

# *On the Transcendence of the Political Common Good*

## *Aquinas versus the New Natural Law Theory*

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*Abstract.* The article aims to articulate and defend St. Thomas Aquinas's understanding of the transcendence of the political common good and argues against the new natural law theory's view of the common good as limited, instrumental, and ordered toward the private good of families and individuals. After a summary of John Finnis's explanation of the common good in *Aquinas: Moral, Political, and Legal Theory*, the article presents an analysis of the political common good in Aquinas's *Summa theologiae* and *De regno*. This analysis shows, contrary to Finnis, that for Aquinas the political common good transcends the private good of individuals and families, that it consists in the virtuous life of the political multitude, and that the family is insufficient to lead men to virtue apart from the civitas. *National Catholic Bioethics Quarterly* 13.1 (Spring 2013): 133–155.

The aim of this article is to examine the political common good, one of the more important points of contention between new natural law theorists and those who adhere to a more traditional understanding of Thomistic natural law. I propose to do so by examining John Finnis's account of the political common good in his book *Aquinas: Moral, Political, and Legal Theory*.<sup>1</sup> This book is ideal for examining the

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<sup>1</sup> John Finnis, *Aquinas: Moral, Political, and Legal Theory* (New York: Oxford University Press, 1998). Finnis's account of the specifically political common good is largely contained in chapter 7. This chapter differs only slightly from his essay "Public Good: The

subject of this article, since Finnis provides a detailed explanation of the political common good as viewed by the new natural law theory and argues that this view is in fundamental agreement with the teaching of St. Thomas Aquinas.

Finnis argues that for Aquinas the political common good is limited and instrumental, and ordered ultimately to the private good of families and individuals. I hold, on the contrary, that Aquinas teaches that the political common good transcends the private good of individuals and families, that it consists in the virtuous life of the political multitude, or what Aquinas calls “communal happiness,” and that the family is insufficient to lead men to virtue apart from law and the *civitas*.<sup>2</sup>

My paper has six parts. In the first part, I summarize the key elements of Finnis’s account of the common good. In the second part, I turn to Aquinas, making some general remarks about what he understands by the term “common good.” In the third, I outline his understanding of the specifically political common good, which he identifies as happiness, or the life of virtue. The fourth part focuses on the need for human law as a guide to the life of virtue, and the insufficiency of the moral training proper to the family. In the fifth, I examine the virtue of legal justice, which he describes as the most perfect of all the moral virtues and the virtue by which man participates in the communal life of the *civitas*. Finally, I explain why Aquinas sometimes seems to identify “peace” as the political common good by explaining the distinction between what he calls an “intrinsic” and an “extrinsic” common good.<sup>3</sup>

### **Finnis on the Political Common Good**

According to Finnis, the specifically political common good is limited and instrumental. Human law and government provide an indispensable means to the good life, the life of virtue, but this life is pursued privately by individuals and families. The political common good—to use the language of the new natural law theory—is not a *basic human good*, that is, it is not a good that is pursued for its own

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Specifically Political Common Good in Aquinas,” in *Natural Law and Moral Inquiry: Ethics, Metaphysics, and Politics in the Thought of Germain Grisez*, ed. Robert P. George (Washington, DC: Georgetown University Press, 1998), 174–209. Finnis’s understanding of the instrumental character of the political common good is in substantial agreement with the account of the common good found in Germain Grisez, *The Way of the Lord Jesus*, vol. 2, *Living a Christian Life* (Quincy, IL: Franciscan Press, 1993), 844–858. Finnis, unlike Grisez, argues that the account held by the new natural law theory is consistent with the teaching of St. Thomas Aquinas.

<sup>2</sup> For other criticisms of Finnis, see Lawrence Dewan, “St. Thomas, John Finnis, and the Political Good,” *The Thomist* 64.3 (July 2000): 337–374; Michael Pakaluk, “Is the Common Good of Society Limited and Instrumental?” *Review of Metaphysics* 55.1 (September 2001): 57–94; and Steven A. Long, “St. Thomas Aquinas through the Analytic Looking Glass,” *The Thomist* 65.2 (April 2001): 259–300.

<sup>3</sup> The full version of this article concludes with a discussion of the necessity of understanding Aquinas’s account of the political common good to rightly interpret recent Church teaching on the common good.

sake, one that satisfies a natural inclination.<sup>4</sup> The *civitas* is necessary because individuals, families, and groups of families have difficulty securing and maintaining an external order of justice and peace, that is, they have difficulty securing themselves *well* against violence and maintaining a fair and stable economic system by which material goods are distributed, exploited, and exchanged.<sup>5</sup> These are the functions that define the *responsibility* and the *authority* of human law and government, and manifest the need that individuals and families have for political community. Apart from the *civitas*, individuals and families are less secure and less prosperous in their pursuit of basic human goods.

Given Finnis's claim that the common good is instrumental, it is no surprise that he radically minimizes Aquinas's assertion that the *civitas* is a "complete community" and Aquinas's description of individuals and families as "parts" in relation to the political whole. Individuals and families are "parts" of the political community in the sense that law and government provide the necessary support, or indispensable context, for the private pursuit of happiness. Indeed, in a more fundamental sense these "parts" are prior to and more complete than the *civitas*:

So Aquinas reaches the concept of "complete community" only by attending to the deficiencies of such a community's elements or "parts"—fundamentally, individuals and families. These parts are prior to complete community not historically but in a more important way: their immediate and irreplaceable instantiation of basic human goods. The need which individuals have for the political community is not that it instantiates an otherwise unavailable basic good. By contrast, the lives of individuals and families directly instantiate basic goods, and can even provide means and context for instantiating all the other basic goods, for example, education, friends, marriage, and virtue.<sup>6</sup>

This is the heart of Finnis's account. Individuals and families are perfect or complete insofar as they immediately or directly instantiate the basic goods, those goods that are pursued for their own sake and satisfy our natural inclinations. The good life, the life of virtue, is essentially private, and individuals and families are only said to be "parts" of the political community in a qualified sense, because they stand in need of an instrumental good—the order of justice and peace.

Finnis bases his interpretation of Aquinas on several passages in the treatise on law (*Summa theologiae* I-II, qq. 90–108), where Aquinas contrasts the purpose of human law and divine law. These texts seem to identify the common good with "peace," or "justice and peace," and emphasize that human law and political community are concerned with external action, especially matters of justice. Let us take a look at one of these texts:

The kind of community to which human law is ordered is different from that to which the divine law is ordered. For human law is ordered toward the civil community, which is a community of men in relation to each other. Men, however, are ordered toward each other through exterior acts, by which men share

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<sup>4</sup> Finnis, *Aquinas*, 247.

<sup>5</sup> *Ibid.*, 247–248.

<sup>6</sup> *Ibid.*, 244–245.

a common life amongst themselves. Such a life in common pertains to justice, which is properly directive of the human community. Wherefore human law does not posit precepts except about acts of justice; and if it prescribes acts of the other virtues, this is only insofar as they assume the notion of justice, as is clear from the Philosopher in *Ethics* V.<sup>7</sup>

Finnis draws two points from the above text. First, he argues that since men are ordered toward each other through external acts, the *end or purpose* of human law and government is to promote and preserve an external order of justice rather than producing virtue in the soul, or promoting actions that stem from a rightly ordered interior disposition. The second point that Finnis makes is this: since the authority of human law is restricted to regulating acts of justice, it “cannot rightly regulate the full range of choices required by practical reasonableness.”<sup>8</sup> Human law does not cultivate “complete virtue” or “all-round virtue.”<sup>9</sup>

Finnis raises an obvious difficulty with his own reading of Aquinas. How does one explain the many texts where Aquinas insists that human law and government aim at inculcating virtue? His answer to this question is that human law takes an interest in the interior disposition, but only in a limited and qualified way, insofar as it helps secure peace and justice: “Human law must inculcate virtues because it will only work well as a guarantor of justice and peace if its subjects internalize its norms and requirements and—more important—adopt its purpose of promoting and preserving justice.”<sup>10</sup> Human law inculcates virtue, but it does so only as a means to external order, because it is the most effective way to ensure that citizens comply with the law and work to promote and preserve the external order of justice.

Finnis is especially concerned with showing that Aquinas restricts the responsibility and authority of human law compared with the responsibility and authority of parents within the family: “Parents have a primary educative responsibility in respect of their children, and this responsibility . . . unlike public authority, includes a responsibility not only for peace and justice but also for seeing to the all-round character of the children.”<sup>11</sup> It is within the family and other private associations—not the *civitas*—that one finds the cultivation of complete virtue and the fulfillment of our natural inclination to live in society. According to Finnis, the purpose of human law is not to function as a moral teacher. The function of human law is to maintain public order by exercising the coercive power of the state against the violence of those individuals who threaten the essentially peaceful life of the family.

How, then, does Finnis explain those places in Aquinas where human law and government are said to aim at happiness, or to direct the multitude toward the life of virtue? Finnis suggests that in some vague and indeterminate way human law can be said to be ordered toward happiness insofar as it provides the indispensable

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<sup>7</sup> Aquinas, *Summa theologiae* (*ST*) I-II, q. 100, a. 2. This and all other translations of Aquinas in this article are my own.

<sup>8</sup> Finnis, *Aquinas*, 225.

<sup>9</sup> *Ibid.*, 222–223, 226, 251.

<sup>10</sup> *Ibid.*, 232.

<sup>11</sup> *Ibid.*, 223.

means to happiness: the common good of the political community is all-inclusive in the sense that reasonable individuals, reasonable parents, reasonable citizens see that law and government help individuals and families in their pursuit of beatitude and all-round virtue.<sup>12</sup> The purpose of human law and government, in other words, is ordered toward a more ultimate end, the happiness and all-round virtue of individuals and families. But beatitude is not the *proper end or purpose* of government. Beatitude is the *proper end or purpose* of individuals and families. This is why Finnis explicitly denies that human law and government have the responsibility, or the authority, to positively direct or order men toward happiness, or complete virtue. Reasonable citizens may hope that families succeed in their pursuit of happiness and virtue, but the proper end of government—the order of justice and peace—plays a purely instrumental role in achieving this end.

### Aquinas on “Common Good”

To understand the nature of the common good we need to be clear about the nature of the good simply. Aquinas is fond of quoting the Aristotelian formulation, “The good is what all things desire.” The formula manifests that the good as such has the notion of an end or final cause since it is the goal of some kind of appetite.<sup>13</sup> The first thing to notice about the common good, then, is that it is common precisely as a good. The common good is a *common end*, not a good that is common by predication.<sup>14</sup> I might be tempted to describe health as a “common good” since everyone desires to be healthy. When I desire to be healthy, however, I am not seeking the same thing that you are when you seek to be healthy; what I seek is the health of *my body* whereas what you seek is the health of *your body*. Of course, when you and I say that we seek to be healthy, the predicate “healthy” shares something in common in both cases, but what is common here is only specifically the same. But for Aquinas, the common good is “common, not by the community of genus or species, but the community of final cause.”<sup>15</sup> A common good, then, is a single end—one in number—that is able to be pursued or enjoyed by many.

When we say that the common good is able to be pursued or enjoyed by many, however, we mean that the common good as such is not diminished by being shared. Although we speak about sharing a bottle of wine, it is not strictly speaking a common good, since the wine in my glass is not the very same wine that is in your glass—my glass of wine and your glass of wine differ numerically. Consequently, the more wine you take the less there is for me. I do not mean to say that sharing a bottle of wine is not a good thing for friends to do. Indeed, it might greatly contribute to the pursuit or

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<sup>12</sup> Ibid., 235.

<sup>13</sup> One should note that to speak of the good as the goal of appetite should not be taken to mean that appetite makes the good to be good. Rather, it is of the very nature of the good that it be a terminus of appetite, that it is the sort of thing that incites desire. Something is good not because it is desired, it is desired because it is good. See Aquinas, *De veritate*, q. 21, a. 1.

<sup>14</sup> For a helpful discussion of this distinction, see Gregory Froelich, “The Equivocal Status of *Bonum commune*,” *New Scholasticism* 63.1 (Winter 1989): 38–57.

<sup>15</sup> *ST* I-II, q. 90, a. 2, ad 3.

enjoyment of some higher good that is truly shared in common, such as the good of truth—thus the phrase *in vino veritas*—but the wine as such is not a common good. Or, to take another example, the books in the library are meant for common benefit, but if I borrow a book from the library, that precludes you from using the book at the same time. A truly common good, however, is as able to be pursued and enjoyed by many at the same time because as such it is capable of common enjoyment. Thus, the bottle of wine and the library book are not strictly speaking common goods.

The common good, then, is a single end pursued and enjoyed by a multitude of individuals. What are some examples of genuine common goods? Common goods are most readily seen where we find many individuals working together for the sake of a single end or goal. The soldiers in an army all work together for the sake of victory. Or the sailors on a ship all work together to bring the ship safely to port. In these examples we have a single end that is pursued and enjoyed by many. The soldiers delight in victory and sailors delight in the ship's safe arrival. We might add that insofar as many individuals work together for the sake of a common goal they can be said to form a community and to act in common. To sum up: *The common good is a good that is one in number and is able to be shared by many without being diminished.*

### **Aquinas on Happiness as the Political Common Good**

Having arrived at a working definition of the common good, let us now turn to an examination of the political common good. We have noted that the notion of a common good is applicable to the common goal of any kind of community, but Aquinas also has a more restrictive notion of the common good as the end of a *perfect community*. Thus, although in one sense we can speak of the common good of an army, or of sailors on a ship, the common good of the political community is higher and more perfect. Indeed, the political community is the only perfect human community in the natural order. I add this last qualification because Aquinas will speak of other perfect communities, such as the community of the whole universe ordered to God as a final end and the community of God and the blessed otherwise known as the City of God. What, then, does Aquinas mean by calling the political community a perfect community?

Aquinas, following Aristotle, argues that the city is the perfect human community because of its self-sufficiency:

[Aristotle] says that the city is a perfect community; and this he proves from this, since every association among all men is ordered to something necessary for life, that community will be perfect which is ordered to this, that man have sufficiently whatever is necessary for life. Such a community is the city [*civitas*]. For it is of the nature of the city that in it should be found everything sufficient for human life . . . for it is originally made for living, namely, that men might find sufficiently that from which they might be able to live; but from its existence it comes about that men not only live but that they live well insofar as by the laws of the city human life is ordered to the virtues.<sup>16</sup>

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<sup>16</sup> Aquinas, *Pol.* I, lect. 1, n. 23.

The perfect human community, then, is self-sufficient not only because it allows men to flourish materially, but, more importantly, because it makes the good life possible by ordering men toward the life of virtue. This is only one example of many passages where Aquinas faithfully represents and endorses Aristotle's view that man by nature is a political animal, that he reaches his natural perfection by participating in the *civitas*.<sup>17</sup>

How does Finnis respond to this text and other texts found in Aquinas's Aristotelian commentaries? Finnis does not dispute that for Aristotle the city is a perfect community *because* it is ordered toward happiness, nor does he dispute Aquinas's apparent endorsement of this view in his commentaries on Aristotle's *Nicomachean Ethics* and *Politics*.<sup>18</sup> He argues, however, that Aquinas breaks from the teaching of Aristotle in the *Summa theologiae* and in the *De regno*.<sup>19</sup> But this claim is demonstrably false. We can see from the very beginning of the treatise on law—where Aquinas aims to give a definition of law—that Aquinas is explicitly following the teaching of Aristotle. Having argued in q. 90, a. 1 of the treatise on law that law is a work of reason because it is proper to reason to order things toward an end, he then asks in q. 90, a. 2 whether law is always ordered toward the common good. Here is the key part of his reply:

Now the first principle in practical matters—those things pertaining to practical reason—is the ultimate end. The ultimate end of human life is happiness or beatitude as stated above. Whence it is necessary that law most of all [*maxime*] should look to the ordination toward beatitude. Moreover, since every part is ordered toward the whole as imperfect to perfect; and since one man is a part of the perfect community, it is necessary that law properly [*proprie*] should look to the ordination toward communal happiness [*felicitem communem*]. Whence, the Philosopher, in the above definition of legal matters mentions both happiness and the political community. For he says, in *Ethics* V.1, that “we call those legal matters just that produce and preserve happiness and its parts for the political community,” since the *civitas* is a perfect community as is said in *Politics* I.1. Now in any genus that which is said to be to the maximum degree is the principle of the others, and the others are said in relation to it, as fire, which is hot to the maximum degree, is the cause of heat in mixed bodies, which are only called hot insofar as they participate in fire. Whence it is necessary that since something is called law to the maximum degree insofar as it is ordered toward the common good, any other precept about some particular work has not the notion of law except insofar as it is ordered toward the common good. Therefore every law is ordered toward the common good.<sup>20</sup>

Here we have Aquinas speaking in his own name unambiguously asserting that law must be ordered toward the ultimate end, happiness. We should keep in mind that Aquinas is speaking here with the greatest precision since he is in the process of

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<sup>17</sup> See, for example, Aquinas, *Ethic.* I, lect. 1, n. 4.

<sup>18</sup> Finnis, *Aquinas*, 222.

<sup>19</sup> *Ibid.*, 222–231.

<sup>20</sup> *ST* I-II, q. 90, a. 2.

defining the very nature of law.<sup>21</sup> When Aquinas says that law properly (*proprie*) looks to communal happiness he is identifying happiness as the *proper end* or *purpose* of law. And when he asserts that law most of all (*maxime*) looks to the ultimate end, to happiness, he is clearly asserting that the ultimate end is the principal concern of law, not a matter of remote, or secondary interest. Indeed, Aquinas appeals to the principle that the maximum in the genus is the cause of everything else in that genus<sup>22</sup> to manifest the point that a precept of law that pertains to something that is not ultimate (e.g., a precept of law about particular matters, or regarding an instrumental good), participates in the notion of law only insofar as it is ordered toward the ultimate end.

Finnis suggests that those texts of Aquinas that seem to assert that beatitude is the political common good should be understood to mean that human law and government are ordered toward beatitude by providing the indispensable context and support for individuals or families privately pursuing the good life, and should not be taken to mean that human law and government positively *directs or orders* men toward beatitude. But q. 90, a. 2 shows that law does not merely look to the ultimate end in some vague or indeterminate way, as Finnis suggests, but it is of the very nature of law to be *directed or ordered* toward the ultimate end.

Aquinas also makes a second point in the text of q. 90, a. 2: not only is happiness the ultimate end of law, it is an end that can only be attained by participating in the political community. Man is ordered to the city as part to whole, because it is only by participating in political life that he can be happy. The end of law is communal happiness (*felicitem communem*) because the good life, the life of virtue, is a life shared in common by the political community. This is why Aquinas will later say that “the principal intention of human law is to establish friendship between man and man.”<sup>23</sup> Finnis maintains that the public good is an instrumental good, a good that is further ordered toward private happiness, the life of virtue lived within the family or among private associations. But this position is obviously opposed to Aquinas’s assertion that “law properly should look to the ordination toward communal happiness.” If happiness is a private good, as Finnis maintains, what could Aquinas possibly mean by the term “communal happiness”?

One might be tempted to say that *felicitem communem* is something common *by way of predication*, that the common good is simply the greatest good of the greatest number. As we have previously shown, however, what Aquinas means by the term “common good” is a single end pursued and enjoyed in common. Indeed, it is in response to one of the objections in this very article that Aquinas makes clear that a common good is “common, not by the community of genus or species, but the

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<sup>21</sup> Aquinas concludes q. 90 by gathering together the four essential elements of law into a single definition: “an ordination of reason, for the common good, made by him who has care of the community, and promulgated.” *ST I-II*, q. 90, a. 4.

<sup>22</sup> This principle is found throughout the corpus of Aquinas, but is most famous for its role in Aquinas’s Fourth Way of proving God’s existence in *ST I*, q. 2, a. 3.

<sup>23</sup> *ST I-II*, q. 99, a. 2.



community of final cause.”<sup>24</sup> Aquinas can only mean that man achieves happiness as a part of the *civitas*, by participating in the political common good precisely as a common end, not as an instrumental good ordered toward the private pursuit of happiness.

The same teaching regarding the political common good is also found in Aquinas’s *De regno*:

It seems that the end of a multitude of men gathered together is to live according to virtue. For men gather together that they may live well together, a thing which the individual man living alone could not attain, and the good life is the life according to virtue. Therefore, virtuous life is the end for which men gather together. A sign of this is that only those who mutually share in living well are parts of a gathered multitude. If men came together merely to live, then animals and slaves would be a part of civil society. Or, if to acquire wealth, all those who traded together would belong to one city. As it is, we see that only those are regarded as forming one multitude who are directed by the same laws and the same government toward living well.<sup>25</sup>

Aquinas is clear in this text: the ultimate end of the multitude is virtuous living, the life of virtue as lived in common. Indeed, he seems to explicitly reject the notion that the *civitas* is ordered toward an instrumental good, mere living, or wealth. The *civitas* is ordered toward the good life, the life of virtue lived in common with other members of the city. We also see, again, that it is by means of law that men are ordered toward the life of virtue. The city does more than provide the indispensable context or support, it actively orders and directs men toward the good life.

### **The Need for Human Law**

Having shown that the common good is shared happiness, or the virtuous life of the political multitude, let us turn to Aquinas’s treatment of the need for human law. Finnis challenges what he regards as an overly Aristotelian reading of Aquinas, that human law is necessary to effectively lead men to virtue. On his interpretation, law is not needed as a moral teacher or guide, but as a safeguard against violence and crime. This reading, as we will show, distorts Aquinas’s repeated insistence on the role of human law as a guide to virtue.

To understand the need for human law we have to understand that law functions in different ways depending on the persons on whom it is imposed. Aquinas points out that law is imposed on two kinds of men and moves them in different ways. Consider the following texts:

Every law is imposed on two kinds of men. For it is imposed on certain men that are obstinate and proud, who are restrained and tamed by the law; it is also imposed on good men who, instructed by the law, are helped to accomplish what they aspire to do.<sup>26</sup>

I respond that, as said above, every law is given to some people. But in the people are contained two kinds of men: some prone to evil, who must be

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<sup>24</sup> *Ibid.*, q. 90, a. 2, ad 2.

<sup>25</sup> Aquinas, *De regno* I.16.

<sup>26</sup> *ST* I-II, q. 98, a. 6.

coerced by the precepts of the law, as stated above, some having an inclination to the good, either from nature, or from custom, or rather from grace; and such men must be taught and moved toward better things, by the precept of law.<sup>27</sup>

In addition to restraining those who are unruly, the law serves as a moral teacher to those who are well disposed. In his treatment of Aquinas, Finnis puts the emphasis on the need for the coercive power of law to restrain the violent. This is obviously important and necessary, but for Aquinas law is *principally* a work of reason: it belongs to the very definition of law to be a work of reason, whereas coercive power is something secondary, made necessary by those who do not cooperate with the intention of the legislator.<sup>28</sup>

Aquinas stresses the rational character of human law when he first discusses human law in q. 91, a. 3, where he draws a parallel between the speculative and practical reason in order to manifest the nature and necessity of human law:

Just as in the speculative reason, from naturally known indemonstrable principles are brought forth the conclusions of the various sciences, the knowledge of which is not imparted to us by nature but discovered through the efforts of reason, so also from the precepts of the natural law, as from general and indemonstrable principles, it is necessary that human reason proceed toward certain more particular arrangements. These particular arrangements [*particulares dispositiones*], devised by human reason, are called human laws, provided the other essential conditions of law be observed, as stated above.

Just as the sciences develop over time as a work of human reason, so is human law a work of reason. No science is developed, no art perfected, in a single generation, by one man alone. The development of the arts and sciences requires the cooperation of a multitude of men working together, each man passing on what he has learned to the next generation. It also requires the efforts of those who are wise to synthesize the collective experience of prior generations so that the arts and sciences can be perfected. Only the beginning, the foundation, is supplied by nature in the form of principles from which everything else is derived by human industry. The collective effort required for the development of the arts and sciences is, for Aquinas, one of the reasons why man is a political animal.<sup>29</sup> But the same is true of human law: it a collective effort requiring experience and time, and the wisdom of the wise. Just as men perfect the arts and sciences as part of a community, so do men perfect their knowledge of the natural moral law by participating in the *civitas*.

The broader point, however, is that human law is essential for living the good life because it makes the general precepts of the natural law more specific. Moreover, the specifications of the natural moral law that human law provides are by no means obvious or self-evident, but are the work of experience and time, and are perfected by the prudence or practical wisdom of the legislator. Indeed, Aquinas asserts that

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<sup>27</sup> Ibid., q. 101, a. 3.

<sup>28</sup> Coercive power is not included in the very definition of law, but is a kind of per se property belonging to the person with the authority to make law. See *ST I-II*, q. 90, a. 3, ad 2; q. 92, a. 2; and q. 96, a. 5.

<sup>29</sup> *De regno* I.1.

law is the work of a special kind of prudence, what he calls “regnative prudence,” and this virtue is the most perfect kind prudence.<sup>30</sup>

The prudence or practical wisdom embodied in the law can be easily overlooked, and this is where the parallel between human law and the development of the arts and sciences is especially helpful. We tend to take for granted many of the moral precepts of the natural law as if they were self-evident, but we fail to notice that these precepts came to be known slowly over time by the development of human law. Most men now consider it *evident* that slavery, polygamy, and infanticide are morally wrong, but these very things were almost universally accepted and practiced in the ancient world. This is similar to the way we now accept as *obvious* scientific conclusions that were centuries in the making, for example, that the earth revolves around the sun and is not at rest at the center of the world, that the motion of the tides is caused by the moon, and that light travels. Hence, it may seem that the moral law is sufficiently evident that individuals and families can pursue the life of virtue *on their own*, but this view fails to consider that the moral principles adopted by individuals and families are largely the result of the moral direction provided by human law. Indeed, the insufficiency of the family to live the virtuous life apart from the *civitas* is perhaps most apparent when we consider the harmful consequences that result from the *corruption of human law*. The deleterious effects of no-fault divorce and legalized abortion show that the family cannot sustain itself without the direction provided by rightly ordered human law.<sup>31</sup> It is often said that the family is the *building block* of society, and so it is, but the family on its own is not sufficient to live the good life apart from the moral *foundation* provided by human law.

One might object, however, to this conclusion. If, as we have argued, the knowledge of the natural law depends on human legislators, have we not vitiated the natural law? Isn't the whole point of natural law that the practical principles of the moral life are available to everyone and that those who are well-intentioned can simply be guided by the natural law in their own private lives and have no need for human law and government as a moral guide?

According to Aquinas, most men left to themselves are capable of seeing only the most general precepts of the natural law and must rely on others, those who are wise, to know the remote conclusions of the natural law. Most men, for example, are capable of knowing the precepts of the Decalogue, for example, *Honor thy father and thy mother*, *Thou shalt not kill*, and *Thou shalt not steal*, since the reason of everyone judges at once that these sorts of things should be done, or not done, and Aquinas says that these things “belong to the law of nature absolutely.”<sup>32</sup> But some moral matters are more difficult to see, and require wisdom and careful reflection: “The judgment of some matters requires much consideration of diverse circumstances, and not just anyone can carefully consider these things, but only the wise, just as it does not belong to everyone to consider the particular conclusions of the sciences, but only to the philosophers.”<sup>33</sup>

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<sup>30</sup> *ST* II-II, q. 50, a. 1.

<sup>31</sup> See Pakaluk, “Is the Common Good of Society Limited,” 62.

<sup>32</sup> *ST* I-II, q. 100, a. 1.

<sup>33</sup> *Ibid.*

Hence, these more remote conclusions of the natural law derived by the wise must be taught to the less wise: “There are certain precepts which the wise, after a careful consideration of reason, judge should be observed. And these things belong to the law of nature, yet they require teaching, the wise teaching the less wise, such as *Rise up before the hoary head, and honor the person of the aged man*, and other such things.”<sup>34</sup> For Aquinas, it is part of God’s providence that men are instructed in the natural law by means of the wise, by human legislators.<sup>35</sup> The natural law is *in principle* knowable by reason even though the more remote conclusions can only be grasped by the wise after careful reflection, and are then communicated to the rest of mankind by means of human law. And since the natural law is “nothing other than the rational creature’s participation in the eternal law,”<sup>36</sup> we might say that the highest function of human law is to enable every member of the *civitas* to participate more fully in the divine government. Indeed, this explains why Aquinas insists that human law and government would have been natural to man even apart from original sin, since even in his prelapsarian state men would have been unequal in knowledge and virtue and those who were wiser would have ruled their inferiors.<sup>37</sup>

While the role of law as a moral teacher is essential to law, it is not the only or even the most obvious reason why men need human law and government. This is why Aquinas also emphasizes the need for law to restrain the passions of those who are unruly. In q. 95, a. 1, he argues that parental authority is insufficient to lead men to virtue because some juvenile children are beyond the disciplinary power of their parents and need to be restrained by the coercive power of law:

Man naturally has a certain aptitude for virtue; but it is necessary that the perfection of virtue come to man by some kind of discipline [*disciplina*]. . . . But a man sufficient for himself in regard to this discipline is not easily found, because the perfection of virtue consists chiefly in drawing man away from undue pleasures, to which man is chiefly inclined, and young men [*iuvenes*] most of all, for whom discipline is more effective. Therefore it is necessary that men receive this kind of discipline, through which they attain virtue, from another. Indeed, as to those young men [*iuvenes*] who are inclined to acts of virtue by a good natural disposition, or by custom, or rather by a divine gift, paternal discipline suffices, which is by admonitions. But because some are found to be depraved, and prone to vice, and not easily moved by words, it was necessary that they be restrained from evil by force and fear, in order that at least they might desist from doing evil, and grant others a quiet life, and that they themselves, by being habituated in this way, might be led to do willingly what before they did from fear, and thus become virtuous. Now this kind of discipline, which coerces through fear of punishment, is the discipline

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<sup>34</sup> Ibid. For Aquinas, Moses is the paradigmatic example of the wise human legislator.

<sup>35</sup> Ibid., q. 100, a. 3.

<sup>36</sup> Ibid., q. 91, a. 2.

<sup>37</sup> See *ST I*, q. 96, a. 4. One might object, as does Finnis, that the kind of rule that Aquinas envisions in an earthly paradise is not specifically political in its nature. It is not clear, however, why the rule of the wise would not consist principally in framing laws since law is essentially a work of reason and only secondarily and derivatively an exercise of coercive power.

of laws [*disciplina legum*]. Whence it was necessary for peace and virtue that laws be framed since, as the Philosopher says (*Polit.* I, 2), “as man, if he be perfect in virtue, is the most noble of animals, so, if he be separated from law and justice, he is the worst of all.”<sup>38</sup>

According to Aquinas, the discipline of laws is necessary to address a problem internal to the family, the insufficiency of paternal power to restrain the passions of youth. The young not only have strong concupiscible appetites inclining them to pleasure, they also have intense irascible appetites that incline them to be insolent or rebellious.<sup>39</sup> Therefore, there needs to be some authority that inspires a kind of awe beyond paternal authority to restrain the passions of youth and to move them toward virtue.

Aquinas will note later that because the majority of men are imperfect, human law must move men toward virtue *gradually*, focusing especially on restraining or prohibiting those vicious actions that harm others and threaten to disturb the peace.<sup>40</sup> The discipline or moral training provided by human law is a lengthy process. So the necessity of the coercive power of law to restrain the young, or those moved by their passions, is not a temporary or limited problem. The battle with concupiscence and irascible appetite begins with puberty, but it does not disappear once children pass through the teenage years. Thus, the need for human law stems from the nearly universal difficulty of taming the passions, and the insufficiency of paternal discipline to cope with this problem. Hence, we see that the family is not self-sufficient with regard to living the life of virtue, since paternal power is incapable of directing all men toward virtue.

Granted the insufficiency of paternal power to restrain the passions of youth, one might be tempted to place the emphasis in this passage on the need to use coercive power *to maintain peace*. Aquinas certainly makes that point, but his *main point* is that the moral training within the family is insufficient, and that the fear of civic punishment is necessary to lead the young toward virtue. The discipline of laws, therefore, has a twofold purpose. The *ultimate end* is to produce virtue, but it is also ordered toward a more proximate or *intermediate end*, to maintain peace.

We have shown that for Aquinas the wisdom and experience embodied in human law functions as a moral teacher for those who are well intentioned, communicating a more detailed knowledge of the natural moral law that is necessary for the perfection of virtue; and the discipline of law restrains and tames those who are passionate and unruly, moving them gradually toward virtue and keeping the peace.<sup>41</sup> The

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<sup>38</sup> *ST* I-II, q. 95, a. 1.

<sup>39</sup> On the need for law to regulate concupiscible appetite, see *Ethic.* X, lect. 14, n. 13. On the need for law to restrain irascible appetite, see *Ethic.* I, lect. 1, n. 4; *ST* I-II, q. 105, a. 4, ad 5.

<sup>40</sup> *ST* I-II, q. 96, a. 2.

<sup>41</sup> The full version of this article includes a discussion of an additional reason for the need for human law: it enables public persons to exercise the virtue of restorative justice in a manner that is fair and impartial, thus manifesting the transcendent order of divine justice.

well-being of the family, then, depends on the existence of law and the larger more complete community of the *civitas*.

### Justice and the Common Good

We have shown that Aquinas identifies the political common good as the virtuous life of the *civitas*, and we have shown the indispensable role of law as a guide to virtue, but we have yet to show how the exercise of the moral virtues is essentially political in nature. To do this we need to turn to the virtue of justice, the virtue by which a man is disposed to act well in relation to other men within a political community. We will show that the virtue of legal justice, the moral virtue that orders a man toward the political common good, is complete or all-round virtue and that it not only perfects external action but also rectifies or perfects the interior operations of the will.

Aquinas begins his treatment of justice in the *Summa theologiae* by noting that justice, unlike the other moral virtues, perfects a man in relation to other men: “It is proper to justice, compared to the other moral virtues, to order a man in those things that are toward another. . . . The other virtues, however, perfect a man only in those things that belong to him according to himself.”<sup>42</sup> Since justice perfects a man in relation to others it has a special ordination toward external actions and external things, such as paying a man his wage or performing a civic duty. Hence, “justice is properly distinguished from the other moral virtues according to its object, which is called the just (*iustus*), and this indeed is right (*ius*).”<sup>43</sup> Accordingly, Aquinas defines justice as “the habit by which a man gives to each one his right (*ius*) by a constant and perpetual will.”<sup>44</sup> Aquinas’s point in defining justice in terms of its object—namely, *ius*—is not that the virtue of justice is exclusively concerned with external actions (as opposed to interior operations), but that justice is ultimately ordered toward, and defined by, the good of another, and this represents *an additional perfection* beyond the other moral virtues. Finnis suggests that human law and government are principally concerned with exterior acts because they aim at an instrumental good, but the point of the exterior act for Aquinas is that it is the *good of another*.

For Aquinas, all the moral virtues (as opposed to the intellectual virtues) are perfections of some appetitive power of the soul, and justice is no exception. The virtue of justice is a moral virtue because it is a perfection of the rational appetite, the will. This is why Aquinas’s definition of justice includes the phrase “by a constant and perpetual will.” Justice is seated in the will rather than the sensitive appetite precisely because justice is ordered toward the good of another: “Rendering to each man his own cannot proceed from the sensitive appetite, because sensitive apprehension does not extend itself to this, that it be able to consider the proportion of one thing to another; but this is proper to reason. Whence, justice cannot be in the irascible or concupiscible appetite as its subject, but only in the will.”<sup>45</sup> It is because

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<sup>42</sup> *ST* II-II, q. 57, a. 1.

<sup>43</sup> *Ibid.*, q. 57, a. 1.

<sup>44</sup> *Ibid.*, q. 58, a. 1.

<sup>45</sup> *Ibid.*, q. 58, a. 4.

the *rational appetite* follows the apprehension of reason that the will can desire the good of another. Hence, although the virtue of justice is principally concerned with the good of another, and therefore with external action, it presupposes a rectitude in the rational appetite. Justice perfects the will.

Justice perfects the will, however, not simply because the just man chooses the just action, but because he chooses it for its own sake. He rests in it as an end. The just man, the man who acts out of the virtue of justice, not only renders to each his own but delights in doing so, and this delight belongs to the will:

Those moral virtues which are not about the passions, but about operations, are able to be without the passions, and justice is a virtue of this kind because by it the will is applied to its proper act, which is not a passion. Nevertheless, joy follows the act of justice, at least in the will, which is not a passion. And if this joy be increased through the perfection of justice, joy will overflow even into the sensitive appetite insofar as the inferior powers follow the movement of the superior, as stated above. Thus, by an overflow of this kind, the more perfect a virtue is, the more does it cause passion.<sup>46</sup>

The virtue of justice, then, perfects the will not only because it wills the just action, the external operation, but also because it causes joy and delight in the will itself. Finnis seems to want to downplay the perfection of the interior operations that belong to the virtue of justice. He sees the interior disposition of justice as important because it helps promote and preserve the external order of justice. Aquinas emphasizes that justice is seated in a higher part of the soul—the will—and that if justice be perfect, the joy in the will overflows even into the sensitive appetite. We will see later that the overflow of joy results from the virtue of legal justice, which is justice in its most perfect form.

We have spoken so far of justice in very general terms, as ordered toward the good of another, and perfective of the will. Aquinas will argue that for both of these reasons the virtue of justice is superior to the other moral virtues. On the part of its *subject*, justice is in the more excellent part of the soul, the rational appetite; and on the part of its *object*, justice is superior because it does not simply perfect a man in relation to himself but orders him toward the good of another.<sup>47</sup> But there is an added complexity in Aquinas's account of justice. Following the teaching of Aristotle, Aquinas divides justice into two kinds. One kind of justice, which he calls "particular justice," directs a man in relation to individual men, especially with regard to external goods that can be exchanged or distributed.

Particular justice is the virtue that inclines a man to pay his debts, or to sell something at a fair price. It is also the virtue by which a public person exercises restorative justice or makes a fair distribution of the benefits and burdens of public life, such as distributing honors, dispensing monies from the public treasury, levying taxes, or conscripting soldiers. We usually call those who exhibit the virtue of particular justice "honest" or "fair" because they are concerned with effecting a just exchange or distribution rather than securing their own profit. This virtue is called

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<sup>46</sup> *ST* I-II, q. 59, a. 5.

<sup>47</sup> *ST* II-II, q. 58, a. 12; and I-II, q. 66, a. 4.

“particular justice” because it has a restricted or limited focus: it is concerned with the distribution or exchange of external goods, not with the full range of human activities that relate to other men.

There is another kind of justice, called “general justice” or “legal justice,” that is comprehensive or all-inclusive because it orders the acts of all the virtues toward the political common good. This kind of justice orders a man’s actions toward the good of another not as an individual but as a part contained within a whole, as a member of the political community:

Justice, as stated above, orders a man in relation to another. This can happen in two ways: in one way, to another considered as an individual, in another way, to another in common, insofar as he who serves some community, serves all the men who are contained in that community. In both of these ways, justice is used in its proper sense. Now it is manifest that all who are contained in some community are compared to that community as parts to a whole. But a part is that which belongs to the whole, so that whatever is the good of a part is orderable to the good of the whole. It follows therefore that the good of any virtue, whether it orders a man toward his very self, or orders him toward some other individual persons, is referable to the common good, to which justice is ordered. And according to this the acts of every virtue can belong to justice insofar as it orders a man toward the common good. It is in this sense that justice is called “general virtue.” And since it belongs to law to order to the common good, as stated above, whence it is that such justice, said in a way to be “general,” is called “legal justice,” because through it a man harmonizes with the law ordering the acts of all the virtues to the common good.<sup>48</sup>

The virtue of legal justice aims at the good of the whole political community and thereby serves all those who participate in that whole. Because it orders or directs all the other moral virtues, legal justice is called “general virtue” (*virtus generalis*), and the actions of all the other virtues are said to belong to justice, to become in some sense acts of justice. While the virtue of particular justice is limited or restricted to certain kinds of actions, “general justice” pertains to the full range of human actions by ordering the actions of *all the other virtues* to the common good. General justice is also called “legal justice” because it harmonizes with the law, and the intention of the legislator, in aiming at the political common good. This is an important point, because it manifests that general justice is a specifically *political* virtue.

Finnis occasionally refers to general justice, but speaks of this virtue as if it were apolitical, suggesting that “general justice” pertains to any and every community to which one is related.<sup>49</sup> But Aquinas consistently equates general justice with legal justice and, as a further indication that general justice is a specifically *political*

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<sup>48</sup> Ibid., II-II, q. 58, a. 5.

<sup>49</sup> See Finnis, *Aquinas*, 217. Finnis does not give an argument that the virtue of general justice is applicable to any community, and eschews a careful analysis of Aquinas’s distinction between particular and general justice. Indeed, he indicates that such an analysis would be pointless: “The instability of Aquinas’ classifications of justice suggests that he does not take them too seriously” (216).



virtue, he asserts that “it is in the sovereign principally and architectonically as it were, but it is in his subjects secondarily and administratively as it were.”<sup>50</sup>

Aquinas goes on to explain in greater detail what it means to call legal justice “general virtue.” He makes clear that it is not general in the way that the genus “animal” is said to be general in relation to the various species of animal such as “man” and “horse.” Rather, justice is said to be general *according to its power*, as a universal cause is said to be general in relation to its effects. We use this sense of “general” in common speech when we call the commander of the army the “general” because he is the universal cause of the operations of the entire army, because he directs the actions of all the parts of the army: the infantry, cavalry, and armored divisions. In a similar way, we call a house builder a “general contractor” because he is the universal cause of the building of a house, because he is the one who directs all the other contractors: the masons, carpenters, plumbers, electricians, and roofers. In each of these cases what we mean by “general” is not something generic predicated of species that share a common genus; rather, it names something general *by its power*, because it orders inferior things toward a common end. This is the sense in which legal justice is called “general virtue” (*virtus generalis*): “Legal justice is said to be general virtue inasmuch as it directs the acts of the other virtues to its own end, and this is to move all the other virtues by its command.”<sup>51</sup>

Aquinas goes on to compare legal justice to charity, both of which are described as general virtues. The parallel between justice and charity is a sign of the excellence of legal justice as a moral virtue, since justice is the closest equivalent to charity in the natural order. Justice and charity are general virtues because they order the acts of all the other moral virtues toward a higher end: “Just as charity can be called a general virtue insofar as it orders the acts of all the virtues to the divine good, so also is legal justice insofar as it orders the acts of all the virtues to the common good. Therefore, just as charity, which regards the divine good as its proper object, is a special virtue according to its essence, so also legal justice is a special virtue according to its essence insofar as it regards the common good as its proper object.”<sup>52</sup> Just as legal justice directs the acts of all the virtues toward the communal happiness of the *civitas*, so charity directs the acts of all the virtues toward the divine good, which is nothing other than God as the supernatural common good of the heavenly *civitas*.<sup>53</sup> Charity as a special virtue is defined by its proper object, the supernatural common good, in the same way that legal justice is defined by its ordination to the political common good; and both justice and charity direct the acts of the other moral virtues by a movement of the will, by a command.

Aquinas makes a further point: the name “legal justice” can be used in two ways. In one way I can speak about legal justice in the narrow sense of the term, as a “special virtue” distinct from the inferior virtues that it orders or directs. In this sense legal justice is defined by its proper object, the political common good,

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<sup>50</sup> *ST* II-II, q. 58, a. 6.

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*, q. 26, a. 3; Aquinas, *De caritate*, a. 2; a. 4, ad 2.

and by its own distinctive operation, the act of command. But since legal justice is a general virtue, and its power extends to the operations of the other moral virtues that it directs toward the common good, the name “legal justice” is also extended to the moral virtues whose acts it commands: “Any virtue can be called ‘legal justice’ insofar as it is directed to the common good by the aforesaid legal justice which is special in its essence, but general in its power. Speaking in this way, legal justice is the same in essence with all virtue (*omni virtute*), but differs in notion (*ratione*).”<sup>54</sup> He makes the same point in another part of the *Summa theologiae*: “The justice ordering man to the common good is general by a command, because it orders all the acts of the virtues to its own end, viz. toward the common good. But the virtues insofar as they are commanded by that justice, also receive the name of justice. And in this way virtue does not differ from legal justice except in notion [*ratione*], just as a virtue operating according to itself differs only in notion [*sola ratione*] from a virtue operating at the command of another.”<sup>55</sup>

According to Aquinas, then, “legal justice” names both (1) the virtue that issues commands ordering the acts of all the other virtues toward the common good, and (2) all the moral virtues insofar as they are ordered toward the common good. This twofold sense of legal justice fits with our sense that the just man is not simply the man who wills to do his duty—who issues a command ordering an external action toward the political common good—but the man who does his duty. The internal operation of the will terminates in an external operation.

We see from Aquinas’s account of legal justice as a general virtue that it comprehends all the other virtues and that Finnis is wrong in supposing that human law does not cultivate all-round virtue. Aquinas effectively shows that the virtue of justice, like charity, is all-round virtue because all the moral virtues are contained in the power of legal justice and assume the name “justice” insofar as they are ordered toward the political common good. Moreover, it is precisely insofar as legal justice orders all the other virtues toward the common good that Aquinas says that the joy that is found in the will of the just man overflows into the sensitive appetite.<sup>56</sup>

Not only does Aquinas make clear that legal justice is an all-round virtue, a comprehensive virtue, he also argues for the superiority of justice in relation to all the other virtues. As we have already seen, the virtue of justice, whether general or particular, surpasses the other moral virtues because it perfects a higher power of the soul, the will, and because it is ordered toward a more perfect object, the good of another. But legal justice is “foremost among all the moral virtues insofar as the common good transcends the singular good of one person.”<sup>57</sup> The virtue of legal justice is the moral virtue par excellence because it perfects man’s rational nature by ordering the rational appetite toward the common good, and it perfects his social nature by ordering him toward the perfect human community of the *civitas*.

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<sup>54</sup> *Ibid.*, q. 58, a. 6.

<sup>55</sup> *ST* I-II, q. 60, a. 3, ad 2.

<sup>56</sup> *ST* II-II, q. 58, a. 9, ad 3.

<sup>57</sup> *Ibid.*, q. 58, a. 12.

One might raise an objection, however, to the position of Aquinas that legal justice is the perfection of all the moral virtues. We have already noted in the previous section that human law must move men toward virtue gradually because the majority of men are imperfect, and that human law should not attempt to forbid every vicious action, but should focus on forbidding those actions that are most hurtful to other men.<sup>58</sup> Given this prudential limitation of human law, one might wonder about Aquinas's assertion that *legal justice* is an all-inclusive virtue, or that it is the highest of all the moral virtues in the natural order. Can it really be that the perfection of the moral life is attained precisely by participating in the directive or ordering power of human law?

To answer this objection we need to make an important distinction between the *letter* of the law, the precepts of the law that prescribe or forbid particular acts, and the *intention of the legislator*, especially his intention of the common good. As Aquinas notes, the perfection of legal justice includes *epikeia*, the virtue by which one corrects or supplements the letter of the law by looking toward the end intended by the legislator.<sup>59</sup> The perfectly just man sees the end intended by the legislator and is moved by a love for the common good to perform acts of virtue that go beyond what is strictly required by the *letter* of the law.

Although the law does not prohibit every act of vice or prescribe every act of virtue by an *obligation of precept*, the very end intended by the legislator has the power to oblige a man to avoid vicious actions and pursue those virtuous actions that are required by the common good. This is because, as Aquinas notes, the very ordination toward the common good *is law to the maximum degree*.<sup>60</sup> So when a soldier on the battlefield risks his life in an act of courage that goes above and beyond the call of duty, he is acting according to the virtue of legal justice because he recognizes that the common good in some sense obliges him to act. In a similar way, an *unjust* human law in itself lacks the power to bind a man in the forum of conscience, but the common good may require him to obey such a law to prevent scandal or social unrest.<sup>61</sup> Or, to take another example, the common good may require a man to act contrary to the letter of the law when, by some extraordinary circumstance, following the letter of the law will be extremely harmful to the common good.<sup>62</sup> The point is that the truly just man not only follows the letter of the law, but looks especially toward the common good.

It is only by participating in the *civitas*, by ordering himself toward the political common good, that man can live the good life. This is why Aquinas asserts that man by nature is a political animal, and why he calls the moral virtues that are in man according to the condition of his nature “political virtues,” because they are ordered by the virtue of legal justice toward the political common good.<sup>63</sup> Note,

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<sup>58</sup> See *ST* I-II q. 96, a. 2, ad 2.

<sup>59</sup> *ST* II-II, q. 120, a. 2, ad 2.

<sup>60</sup> *ST* I-II, q. 90, a. 2. See also I-II, q. 96, a. 6; and I-II, q. 99, a. 5.

<sup>61</sup> *Ibid.*, q. 96, a. 5.

<sup>62</sup> *Ibid.*, q. 96, a. 6.

<sup>63</sup> *Ibid.*, q. 61, a. 5. The virtues that are in man according to the condition of his nature are the virtues acquired by habituation rather than infused directly in the soul by the grace

however, that we are speaking of what belongs to man by nature, not what belongs to man according to the order of grace. Through grace, and the supernatural virtue of charity, the moral virtues are further ordered toward a more perfect common good, the divine good as the end of the City of God. The virtue of legal justice, then, is the most perfect of all the moral virtues in the natural order and serves as a model and foundation for the virtue of charity.<sup>64</sup>

### Peace as an Instrumental Common Good

What, then, are we to make of those passages of Aquinas quoted by Finnis that seem to suggest that the political common good is limited and instrumental, that the common good is “peace” or the order of “justice and peace”?<sup>65</sup> To answer this question we need to make a distinction between two different kinds of common goods. Regarding the common good of a community, Aquinas will sometimes speak about an “intrinsic” and an “extrinsic” common good.<sup>66</sup> The *intrinsic common good* is the order found among the parts of community in relation to one another which Aquinas compares to the form of an individual substance such as a man or a horse: “In certain things the order itself is regarded as their form, as in the case of an army or of a city.”<sup>67</sup> The intrinsic common good is the form of an ordered multitude, its “unity of order.”<sup>68</sup> The *extrinsic common good* is that for the sake of which the whole is ordered by the one who rules or governs the community. The good of the order is for the sake of the good of the ruler.

Aquinas’s favorite illustration of the relation between the intrinsic and extrinsic common good is the twofold common good of an army: “The good of the army is in the order itself of the army, and in the general who has charge of the army. But the good of the army is in the general more than in the order because the goodness of the end is preferable to those things which are for the sake of the end. Now the order of an army is for the sake of achieving the good of the general, namely, his will to attain victory; but the good of the general is not for the sake of the good of the order.”<sup>69</sup> So there is a twofold good of the army, the good of order and the good of the general, and the former is for the sake of the latter. The order of the army consists in the various parts of the army working well together, following the chain of command, and possessing a strong sense of unity in the face of adversity—*esprit de corps*. The order of an army is produced and maintained by military discipline,

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of God. For a discussion of the distinction between the acquired and infused moral virtues, see *ST I-II*, q. 63, aa. 1-4.

<sup>64</sup> *ST II-II*, q. 26, a. 3; *De caritate*, a. 2.

<sup>65</sup> Finnis cites *Summa theologiae I-II*, q. 96, a. 3, and *I-II*, q. 98, a. 1. We will discuss both of these texts later.

<sup>66</sup> Aquinas uses the terms “intrinsic” and “extrinsic” in *Metaphys.* XII, lect. 12, nn. 1-11. See also *ST I-II*, q. 111, a. 5, ad 1.

<sup>67</sup> Aquinas, *Metaphys.* V, lect. 5, n. 10.

<sup>68</sup> “In creatures, one form is not found in several individuals except by unity of order, as the form of an ordered multitude.” *ST I*, q. 39, a. 3.

<sup>69</sup> Aquinas, *Metaphys.* XII, lect. 12, n. 4.

which must be especially strict given the inevitable confusion that occurs in the heat of battle and the hardships of military life. But the order and discipline of the army are obviously for the sake of a further end: the drills, the marches, and the training exercises are for the sake of victory.

Having distinguished the intrinsic and extrinsic common good of a multitude, let us see how this distinction applies to the political community. As we have already seen, Aquinas asserts that the ultimate end intended by the ruler or legislator is the virtuous life of the multitude, or what he calls “communal happiness” (*felicitem communem*). What, then, is the intrinsic common good? The intrinsic common good is what he calls “peace,” “concord,” or sometimes “justice and peace.” This is manifest from a text in the *De regno* where Aquinas asserts that the “unity of peace” is necessary if the multitude is to reach its final end, virtuous living:

Therefore, for the good life of the multitude to be established, three things are required. First of all, that the multitude be constituted in the unity of peace. Second, that the multitude thus united in the bond of peace be directed to acting well. For just as a man can do nothing well unless the unity of his members be presupposed, so a multitude of men lacking the unity of peace, while fighting against itself, will be impeded from acting well. The third thing required is that, through the industry of the ruler, there be at hand a sufficient supply of things necessary for living well.<sup>70</sup>

Here we see Aquinas comparing the “unity of peace” in the political multitude to the unity found in the parts of an individual man, to the form of man. We also see that the intrinsic common good, the unity of peace, is further ordered toward the good life, just as the form that makes the parts of a man into a whole is further ordered toward the good operation of the whole man. The distinction between peace as an *intrinsic common good* and the life of virtue as an *extrinsic common good* is consistent with Aquinas’s discussion of the need for the discipline of laws in q. 95, a. 1, where he asserts that the coercive power of law is necessary to maintain peace but is ordered toward virtue as a further end.

Let us now turn to the texts that Finnis quotes to support his claim that “peace” is the specifically political common good. He cites q. 96, a. 3 of the treatise on law, where Aquinas asks whether human law prescribes all the acts of every virtue:

Now all the objects of the virtues can be referred either to the private good of an individual, or to the common good of the multitude: thus, matters of fortitude may be achieved either for the preservation of the *civitas*, or for the preservation of the right of a friend, and in like manner with the other virtues. But law, as stated above, is ordered toward the common good. Therefore there is no virtue whose acts cannot be prescribed by law. Nevertheless human law does not prescribe concerning all the acts of every virtue, but only about those that are able to be ordered toward the common good—either immediately, as when certain things are done directly for the common good—or mediately, as when certain things are ordered by the legislator pertaining to good discipline

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<sup>70</sup> *De regno* I.16.

through which the citizens are formed so that they preserve the common good of justice and peace.<sup>71</sup>

We can see that the distinction between the intrinsic and extrinsic common good is clearly operative in this text. Human law prescribes acts which pertain directly and immediately to the ultimate common good, communal happiness or virtuous living, and it also prescribes some acts that pertain to good discipline through which the citizens preserve the external order of justice and peace.

One might object, however, that this text does not clearly assert that law is ordered toward happiness or virtuous living as an ultimate common good. Why not take this passage, as Finnis does, to mean that the political common good simply consists in the external order of justice and peace? The answer is because the context of the article clearly indicates that Aquinas regards the life of virtue as the ultimate common good. When he says that law is ordained to the common good *as stated above*, he clearly refers to q. 90, a. 2, where he identifies the common good as communal happiness (*felicitatem communem*). And in his reply to the second objection of this very article, he states that “performing virtuous activity in the way that the virtuous man acts . . . is the end toward which the legislator aims.”<sup>72</sup> So a careful reading of q. 96, a. 3 shows that Aquinas is positing a twofold common good, the extrinsic common good, happiness or virtuous living, and the intrinsic common good which he variously calls “peace,” “concord,” or “justice and peace.”

There is one text that Finnis cites which, taken by itself, seems to suggest that *peace* is the ultimate end of human law and government: “It ought to be known that the end of human law differs from the end of the divine law. For the end of human law is the temporal tranquility of the *civitas* [*temporalis tranquillitas civitatis*], which the law attains by restraining external actions insofar as they pertain to those evils which can disturb the peaceful state of the *civitas*. But the end of the divine law is to bring man to the end of eternal happiness.”<sup>73</sup> On its face, this passage seems hard to square with Aquinas’s talk about virtue and happiness and seems to support Finnis’s claim that the political common good is limited and instrumental. But as Finnis himself admits, when Aquinas uses the term “peace” in reference to the human political community, he uses the term in more than one way.<sup>74</sup> Sometimes peace means simply the lack of internal dissension or the agreement among the members of the community about practical affairs. At other times, “peace” becomes a way of naming not only the unity of order that makes a multitude into a whole, but the more perfect unity found in a community that has attained temporal happiness.

Indeed, peace in the stronger sense of the word is associated in particular with his use of the word “tranquility.” Thus, in q. 29 of the *Secunda secundae*, while commenting on the notion of peace employed by St. Augustine in Book 19 of the *City of God*, Aquinas notes that tranquility not only implies a harmony of wills between one man and another; it also implies that all the appetites within each single man

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<sup>71</sup> *ST I-II*, q. 96, a. 3.

<sup>72</sup> *Ibid.*, q. 96, a. 3, ad 2.

<sup>73</sup> *Ibid.*, q. 98, a. 1.

<sup>74</sup> Finnis, *Aquinas*, 227.

are harmonized with one another. Thus, “tranquility” suggests that more perfect unity which belongs to a multitude that has acquired moral virtue. Aquinas points out, moreover, that such tranquility is only perfectly attained in the life to come, although he does grant that it is imperfectly attained in the present life.<sup>75</sup> Thus, when he says that the end of human law is temporal *tranquility*, he seems to be speaking of the unity found in that political multitude that has attained happiness, at least the imperfect beatitude that is possible in this life.<sup>76</sup>

Finnis’s whole treatment of the political common good suggests a kind of either/or scenario: the political common good is *either* peace *or* the life of virtue. For Aquinas, however, the political common good is *both* peace *and* virtuous living, because one is ordered to the other. Not only does Finnis fail to see the proper relation between the intrinsic and the extrinsic common good, he effectively reverses the order of the one to the other in an attempt to explain those places where Aquinas clearly asserts that law and government aim at inculcating virtue. According to Finnis, virtue is a legitimate concern of government only because virtue is a necessary means to establishing or maintaining public order. But Aquinas clearly asserts that the intrinsic order of any multitude is for the sake of the end intended by him who governs the multitude—the order in an army is for the sake of victory.<sup>77</sup> Nor does Finnis’s reading make much sense. It is like saying that the general has a legitimate interest in victory because it is useful for boosting morale among the troops or improving military discipline.

Finnis admits, moreover, that the order of justice and peace is an instrumental good insofar as it contributes toward living the life of virtue in families and in private individuals. But if the governor of a political multitude is able to inculcate moral virtue, and the life of moral virtue is, as such, a higher end, why not say that the order of justice and peace is further ordered toward the morally virtuous life of the political multitude? Since human law plays an essential role in ordering man to the life of virtue by functioning as a moral teacher for those who are well disposed, and by providing discipline and restraint for those whose passions need to be tamed by force and fear, and since man is perfected by participating in the *civitas* through the virtue of legal justice, it seems best to say with Aquinas that the political common good consists in communal happiness, or the shared life of virtue.

If Aquinas is right that the life of virtue can be achieved only by participating in the *civitas*, then the primacy of the political common good, at least insofar as it pertains to temporal happiness, should caution us against diminishing the importance of virtue as the ultimate end of political life. The deficiencies of our own political order, or any other political order, should not lead us to overlook the transcendence of the political common good, or to withdraw from the *civitas* in pursuit of a private happiness that will ultimately fail to satisfy our natural inclination to live in society with other men.

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<sup>75</sup> *ST* II-II, q. 29, a. 2, ad 4; see also q. 29, a. 4, ad 2.

<sup>76</sup> See Pakaluk, “Is the Common Good of Society Limited,” 71.

<sup>77</sup> See Aquinas, *Metaphys.* XII, lect. 12, n. 4; *ST* I-II, q. 111, a. 5, ad 1; and *De veritate*, q. 5, a. 3.