Thomas Aquinas and John Locke
on Natural Law

A Senior Studies Report

Submitted to the Faculty
Of Saint Meinrad College of Liberal Arts
In Partial Fulfillment of the Requirements
For the Degree of Bachelor of Arts

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INTRODUCTION

1).

This paper compares the views of St. Thomas Aquinas and John Locke in regards to natural law. The first section is devoted to St. Thomas Aquinas and deals with questions 90-94 of the Summa Theologica, sometimes called The Treatise on Law. The second section takes it findings from essays of John Locke entitled, Questions Concerning the Law of Nature. In the final section I will compare the views of St. Thomas Aquinas and John Locke on natural law.

THOMAS AQUINAS ON NATURAL LAW

ordinance of reason for the common promulgated by him who has the care of the community" (Q. 90, A. 4). This is the definition St. Thomas Aquinas gives for law. Thomas sees reason as the basis for any law whether it be human, divine, eternal, or natural law. Thomas explains to us that a law is a rule and measure of acts, "whereby man is induced to act or restrained from acting" (Q. 90, A. 1). The word law, or lex in Latin, comes from the Latin word ligare which means to bind. Thomas explains that the word law means that people are bound to act in a certain way. Thomas goes on to say that the rule and measure of acts is the reason, and reason is the first principle of human acts. "For it belongs to the reason to direct to the end which is the first principle in all matters of action" (Q. 90, A.

Thomas wants us to understand that law is something that humans should do, not something they have to do. Since humans are the only creatures who have free will, then the law applies directly to them. Humans still have free will even though they should follow the law because they are able to choose to obey or disobey the law. So we can see that Thomas regards law as something that is a standard for the acts of humans which come from their free will.

If humans have free will, then Thomas wants us to know that this assumes they have reason. The goodness or badness of human actions is determined by agreement with reason. Reason gives humans a standard to judge their actions. Reason goes farther than nature and controls the action because reason understands how ordered things and their end come together because order emanates from the common direction to an end. If there was no end for an action to reach, there would be no purpose for that action, and the will would have nothing to strive for.

For humans reason is the only thing that can understand if an action is directed to an end. The human will is preceded by the activity of reason. The reason is the determining factor of whether we go with or go against some action. So Thomas is saying that whatever is in the norm is related to reason as something that is necessary for fulfilling human nature.

For Thomas the ultimate goal for the actions of man is

happiness. So Thomas wants us to see that the first principle of human acts is the final cause, which is happiness.

Now, the first principal in practical matters, which are the object of the practical reason, is the last end: and the last end of human life is happiness or beatitude (Q. 90, A. 2).

So law must first look to the ordination of happiness.

So we can see that the actions of man are ordered to human happiness and the main concern of law must be this happiness.

Since every part is ordained to the whole as the imperfect to the perfect and since one man is a part of the perfect community, law must needs concern itself properly with the order directed to universal happiness (Q.90, A. 2).

So we can see that law must then be directed to the common good.

In the last part of the definition of law by Thomas, he says that promulgation of the law is necessary. Once the people, or one who has care of or represents the people, decide their common direction to a common end, they must enact such laws that will bring them to this end. It is the responsibility of the people to establish such laws that will lead them towards happiness and promote the common good. Once these laws have been made, they must then be made known to the people for the participation of all for the common good.

After Thomas discusses law in general, he then explains

the various kinds of law. Thomas distinguishes between the eternal law, the divine law, the human law and the natural law. Thomas believes that the eternal law is in the notion of the government of things by God. "God is the ruler of all created things and is eternal; therefore, this type of law must be the eternal law" (Q. 91, A. 1).

Since law is a rule and measure, law can be present in a person in two ways. The first as in the one who rules and measures, and the second as in the the one who is being ruled and measured. Thomas concludes that all men are somehow connected to the eternal law because of the notion that the one who measures and the one being measured is contained in every man. The rational creature is superior to other created things and participates in the divine providence because man is responsible for himself as well as for others, i.e., he measures and is measured.

Therefore it has a share of the eternal reason, whereby it has a natural inclination to its proper act and end; and this participation of the eternal law in the rational creature is called the natural law (Q. 91, A. 2).

One of the characteristics of law, as described by Thomas is promulgation. How does man know about the natural law? Laws that man enacts himself are made known to the people in order for the laws to have a binding force. If the law is not made know, then it cannot properly function as a law. "Therefore promulgation is necessary for law to have its binding force" (Q. 90, A. 4). Natural law contains

certain precepts which are contained in the heart of man and in no way can be abolished (Q. 90, A. 6). The natural law is promulgated through the hearts of men and is common to all men.

In question 94 Thomas considers whether there is only one or if there are several precepts in the natural law. Thomas answers that there are many precepts, but that they all flow from one first precept. Since we have seen before that reason is concerned with action, the precepts of the natural law are the first principles of the practical intellect. Thomas tells us that the first principle of human acts is the good.

Good is the first thing that falls under the apprehension of the practical reason, which is directed to action; for every agent acts for an end, which has the aspect of good (Adler p.81).

The first precept of natural law is that good should be pursued and done and evil should be avoided.

All other precepts of the natural law are based upon this, so that whatever the practical reason naturally apprehends as man's good belongs to the precepts of the natural law as something to be done or avoided (Q. 94, A. 2).

Thomas establishes that the natural law is made up of principles and precepts habitually held in the practical intellect. Our intellect has two different ways of thinking. One is speculative reason, which we use to know and understand the truth of things. What is held in the speculative reason are those things which help us attain new

knowledge. The other way of thinking is through practical reason, which we use to make decisions about our human actions. The practical reason is concerned with human acts and stops when we reach a decision about a certain act. Practical reason has as its first principle, good is to be done and evil avoided. This is also the first principle of the natural law and therefore, of the moral order. This principle establishes what we ought to do. "The precepts of the natural law are related to practical reason as the first principles of the demonstration are related to the speculative reason, for both are self-evident principle" (Q. 94, A. 2).

Since "good is to be done and evil avoided" is the first principle of practical reason and of the moral order, then the natural law is the same for all people. What we ought to do is the same for all people in the most general principles of action. With regards to certain particulars the natural law is the same for all in most cases, and,

yet in some cases it may fail, both as to rectitude, by reason of certain obstacles, and as to knowledge, since in some the reason is perverted by passion, or evil habit, or an evil disposition of nature (Q. 94, A. 4).

JOHN LOCKE ON NATURAL LAW

The clearest statement of John Locke's ideas concerning the law of nature is contained in a series of essays written in 1661-63 as lectures at the University of

Oxford. Locke begins by explaining that there exists a law of nature and,

This law of nature can, therefore, be so described [as a law] because it is the command of the divine will knowable by the light of nature, indicating what is and what is not consonant with a rational nature, and by that very fact commanding or prohibiting (Horwitz 101).

In the essays of Locke he gives five arguments on why he believes that there exists a law of nature. The first argument comes from Aristotle where he says, "The proper function of man is the activity of the soul according to reason" (Nichomachean Ethics Book I, c. 7¹²). Aristotle, in referring to natural law says, "This natural law is that law which has everywhere the same force" (Nichomachean Ethics Book V, c. 7). From this we can see that Locke agrees with Aristotle on the idea that a law of nature does exist since there are some laws which do exist everywhere. For, "when many men, in different times and different places affirm the same thing as certain, this ought to be referred back to a universal cause" (Horwitz 107). Locke believes that the only thing capable of instilling in all men the same principles is the will of God.

The second proof Locke gives us for the law of nature comes from the human conscience and that, "no one who is guilty wins acquittal when he himself is judge" (Horwitz 113). Locke believes that man's conscience gives support to his ability to reason, which in turn helps man to define the

notion of right reason. All men are instilled with the law of nature, are obedient to this law and are able to judge according to this law.

The third argument of Locke for a law of nature comes from the fact that created things, other than man, observe a fixed law that pertains to their behavior. All created things follow some sort of law that enables them to perform a certain task. Locke refers to St. Thomas in saying that "Everything which occurs in things created, is the matter of eternal law" (Horwitz 113). Locke goes on to say that since everything in creation around man is bound to laws, it cannot be that man is free of such law as nature would impose upon him.

The fourth argument deals with human society, and Locke says that without a law of nature there can be no interaction among men. Locke says that there are two foundations on which human society rests, "Namely the fixed form of a commonwealth or constitution of a regime, and [second] the keeping of covenants" (Horwitz 115). Human society rests, according to Locke, on these two basis, if they are removed then, "all community among men collapses, just as, were the law of nature removed, these [foundations] collapse themselves" (Horwitz 115).

The fifth proof of Locke argues that a law of nature has to exist in order for virtue and vice to exist.

...Without the law of nature there would be no

virtue or vice, no praise for probity or punishment for wickedness; where there is no law [there would be] no wrong, no guilt (Horwitz 117).

Without a law of nature man would be incited to act according to his pleasure or impulse and he would be free of all laws.

Since there is some idea about vice and virtue among all men, Locke believes that the law of nature is knowable by the light of nature. Locke, in explaining how the law of nature is known by the light of nature says,

When we say that something is known by the light of nature, we could signify nothing but the kind of truth whose knowledge man can, by the right use of those faculties with which he is provided by nature, attain by himself and without the help of another (Horwitz 119).

According to Locke there are three means by which we obtain knowledge: inscription, tradition and sense. All knowledge comes to us by one of these three ways.

For all of what we know is either inscribed in our hearts by a benefaction of nature and some birth right, or by hearsay, or it is derived from our senses" (Horwitz 121).

Inscription refers to what we are born with, what is engraved in the minds of all men. Some believe that all men are born into this world with a sense of duty and a sense of which actions are correct and that he should live his life in a certain way. For man there is no need to seek externally the laws of morals since man is born with a complete code of law. But is man born with this sense? Locke argues that man does not have engraved in him any sense of a law of

nature.

Locke argues that there exists no such law that is inscribed in man at birth. In the first place Locke argues that there are no innate ideas stored in the mind at birth; rather, man begins his life with a blank slate. If the minds of men did contain an inscription of the natural law,

How does it happen that all men who are in possession of souls furnished with this law do not immediately agree about this law to a man, without any hesitation, [and are] ready to obey? (Horwitz 141).

Furthermore, if the young, the uneducated, and those in barbarian countries have this innate idea, why is it that they do not know this law better than anyone else? Locke answers that since the law of nature is not inscribed in man, then there are no principles inscribed in the souls of men by nature, for if there was an inscription at birth all men would know the law.

Tradition comes to us differently in that we hear certain things and accept those things that we hear. But what we believe in this way is more closely linked to faith than to knowledge. We learn,

by our parents, teachers, and by all those who busy themselves in forming the character of the young and filling their still tender minds with the love and knowledge of virtue (Horwitz 125).

Locke believes that those who are superior to us try to instill in our minds the qualities that are necessary for leading a good life.

In obtaining knowledge through tradition, would we know if the information is true or false? Locke tells us that through tradition we may very well be learning someone's opinion or what they value to be important to them and not what the natural law actually contains.

Since tradition is handed down to us, Locke says that we do not know the authority of tradition, so we must use reason to know the law of nature. Tradition varies from place to place, and since this is true, it would be hard to learn the law of nature in this way. Once man uses reason in obtaining the law of nature, then tradition loses its authority. If one were to trace tradition back to its original source, Locke believes that we would come to one who has discovered the law in his heart or through sense experience. Locke concludes "that if there should exist a law of nature, something no one will deny, insofar as it is a law it cannot be known by tradition" (Horwitz 131).

Now inasmuch as this light of nature is not tradition (as has been shown elsewhere), nor any inner principle of action inscribed in our minds by nature, there remains nothing that can be called the light of nature except reason and sense (Horwitz 153).

The reason and the sense must work together in order to achieve the highest level of knowledge concerning the law of nature. In order for man to understand that the law of nature exists, "he must first know that there is a legislator, a superior; that is, some power to which he is rightfully

subject" (Horwitz 159). Man must also recognize

that that legislator, whoever he may prove to be, wills us to do this or to refrain from that, and demands of us that the conduct of our life be in agreement with his will (Horwitz 159).

Through his senses man can see the world around him-creatures, plants, the heavens-- and can deduce that he is greater than all of creation. When man thinks of the world as perceived through his senses, he must question the origin of nature. By observing the world around him, man concludes that the perfect ordering of things didn't happen by accident, but by some powerful creator.

... There must exist some powerful and wise creator of all these things, who made and constructed this whole world, and us men who are not the least part of it. For, indeed, all the multitude of inanimate beings or animals other than man cannot produce man, who is far more perfect than they; nor can man produce himself (Horwitz 161).

We can see that Locke believes that when reason is used with sense, we arrive at a knowledge of a superior power to whom man is subject, and this, according to Locke, is the first requirement of any law.

Locke believes that all the necessary conditions of law are to be found in the law of nature. The first condition is whether or not it comes from a superior will, and Locke believes that it does. The second condition is if "[it has] the property of law: it prescribes what is to be done and what is to be avoided" (Horwitz 103 & 159). Locke believes that the law of nature comes from God and that "he wills us to do

something" (Horwitz 167). Locke goes on to explain that man is equipped to discover his sense and reason, and from there he understands the duty he has toward God, his neighbor and himself (Horwitz 169). This leads us to the final condition of whether or not it is binding upon all men. Locke believes that it is binding because through sense and reason man understands his obligations to obey the law of nature.

Since the law of nature is binding on all men, they are obliged to obey the law.

For God, the author of this law, willed it to be the rule of our conduct and life, and he published it sufficiently that anyone could know it if he were willing to devote the time and energy and turn his mind to its understanding (Horwitz 211).

The obligation of man first of all is to obey the law and this comes from duty, that is, we are able to act or avoid actions from the directive of the superior will. Once we know what our duty to the superior will is, "we are bound to conform to it and obey it in all respects" (Horwitz 205).

Secondly, the debt of punishment comes about by those who do not fulfill their obligation that comes from duty. Those who are unwilling to submit to their obligation to use reason and to follow the superior will are subject to punishment.

Every [form of] obligation binds [our] conscience and lays a bond upon the mind itself, and thus it is not fear of punishment that binds us but our determination of what is right; and our conscience passes its verdict on our conduct, and if a crime is confessed to, rightly judges that we are liable to punishment (Horwitz 207).

COMPARISON OF THOMAS AQUINAS AND JOHN LOCKE

In comparing the views of Thomas and Locke on natural law we notice that both speak of reason, but Thomas views reason as the basis of natural law. On the other hand, Locke sees reason as a part of the process of knowing what the natural law consists of and focuses on the will as the basis of law. For Thomas law is, "An ordinance of reason for the common good, promulgated by him who has care of the community" (Q. 90, A. 4). A law for Thomas is a rule and measure of acts that binds man to act in a certain way. Since men have free will, law is something they should do as opposed to something they have to do. Thomas speaks of natural law as,

a share of the eternal reason, whereby it has a natural inclination to its proper end; and this participation of the eternal law in the rational creature is called the natural law (Q. 91, A. 2).

Locke speaks of natural law as

A command of the divine will, knowable by the light of nature, indicating what is and what is not consonant with a rational nature and by that very fact commanding or prohibiting (Horwitz 101).

Locke differs from Thomas in that he sees the basis of law not as reason, but he emphasizes the command of the divine will.

Locke sees the will of God as the only thing that is able to instill in the mind of men a law of nature. In speaking of

reason Locke views it not as the source of law, but only an instrument for seeing that there is a superior power, from which man obtains the natural law.

In the definition Thomas gives of law, promulgation of the law is necessary. In the human law those who make the laws are obliged to make them known to their constituents. In natural law it is the responsibility of the creator to make such laws known to men. Thomas believes that promulgation of the natural law occurs in the hearts of men. There are certain precepts described by Thomas that are contained in the heart of man and in no way can these precepts be abolished. Thomas tells us that,

The light of natural reason, whereby we discern what is good and what is evil, which is the function of the natural law, is nothing else than an imprint on us of the divine light (Q. 91, A. 2).

Thomas then concludes that the natural law is, "Nothing else than the rational creature's participation of the eternal law" (Q. 91, A. 2).

Locke refers more to experience when discussing how he believes that a natural law exists. Locke states that since men in different countries and times have agreed on certain things, then there must be a final goal toward which all men strive. This goal, or striving towards the goal, refers us to a universal cause, a superior power. Locke says that men follow a fixed law that pertains to their nature and thus enables them to perform a certain task. Locke, in telling us

why he believes there is a natural law, also states that without the existence of a natural law there would be no vice or virtue. If this was the case, then man would act according to his pleasure. It is in our striving towards this final goal, Locke believes, that man knows the natural law and is directed to act in accordance with the law.

Thomas believes that humans know about natural law because everyone is born with certain precepts contained in their hearts, whether they know it or not. These principles and precepts are held in the practical intellect. Locke disagrees with this assertion when he speaks about inscription. Locke says that man is born with a clean slate and that natural law is not inscribed in the minds of men. Locke then explains that through our sensory experience man questions the perfect ordering of things and concludes that there must be a higher, more powerful creator. Therefore, as Locke concludes, when reason is used with sense we come to a knowledge of superior power to whom man is subject. Locke states that,

If the law of nature were inscribed in our hearts, it would be necessary to conclude that speculative principles are inscribed there as well as practical principles, which seems hardly capable of proof (Horwitz 151).

Thomas holds that the natural law is made of principles and precepts held in the practical intellect. The first precept of the natural law is to do good, and since all virtuous acts aim at the good, all virtuous acts are

prescribed by the natural law. So Thomas believes the first principle for man to follow is to do good and to avoid evil. All other precepts come from and depend on this first precept because all precepts are ordered by reason toward the good. Thomas goes on to say that the reason there are many precepts is due to the fact that there are various inclinations and parts of the human nature to which the first principle can be applied. Thomas believes that the natural law is found in the heart of man and that in its general principles it is the same for all men.

Locke holds that since the natural law comes from a superior will, the superior will prescribes what is to be done. What is prescribed is binding on all men, and according to Locke, it is then considered to be a law. Locke believes that God has created the world for a purpose and man is bound to follow the divine will. Locke believes that man is naturally driven to protect and preserve his life, "and no man has been found who is careless of himself, or capable of disowning himself" (Horwitz 169).

We notice that Locke believes that all men are obligated to the law of nature. This obligation is the same for all men. The obligation for man is to adhere to the reason of his own nature. We are also obliged to obey the law of nature because it comes from God who is superior to all men. Since we all have knowledge by the light of nature, we are all equally bound to the law of nature. Locke says that

the obligation first of all comes from duty. We are bound by this duty to "perform or refrain from on the command of a superior power" (Horwitz 205). Secondly, the debt of punishment arises because some do not acknowledge that there is a superior power. We are bound by our conscience to follow the law or be punished. Locke says that, "the law of nature is binding on all men, before any other law, both of itself, and by its own force" (Horwitz 211).

CONCLUSION

By looking at the views of St. Thomas Aquinas and John Locke we can see that their basis for law begins from different theories. Aquinas believes that the basis of natural law is reason, whereas Locke focuses on the will as the basis for natural law. Thomas Aquinas believes that the natural law is known to men by certain precepts that are contained in the heart of man. Locke, on the other hand, believes that men are born with a blank slate and through experience gain the knowledge that there is a more powerful creator to whom we are all subject.

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