



Budziszewski on the Natural Law as a “Sign of Contradiction”

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This article pursues Budziszewski’s characterization of the natural law as a “sign of contradiction” to explore Aquinas’s De Regno. Aquinas was attentive to the offensive nature of the natural law, as the exasperating character of the natural law says a great deal about man’s condition and the natural law. It will proceed by outlining what it means for the natural law to be a “sign of contradiction,” showing that Aquinas sees the natural law as a “sign of contradiction” in De Regno, and suggesting some lessons about the natural law from Aquinas’s presentation of it in De Regno.

“There would be no eternal return of natural law without an everlasting opposition to natural law.”—Yves Simon¹

Simon’s sage statement points to a trope in natural law theory: “the eternal return” of natural law. Yet, as Simon makes clear, an eternal rejection accompanies that eternal return. What is the grounds of this rejection, and what makes that rejection such a perennial feature of human thought and action?

Budziszewski’s analysis of the natural law as a “sign of contradiction” provides answers to these questions. After discussing the natural law as both a fact about the world and as a theory that humans can articulate from that fact, Budziszewski treats on the scandalous or offensive dimension of the natural law as both fact and theory.² To be sure, the natural law can be “puzzling,” Budziszewski writes. But more importantly, “The fact is that the natural law exasperates. It offends. It enrages.”³

SIGN OF CONTRADICTION

Why should this be so? Budziszewski addresses reasons that are “acute” and “chronic”: what is unique and pressing to our time, and what is age-old.⁴ The “acute” basis for the rejection of the natural law in our time is the “suicidal proclivity of our time to deny the obvious, a proclivity, by the way, which itself cries out for explanation.” The “chronic” basis, however, is the Fall. “Natural law is a sign of contradiction,” Budziszewski writes,

“not merely incidentally because of the times, but essentially because of all times.”⁵

Budziszewski also categorizes such objections to the natural laws as “avoidable” and “unavoidable.”⁶ The natural law can be “puzzling,” just like any mysterious fact or difficult theory. But as one explains the theory, or illustrates the fact, then one expects the befuddlement to dissipate. Any sort of scandal or confusion they cause would be therefore “avoidable,” because one can present the theory in a more palatable or comprehensible form. But on Budziszewski’s account a deeper sort of scandal attends the natural law: “unavoidable” scandal. This is the scandal that “*we don’t want to hear of natural law.*” Budziszewski adverted earlier to the Fall, and adds here that “our noetic powers [are] damaged by the Fall, our wills no longer innocent but depraved.” But even before the Fall, “our first parents were tempted to ‘be like God, knowing good and evil’—to imagine that they could be First Causes of their own moral knowledge and their own constitution as persons.”⁷ The desire to “be like God” is itself a rebellion against the natural law. The ultimate source of the scandal of the natural law, then, is at root the mystery of evil.

Since we know that the Fall takes at least part of the blame for the scandalous quality of the natural law, we know that objections to the natural law will not be only or primarily cognitive, but also volitional: they will be “motivated errors.” We “can’t not know” some things, in Budziszewski’s felicitous turn of phrase, but we can expend a great deal of energy denying that we can. Thus the natural law theorist who seeks the reform of our politics and society through simply rational argumentation has missed a critical point: “Even today there is common ground, because humans still bear a common nature; whether people are commonly willing to stand on that ground is another matter altogether.”⁸

If such issues must remain fuzzy, we have still learned a great deal. For since we know that the aboriginal inclination toward evil lies at the root of our exasperation with natural law, then we have learned that this rejection of the natural law is as mysterious as man’s rejection of God’s status as creator. Our rejection of the natural law concerns not only our relationship with other humans, but also and primarily with God. For these reasons, then, we should not expect Simon’s “eternal rejection” of the natural law to disappear anytime soon.

This connection between the Fall and the natural law, however, remains obscure. What is their relationship? What links the scandalous dimension of the natural law to the Fall and the mystery of evil behind it? A short answer to this question comes in examining Aquinas’s most revealing definition of the natural law: “the participation of the rational creature

in the eternal law” (*ST* I-II.91.2 *resp.*).⁹ The human being as rational can participate in the eternal law cognitively through the natural law: he shares in a higher intellect, a share that Aquinas at times calls a “spark” (*scintilla*), and this intellect is the foundation of the law that moves us to virtuous action toward the good.¹⁰ Man’s habit of apprehension of this “spark” is *synderesis*.¹¹ Through *synderesis* humans can freely direct themselves to their ends, insofar as the will is conformed to reason as habituated through the virtue of prudence.¹² It is in this way that “the natural law is the practical intellect’s natural cognitive participation in eternal law.”¹³

The human person need not know all of these truths to act according to them. When the person acts against any one of these truths, however, he implicitly asserts a host of claims against that truth. Thus the person who chooses some evil as his good seeks to arrogate to himself the right to define good and evil. A claim to such a right, in turn, implicitly denies the creaturely state of the human person before God. For that person implicitly denies God’s divine and rational providence over creation, and further denies the source of knowledge of right and wrong in the order of practical reason through participation in that eternal law.

To summarize: the natural law as the human person’s participation in the eternal law is a sign of man’s humble dependence upon God, and so a sign of contradiction for those who deny that dependence. Man’s perennial effort to dethrone God, then, frequently takes the form of a dethronement of the natural law.

In laying out this connection, we have had recourse to consider God as legislator of the natural law, human nature, and practical reason. These are also the elements that Russell Hittinger offers as the three “foci” of natural law theory. I propose that they are also, conversely, foci for the denial of natural law.¹⁴ Thus Budziszewski’s “unavoidable” basis for the scandal of natural law might be put this way: the foci of practical reason and human nature might wax and wane as scandalous for man, but the focus of natural law qua “ordinance of a divine lawgiver” will always be provocative. Yet that does not mean that one should then excise the lawgiver from one’s account to make it more palatable to contemporaries. To obscure or neglect the third focus is eventually to misconstrue the other two, for natural law cannot be understood properly when understood to obtain only in human nature or the order of practical reason, to the exclusion of God’s law.

The natural law is a “sign of contradiction” because the natural law reminds man that he is not God. This law will not be easily taught to post-lapsarian man, then. How, particularly, is such a teaching to be presented in that realm in which man is most proud and desirous of autonomy, namely politics? For politics is, after all, that activity in which man’s

self-understanding can ossify into ideology, and from there into a false metaphysics.¹⁵

For a meditation on these questions, we will turn to Aquinas's *De Regno*. By asking how we can understand Aquinas's awareness in *De Regno* that the natural law is a "sign of contradiction," we will see what lessons about the natural law—both what it is and how to teach it—we might take away from it.

THE NATURAL LAW IN *DE REGNO*

Now that we have some sense of the definition and significance of the natural law, I propose to investigate key moments of *De Regno* to explore the possible presence of natural law therein. My hypothesis is simple: the status of the natural law as a "sign of contradiction" informs Aquinas's subtle teaching on the natural law in *De Regno*. For we expect Aquinas to invoke the natural law in *De Regno*, and so are puzzled that he does not do so. When we come to see that the natural law theory informs *De Regno*, however, even if it is not explicitly invoked, then we can begin to understand how Aquinas presents his natural law teaching to those least receptive to it, those in political power.

In what follows, I will assume a tripartite structure of the work: I.1–6; I.7–12; and II. The first section, I.1–6, has two distinct parts. First, Aquinas lays out the necessity of political authority and argues for kingship as the regime that best fulfills the end of that authority (I.1–2). Second, he discusses tyranny, including its causes, its effects, and the proper response of citizens to it (I.3–6). Aquinas devotes scant paragraphs on the best regime before asking at some length what causes tyranny, why it inevitably fails, and what can prevent or end tyranny.¹⁶

In I.1–2 Aquinas presents a picture of rational and peaceful politics. Aquinas explains in I.1 that man "has an end to which his whole life and all his actions are ordered" (3), an end that he attains with "the light of reason," which is "placed by nature in every man" (4), and in society (5–7). Indeed, man does not simply pursue his own private good through society: as a free man (*liber*) he seeks the common good of the multitude of free men (10). Such social activity requires political governance: "If, then, it is natural for man to live in the society of many, it is necessary that there exist among men some means by which the group may be governed" (8). A necessity born of nature is a natural or intrinsic necessity.

This discussion sets us up for I.3–6. The best government, monarchy, follows "the order of Divine Providence, which disposes everything in the best way." Man's "providence," so to speak, lies dormant when the tyrant rules by force and according to his ever-changing desires rather than by

reason (26). His actions are directly opposed to the common good: he has to suppress them and stamp out any virtue that might be used against him (28). He threatens marriage, offspring, friendship, and the very lives of his subjects, destroying the social basis of the polity (28–29).

Let us consider what we have read thus far. Man acts by reason for the common good and in a manner recognizing and emulating the divine providence behind things. He proceeds, moreover, from inclinations to live in society and to find what is good and true (*ST* I-II, 94.2). Is this not something very much like the natural law? Yet Aquinas does not once use the word *lex* in this section, much less *lex naturalis*. Rather, what emerges most clearly in I.1–2 is not law, but authority. Aquinas, in establishing political authority as both arising from man’s nature and reflecting the image of God, wants to highlight such authority as both natural and rational. Man as a rational creature has a kind of providence by which he provides for the natural needs of himself, his family, and his fellow men. Particular men, in turn, can be designated by their community to direct that multitude in its pursuit of the common good. But such men are only explicable as political agents because they are moral actors. The authority in question would be a lawgiver, but there is no indication that Aquinas means to isolate that element of his office. So it is possible that here Aquinas is interested in the full range of the moral life and its foundations rather than just law.

But what of I.3–6? Although Aquinas presents the eternal, natural, and human laws in I.1–2, the subsequent four chapters do not give heart to anyone expecting those laws to promote a rational paideia. Apparently man routinely and willfully flouts justice to secure what he wants, untroubled by his “natural” inclinations to seek his good through society and with others. Monarchy is the best regime according to reason and divine providence, but the people reject it as often as it lapses into tyranny. The operative law is that of sin, the *fomes*.

What I.1–6 supplies us with, then, is both the centrality of the human agent in politics and the danger that this agent will not fulfill his role virtuously. Aquinas does not present the concurrence of man’s moral knowledge and habits with his political behavior as a *fait accompli*: Aquinas promises rather that this concurrence will be hard-won. He also acknowledges the roles that the passions and appetites for material and spiritual pleasures can play. We should bear in mind his emphasis on the naturalness of political authority but also evil in politics.

I.7–12 marks a profound break with I.1–6. Its traditional title, *De Praemio Regis*, indicates a shift from the blameworthy actions of the tyrant to the praiseworthy ministry of the king. I.7–9 make clear what seems implicit in I.3–6: earthly goods, including glory and honor, are fine things,

but they are not the best things. Aquinas argues for the insufficiency of such ends in I.7 on the basis of natural reason, in the tradition of Aristotle and Cicero. So what is the proper reward of the king? It is beatitude, or the vision of God in Heaven (I.8). Aquinas has argued at several points in *De Regno* that sound politics depends upon a knowledge of man's end, but only here has he made clear that this end can only be known through revelation. The king as a political authority is a minister of God, and so receives his reward for faithful service from God.

I.9 ends on a curious note. The king deserves beatitude for serving God well, but he can receive this reward for service that fails or flounders, for God recognizes that the king faces special temptations. Thus, "if through weakness they sometimes do amiss, they are rendered more excusable before men and more easily obtain forgiveness from God." Such forgiveness can be theirs if they offer "humility, mercy, and prayer for their sins."

It would be difficult to deny the importance of another law in *De Praemio Regis*: the divine law. Divine law is God's revelation, instructing man in the content and pursuit of his supernatural end (*ST* I-II.91.4; 98–108). Aquinas speaks of such things in I.8–9. He makes clear that man's supernatural end is beatitude, he establishes its basis in divine revelation, and he completes the argument of I.1–2 by arguing for such beatitude as the final end of man's activity. As Charles McCoy explains, the divine law plays a pivotal role in the political thought of Aquinas.¹⁷ First, it gives man knowledge of what he cannot otherwise know, namely knowledge of his supernatural end. Second, the divine law serves as a forceful reminder of what man ought to know but does not. Man can be better than he knows, and he requires a reminder of this fact. Third, the divine law does what the human law cannot. McCoy notes: "The perfection of liberty must come through a law that, by reaching the interior movements of the soul, forbids and prescribes, rewards and punishes without compelling. And this perfection of freedom is the end at which every lawgiver aims."¹⁸

Aquinas has implicitly spoken of the eternal and natural law (I.1–6) and the divine law (I.7–12). As we turn to Book II, we must ask whether Aquinas proceeds to spell out in greater detail the relation between the laws.

Book II strikes the reader as a recapitulation of Book I. Promising to explain "what the kingly office is and what qualities the king should have," Aquinas suggests that "it seems best that we learn about the kingly office from the pattern of the regime of nature" (93). From nature, "we accept the rules to act according to reason." Aquinas then distinguishes so as to unite the government of God and man: there is a "universal government" whereby all things are governed, and the "particular government"

whereby man is governed. There is a key distinction between man and God: God created and governs the cosmos, while man is but a part of that cosmos. While we saw the great role played by eternal law in I.1–2, here Aquinas highlights the natural law and its connection with the eternal law, with Aquinas relating man to God through reason. This reason has a directive or governing authority that supplies a government, whether general or particular, for a community, whether cosmic or terrestrial. Aquinas without a doubt foreshadows law here, by his emphasis on the providence of God that makes natural law possible in the first place.

Section II.3 takes up the suggestion of II.1 that the government of man can be learned from how God governs the world. God governs man toward two ends: natural happiness and final beatitude (105). Man thus has two governments leading him to his two ends: the “natural government” of men, and the supernatural government of the Church. The end sought by the government of the Church is higher than that sought by natural and political government (107), and it is an end that cannot be secured through political government because it is beyond the reach of man (108). The king must govern recognizing that the Church, and not the king, has final and supreme government over men. As the king is not the creator of men, he cannot dictate the end for which man was created, and cannot dictate any ends of man beyond that natural end. The king is neither a creator-god nor a savior-god. For such distinctions to be made, however, “spiritual things” must be distinguished from “earthly things” (110), a discussion in which Aquinas forecloses the possibility of religion serving politics in a kind of Hobbesian political theology (110–13). The divine law has a double task, for if it proclaims the final end of man (I.7–12), it must also set the end man achieves in politics as intermediate (II.3). While Aquinas urges throughout *De Regno* that wise men from times untold have had a sense that man is destined for more than he can obtain on earth, only Christian revelation provides politics with not just a doubt or a question as to whether politics obtains man’s final end, but a rejection with great assurance that politics could do so.

By this point we can be certain that the natural law lurks within *De Regno*, even basing this search upon only the broadest definition from the *Summa Theologiae*. Yet one might think that his concern is less with the multiple kinds of law as discussed in the *Questions on Law* than with law simply as originating with God and as enacted by man. Just as Augustine’s notion of law seems compatible with Aquinas’s more differentiated legal schema, so Aquinas’s presentation of law in *De Regno* might be consonant with his richer elaboration in the *Summa*, and could reveal or clarify something foundational about the latter.¹⁹ What foundation could that be? Just

what our hypothetical critic suggests: the relation between God's law and man's law. This is the question of participation.

As we have already gleaned from the *Summa*, the participation of the rational creature in the eternal law is crucial to Aquinas's understanding of natural law and to his teaching on man's relation to God.²⁰ Characterizing the natural law as man's participation in the eternal law helps us to answer both of our present questions: is the natural law in *De Regno*, and, if so, why does he never explicitly discuss the concept? Yes, the natural law is in *De Regno*: the natural law as "between" eternal and human law is precisely what we uncovered in our analysis of the text. And to what end? The point of law, after all, is the service of some common good. Man is not only steward of the law, but of the common good that it promotes. Aquinas is guarding against the kind of "political deism" that would mistake a steward for a creator.

These considerations pertain to the natural law as a sign of contradiction: the natural law as the manifestation of that participation is a sign of contradiction for those who deny man's dependence upon God. The human person's participation in the eternal law is not only the most fundamental aspect of the natural law, but it is also the natural law's most potentially scandalous aspect. This sheds new light on why the natural law would arise indirectly in *De Regno*. The doctrine of participation underlines the basis and limitations of natural and human law. That basis and those limitations have to be taught to the politically powerful and ambitious in a manner that does not scandalize or provoke them. I will offer three points of explanation of this claim.

First, the natural law comes into view in *De Regno* indirectly because Aquinas wants to thematize authority. While authority is narrower than the question of law insofar as enactment by a legitimate authority is but one part of the definition of law for Aquinas, authority is also a broader concept than law insofar as a political authority is a moral agent with respect to the virtues and to grace as well, not only law. Aquinas has had occasion to advert to the king's need to cultivate virtue and dispose himself to grace. To the extent that Aquinas has adverted to the king's need to grasp the natural law, however, he has done so with this concern for authority still in mind. For this reason Aquinas wants our king to understand the natural law not in the first place as some distinct concept, but as the king's own awareness of the eternal law. The king's authority has to be seen as arising out of God's authority. The accent remains on authority, not law.

Second, following from this emphasis on human authority, Aquinas wishes for the king to set his sights primarily upon the challenge of the human law, not upon the fact of the natural law. Or, to put it another way,

Aquinas has no difficulties with assuming the fact of the natural law in this text, but his goal in leaving the theory implicit is to raise the challenge of good human law. Even in the perfect community, legislation has its difficulties. Thus we might return to our pedagogical preface: Aquinas relies upon the natural law as a background assumption but does not draw it out more than necessary for his purposes in teaching the Cypriot. In the typical community, however, a ruler must negotiate all of the travails that Aquinas depicted at I.3–6. He must do so with an eye to the concrete possibilities for building upon his people’s virtue.²¹ The king must, moreover, come to seek not power or honor but the good of his community, which good requires that he himself be good. For if man is more measured than a measure, then the natural law is less something given to man than something that demands much of man.²² And this is the balance we sought to strike earlier: man is a cooperator with God, and senses this cooperation as a kind of freedom even when he does not know God. This liberty gives man an incredible dignity among worldly things. Hence the ambiguity. Man enjoys this sharing in the eternal law but is not its giver; man cooperates with it but cannot control it.

This corresponds with Budziszewski’s claim, by the way, about confusing fact with theory. Explaining to the king the relationship between natural law and human law might not be very helpful; showing him the practical necessity of good human law, however, and the guide for it that divine wisdom can be, could be very helpful.

There is a third reason that Aquinas understates the natural law in *De Regno*. It is the divine law and not the natural law which fulfills two critical tasks for politics: to announce the reward of the king, and to ordain relations between the Church and state.

The natural law as a sign of contradiction figures here again, for we have both “avoidable” and “unavoidable” objections to the natural law in these arguments. Beatitude qua the beatific vision and the Church as a governor of persons toward that good are provided for by the divine law, not the natural law. And so the person resisting the dictates of the natural law might not see the point of obeying it because he does not find happiness arising from that obedience. He would need to be taught, then, that his final good comes through divine ordinance.

We also return to the fundamental issue of authority with the proclamation of the existence of the Church. Aquinas proposes not the authority and power of the Church, but its necessity as the guardian of the human person’s transcendent end. The Church emerges not as a competitor with political authority, but as the answer to a need that politics itself cannot

satisfy. Thus Aquinas seeks to work around the “unavoidable” and “chronic” objection to the natural law occasioned by the Fall.

CONCLUSIONS

What then do we learn about the natural law from Aquinas’s presentation of it in *De Regno*? Speaking in terms of Budziszewski’s “chronic” and “acute” objections to the natural law, I note at least three chronic objections to the natural law arising from the Fall: the tendency of man to reject authority beyond himself; the seeming lack of reward for obeying the natural law; and the difficulty of politics. I have said much about the first two. The third theme, however, is not just an issue that Aquinas raises to induce the king to see the necessity of divine law. The difficulties of politics, many of which arise from the depraved will of postlapsarian man, raise the question of the intelligibility of public life: can politics be rational? Many theorists have denied that it is, or based that rationality on the “low but solid ground” of self-interest. Aquinas addresses this problem not by admitting to such denigrations of politics, but by urging the king to see his work as set to the pattern of God.²³

What in Aquinas’s presentation points to “acute” objections? I would like to underline the importance of Church-State relations. In medieval disputes, one sees diverse polemics that delineate the respective powers of “Church and State,” keen fights over jurisdiction, ownership and use, and law and right. While Aquinas is capable of spelling out the respective claims of competing authorities, here he eschews such an approach, urging that we consider the order of discovery. Aquinas does not propose a system in which Church and State must fight for supremacy, but rather establishes a horizon of political and natural activities beyond which is disclosed the supra- and trans-political activity of which the Church is teacher and governor.

The natural law, to be sure, can disclose man’s inclination to know the truth about God, and in that way correspond to the natural or pagan virtue of natural religion. That said, the choice in our time, as in Aquinas’s, is not between natural religion and revealed religion, but between revealed religion and no religion at all. Thus natural law defenses of the role of religion in the public sphere, while strictly speaking logically defensible, will often invite suspicions that the natural law is just an ideological cover for religious power grabs. That suspicion is not unique to Aquinas’s time.

Notes

1. Yves Simon, *The Tradition of Natural Law: A Philosopher’s Reflection*, ed. Vukan Kuic (New York: Fordham University Press, 1992), 4.

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2. J. Budziszewski, *The Line Through the Heart* (Wilmington, Del.: ISI Books, 2009). (Cited as *TLTH*).
3. *TLTH*, 4.
4. *TLTH*, 4–5.
5. *TLTH*, 5.
6. *TLTH*, 17–18.
7. *TLTH*, 18.
8. *TLTH*, 4.
9. Cornelio Fabro, “The Intensive Hermeneutics of Thomistic Philosophy: The Notion of Participation,” trans. B. M. Bonansea, *The Review of Metaphysics* 27 (1974): 449–91.
10. *Summa Theologiae (ST)* I 79.12–13.
11. *II Sententia*, d. 39, q. III, a. 1.
12. *ST* II-II.47.5 ad 1.
13. John Rziha, *Perfecting Human Actions: St. Thomas Aquinas on Human Participation in Eternal Law* (Washington, D.C.: Catholic University of America Press, 2009), 104.
14. Russell Hittinger, *The First Grace* (Wilmington, Del.: ISI Books, 2003), 4.
15. James V. Schall, S.J., “Transcendence and Political Philosophy,” *The Review of Politics* 55 (1993): 247–65.
16. Mary M. Keys, *Aquinas, Aristotle, and the Promise of the Common Good* (Cambridge: Cambridge University Press, 2006), 64.
17. Charles N. R. McCoy, *The Structure of Political Thought: A Study in the History of Political Ideas* (New York: McGraw-Hill Book Company, 1963).
18. *Ibid.*, 154.
19. Hittinger, *The First Grace*, xxi–xxii.
20. *ST* I-II.91.2.
21. *ST* I-II 94.3, 95.1, 96.2–3.
22. *ST* I-II 91.2–3.
23. Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953), 144–45.