternal Law," to refer to the activity of the pre-incarnate Christ.¹² Aquinas says, "The Son is not created but begotten naturally of God, therefore he is not subject to the Eternal Law, but rather...is himself the Eternal Law."¹³ In other words, Christ the Word of God is the eternal law. Thus if the second person of the Trinity is the divine *logos*, Boyd observes "it follows that the creation of humans and the moral laws that govern them are dependent upon Christ...Since the divine *logos* is the eternal law, it follows that every act of cognition of the eternal law is a participation in the creative power of God."¹⁴ In short, that all things are "created by him and for him" and the fact that "in him all things hold together," explain each other: "every knowing of truth catches some radiance from the Eternal Law," because human speech analogously imitates God's creative speech in Christ.¹⁵

Lastly, for Aquinas, the rational capacity itself is articulated theologically. The divine image of humanity is seen in the capacity to reason, so much so that Aquinas says in the prologue of *Prima Secundae* "that the human is made in the image of

⁹ *ST* Ia Q44a2-4.

¹⁰ *ST* IaIIae Q94a2.

¹¹ In particular, questions such as (1) why we should think human rationality is dependable and (2) what the distinguishing feature of humanity is in comparison with other things (3) whether this distinguishing feature warrants placing special emphasis on the status of humans as *persons* deserving dignity and respect.

¹² Boyd, "Participation Metaphysics," 440.

¹³ *ST* IaIIae Q93a4.

¹⁴ Boyd, "Participation Metaphysics," 443.

¹⁵ *ST* IaIIae Q93a2 and Colossians 1:15-19.

God... implies that the human agent is intelligent and free to choose and govern itself.”¹⁶ Aquinas also says elsewhere, “for the very light of natural reason is participation itself in the divine light.”¹⁷ Aquinas’s argument that a persons’ *imago dei* refers to his or her uniquely rational nature shows how both theological and participatory concepts animate his view of humans: the rational nature allows for participation in the divine.¹⁸

In sum, the above exploration shows how Aquinas’s theological and metaphysical ideas animate Aquinas’s initial definition of the natural law as a derivation from the eternal law. Aquinas’s emphasis on the similar features between the eternal and natural law work alongside his participatory metaphysics: insofar as we are rational animals, humans participate in the eternal law—the mind of God—and therefore the natural law will share some features of the eternal law such as goodness and coherence. This certainly explains why even though Aquinas concludes there are multiple precepts of the natural law he continues to speak of natural law in the singular, as opposed to the plural laws. It suggests that the coherence within the mind of God is reflected in some way in natural law: the eternal law is one, and so is unity of the natural law.

Most importantly, the above exploration suggests than any rendering of a purportedly Thomist natural law theory should take seriously Aquinas’s proposed definition of the natural law as an analogous image to the perfect eternal law. Natural law theorists who want to eject this definition and the participatory metaphysics and theological assumptions it makes and focus instead on Aquinas’s arguments for natural law through practical and theoretical rationality need to account for the ways in which the status of a human as a rational animal *itself* is sustained through metaphysical and theological argument. Any theory that claims to reject those foundations will need to adjust to these losses instead of presupposing them.

II. THEORETICAL AND PRACTICAL

RATIONALITY AND ITS DEPENDENCE ON BEING AND GOODNESS

So far I have merely considered Aquinas’s definition of natural law as a derivation from the eternal law. In this section I explore in depth Aquinas’s articulation of natural law and attempt to show that, even if one rejects my argument above and argues for a natural law theory predicated on human practical reason, to accept the full sense of Aquinas’s dictum “the good is to be sought, and evil to be avoided,” relies on metaphysical conceptions about the relation between good and being in a manner that goes beyond mere practical reason.¹⁹ I begin by examining how Aquinas articulates natural law in *Prima Secundae* question 94 article two, and then propose his argument is dependent on a particular metaphysics of being and goodness.

Aquinas begins his explication of the natural law by following Aristotle in distinguishing theoretical and practical reason. Theoretical reason is concerned with abstract truth for its own sake, while practical reason is concerned with truth for the end of action. Aquinas then draws similarities between theoretical and practical reason in order to identify the contours of natural law. Theoretical and practical reason is both concerned with truth in a similar manner: they begin with self-evident propositions—first principles—proceed upon an inquiry and draw conclusions from it. The pertinent difference is that practical reason terminates in action, while theoretical inquiry does not.

As an example of a theoretical self-evident proposition, Aquinas appeals to the law of non-contradiction, “there is no affirming and denying the same simultaneously,” which Aristotle identifies in the *Metaphysics* is the first principle of all sciences.²⁰ Analogously, Aquinas suggests that for practical reasoning there is also a first principle—the good is to be sought, and the evil to be avoided—which provides the grounding precept for all other precepts. Natural law consists of these fundamental precepts of

¹⁶ Boyd, “Participation Metaphysics,” 442.

¹⁷ *ST* Ia Q12a11.

¹⁸ I will return to Aquinas’s notion of human rationality in the second section, as it is key to how he conceives of natural law.

¹⁹ *ST* IaIIae Q94a2.

²⁰ *Ibid.*

practical rationality.

Thus, the primary thesis of Aquinas's natural law argument turns on an analogy about theoretical and practical rationality (let (A) stand for this argument from analogy). In the same way that theoretical reason grasps at truths through beginning with self-evident first principles, so too does practical reason concern itself with self-evident first principles that are common to all. Importantly, Aquinas distinguishes this from two other notions, *synderesis*, which concerns the habit of following these practical first principles, and conscience, which concerns the application of judgment insofar as one follows these practical first principles.²¹ Natural law itself is neither of these two things, though it is certainly related. Rather, natural law is the basic precepts of practical rationality available to all humans. They are self-evident to every reasonable and mature human.

In what way does this exposition of natural law depend on metaphysics? We might think that the above conception of natural law is cogent enough on its own grounds: as long as (A) stands, some version of natural law follows. Metaphysics is not needed. However, I propose that this does not do justice to Aquinas's metaphysical assumptions about being and goodness.

Consider Aquinas's proposition that a self-evident precept of practical reason is to desire good and avoid evil. What does Aquinas mean by this statement? Eleonore Stump rightly argues that Aquinas's conception of the good is tied with his understanding of being.²² His central meta-ethical thesis, argued for earlier in *Prima Pars* questions five and six, can be articulated as such:

Meta-ethical Thesis (M): 'Being' and 'goodness' are the same in reference but differ only in sense.²³

Essentially, Stump is stating that for Aquinas,

being and goodness are inextricably linked. There are two senses in which Aquinas speaks of the relation between being and goodness. One sense emphasizes beings as an existing state—that something is the case. The second sense emphasizes being as an activity, a fulfillment, a movement from potentiality to actuality. When Aquinas speaks of goodness, he is often referring to this second sense. In the first sense, we can refer to a being that merely exists as “good,” though in a minimal manner. In the second sense, we can refer to a being as good *insofar as it moves from potentiality into actuality, that is, something is becoming more of what it ought to be*, given its nature.²⁴ Thus when Aquinas speaks of good activities or the good life for humans, Aquinas means that when humans participate in such activities, they become *more fully* human. In this sense being is a progressing activity.²⁵ Thus what we mean by human goods is things and activities that aid humans to become more of their being. That we desire goodness is part of our being becoming.

By the time Aquinas reaches the topic of natural law in *Summa Theologiae* he has already covered these topics and considered them settled, and they lurk beneath his proposition “good is to be sought and done, evil to be avoided.” A careful reading of the logic leading to this conclusion will notice the importance of (M): Aquinas argues that practical reason apprehends an end, and the end carries the meaning of good, and “consequently the first principle for the practical reason is based on the meaning of good, namely *that is what things seek after*.”²⁶ Here we see that practical reason's inclinations toward the good relies on (M), namely, that the meaning of good is tied to being, and hence there is an objective set of activities for humans *qua* human to find good and desirable.

The importance of these assumptions should not be understated. That Aquinas thinks goodness, desire, and being are linked in a metaphysically weighty

²¹ *ST* Ia Q79a12-13.

²² I am heavily indebted to Stump's crisp analysis of this difficult issue, and the following argument shows her influence. Stump, *Aquinas*, 61–91.

²³ *Ibid.*, 62. Or in Aquinas's words, “Goodness and being are really the same, and differ only in idea,” or “Although goodness and being are the same really, nevertheless since they differ in thought, they are not predicated of a thing absolutely in the same way.” *ST* Ia Q5a1.

²⁴ *ST* Ia Q5a1.

²⁵ *ST* Ia Q5a3-5.

²⁶ *ST* IaIIae Q94a2, emphasis mine.

sense *clearly* differs from many other senses of good. Consider three: good signifies pleasure; good signifies an expression of desirability so that the statements “that is good” and “I like this” are equivocal; good signifies merely a comparative statement—it means “better than my previous experiences.” All three definitions could agree with the statement, “The good is to be sought,” but differ vastly from what Aquinas means by good.

This suggests that if a natural law theorist wants to keep (A) and reject (M), the practical rationality that she is speaking about will be different from Aquinas’s sense, because his claim that “the first principle of practical reason is based on the *meaning* of good,” will be a different meaning of good.²⁷ Consequently, the natural law theorist will need to answer to any criticisms left open in rejecting (M).

III. CONCLUSIONS

In the above two sections, I explored several metaphysical and theological themes embedded in Aquinas’s proposals for a natural law. In short, I have argued that any purportedly Thomistic theory of natural law will have to address the consequences of rejecting these themes.

Obviously my argument cannot categorically bar philosophers from appropriating portions of natural law theory in ways that go against the grain of how I think we should understand Aquinas’s system. But the evidence of the above suggests that *if* one desires to bring natural law theory into the 21st century while claiming to be free of Aristotelian and Platonic metaphysics and Christian theological presupposition—and many have attempted—there are serious architectural pillars that need to be constructed, such as the meaning of good and its relation to practical rationality. And perhaps the most important pillar would be how to avoid subjectivism (if one wishes to do so), since Aquinas’s objectivity came clearly from theses such as (M).

The above explorations have shown how deeply Aquinas’s metaphysics and theology are woven into his natural law theory. These conclusions suggest wariness towards any natural law that purports to be “natural” in the 21st century analytical sense: free of

medieval or Christian metaphysics and justifiable to a “common” rationality. Hence I think it is wise to check under the semantic rocks of any natural law that claims cogency regardless of its tradition. But perhaps there is such a theory out there, and I have simply not come across it yet.

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²⁷ Ibid., emphasis mine.