

NATURAL LAW, FAMILY AND THE STATE

PRAYER TO THE HOLY SPIRIT

Come Holy Spirit, fill the hearts of your faithful and kindle in them the fire of your love. Send forth your Spirit and they shall be created. And You shall renew the face of the earth.

O God, who by the light of the Holy Spirit did instruct the hearts of the faithful, grant that by the same Holy Spirit, we may be truly wise and ever enjoy His consolations.

Through Christ our Lord.

Amen.

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Ethics in Theory and Practice
Based on the Teachings of
Aristotle and St. Thomas Aquinas

RIGHT
AND SECOND
EDITION
REASON



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**HOW DOES GOD MAKE HIMSELF KNOWN TO
US?**

REVELATION

God communicates to us in two ways:

1. By His Word (Sacred Scripture and Sacred Tradition) **(Faith)**
2. By His Creation (Natural Theology, Natural Law). **(Reason)**

Natural Theology

“For what can be known about God is plain to them, because ***God has shown it to them***. Ever since the creation of the world his invisible nature, namely, his eternal power and deity, ***has been clearly perceived in the things that have been made.***” (Rom 1:20)

Natural Law

CCC 1954: Man participates in the wisdom and goodness of the Creator who gives him mastery over his acts and the ability to govern himself with a view to the true and the good. The **natural law** expresses the original moral sense which enables man to discern by reason the good and the evil, the truth and the lie:

The **natural law** is written and engraved in the soul of each and every man, because it is human reason ordaining him to do good and forbidding him to sin . . . But this command of human reason would not have the force of law if it were not the voice and interpreter of a higher reason to which our spirit and our freedom must be submitted. (Leo XIII, *Libertas praestantissimum*)

HUMAN REASON/PHILOSOPHY

1. To be – Existence (Ontology – Metaphysics)

Cosmology, Psychology

Physics, Biology, Chemistry

2. To know – Knowledge (Epistemology / Logic)

3. To do – Morality (Ethics)

Politics, Economics

WHAT ARE THE THREE FUNDAMENTAL TRUTHS THAT HUMAN BEINGS CAN DISCOVER BY PROPER USE OF THEIR REASON WITHOUT DIVINE REVELATION?

1. The Existence of God
2. The Immortality of the Soul
3. The Freedom of the Will

THREE FUNDAMENTAL TRUTHS APPLIED TO ETHICS

- **Freedom of the Will** – Unless the human will is free, a man can not choose between right and wrong, is not responsible for what he does, and cannot direct the course of his life.
- **The Immortality of the Soul** – Unless the human soul is spiritual and lives on after physical death, there is no sufficient motive for doing the right and avoiding the wrong, since we see that virtue often goes unrewarded and vice unpunished in this world.
- **The Existence of God** – Unless God exists, there is no Highest Good. God is not only man's Creator, but also man's Last End. Without God as the Absolute Lawgiver and Supreme Judge there could be no moral law prescribing what we ought or ought not to do (no ethics).

**WHAT KIND OF ACTS ARE HUMAN BEINGS
RESPONSIBLE FOR?**

TWO KIND OF ACTS

- **An Act of Man** is one which a man happens to perform but is not master of it, for he has not consciously controlled it, has not deliberately willed it, and for it he is not held responsible. Such are the acts done in infancy, sleep, delirium, insanity or fits of abstraction; they have no ethical significance and do not constitute human conduct.
- **A Human Act** is one of which man is master, one that is consciously controlled and deliberately willed, so that the agent is held responsible for it. These human acts constitute human conduct and form the subject matter of ethics.

To put food in the mouth while in a distracted state of mind is ***an act of man***, but to determine deliberately to eat this food is a ***human act***.

HOW DO HUMAN ACTS RELATE TO
ETHICS/MORALITY?

MORALITY

Morality is the quality in human acts by which we call them right or wrong, good or evil.

- The morality of a human act must include **all of human nature**, with all its parts, both metaphysical and physical, both body and soul.
- The morality of a human act must include **human nature with all its relations:**
 1. A created being, regarding God.
 2. A social being, regarding his fellow man.
 3. A possessive being, regarding the goods of the earth.

WHAT MAKES THE RIGHT OR WRONG OF THE
ACTION (MORALITY) BINDING?

LAW

- The objective norm of morality enables me to find out whether my conduct is moral or not, but it does not of itself oblige me to make my conduct moral.
- Law is what obliges us to conform our conduct to the norm of morality.
- Physical law, imposing physical necessity.
- Moral law, imposing moral necessity.

MORAL LAW

“Law is nothing else than an ordinance of reason for the common good promulgated by him who has the care of the community.” St. Thomas Aquinas

- **An ordinance** is not mere council, piece of advice or suggestion. It’s an order, a command, a mandate imposing obligation or moral necessity.
- **Of reason**, it must be of right reason.
- **For the common good** Thus a law differs from a command that is laid on an individual person. A law looks always to the common good.
- **Promulgated** Promulgation is making the law known to those whom it binds.
- **By him who has the care of the community** A law must be authoritative. It must come from a lawgiver or legislator having jurisdiction.

LAW AND RIGHTS

- Law binds individuals for the benefit of the common good. Law has to be formed based on the fact that Man is a spiritual being with a spiritual soul capable of reasoning and making free decisions.
- As a spiritual being, human persons have rights that are God given and intrinsic to human nature (inalienable).
- Inalienable rights are not renounceable. They can neither be taken away nor given away legitimately.

The Declaration of Independence proclaims that the human person has the inalienable rights derived from natural law:

1. life
2. liberty
3. the pursuit of happiness

RIGHTS AND DUTIES

- Rights exist only in “persons” (beings that have free will)....God, Angels and Humans.
- Rights and duties are correlative and complementary. If I have a right, then everyone else has a duty to respect my right. If I have a duty, someone else has a right to the thing I must do.
- God is the only exception to the correlativity of rights and duties. He has all the rights and no duties; creatures have duties to Him (Religion/Worship) but no rights against Him; men have both rights and duties toward one another. Animals have no rights, they are not persons.

KINDS OF LAW

- **According to their duration** laws maybe eternal or temporal.
- **According to their mode of promulgation** laws may be natural or positive. The law promulgated through the very nature of the beings it governs is called the natural law. It includes the physical laws as well as the natural moral law. It is customary to call physical laws the laws of nature and to reserve the term “natural law” for the natural moral law.
- **According to their origin** laws may be divine or human. Divine laws are those which God is the lawgiver. Human laws are those made by men.

NATURAL LAW

The natural law is manifested to reason not by any external sign, but simply by a rationally conducted examination of human nature with all its parts and relations, and particularly in its relation to God, the supreme law giver.

- I am the LORD your God. You shall worship the Lord your God and Him only shall you serve. (Duty to Worship and Serve)
- Honor your father and mother. (Duty to respect authority)
- You shall not kill. (Right to Life)
- You shall not commit adultery. (Conjugal Rights)
- You shall not steal. (Right to Private Property)
- You shall not bear false witness against your neighbor. (Right to the Truth)

SHOULD MAN LIVE IN SOCIETY?

IS MAN BY HIS NATURE A SOCIAL BEING?

CHARACTERISICS OF HUMAN NATURE

1. Man abhors solitude and craves companionship. Men spontaneously seek others and enjoy their company.
2. Man cannot take care of himself alone. The child must be reared by its parents for many years. Even in adult life a solitary man cannot supply himself with the bare means of subsistence, not to speak of the goods required for living a decent life befitting a human being.
3. The gift of language fits man to communicate with his fellows. Unless man were to live a social life, the faculty of speech would be given to him for no purpose.
4. Intellectual and moral development require constant communication of ideas among men, an exchange possible only in society.

WHAT IS THE PURPOSE OF SOCIETY?

THE COMMON GOOD

- Society is defined as an enduring union of a number of persons morally bound under authority to cooperate for a common good.
- The common good is the end for which society exists.
- The common good is the temporal welfare of the community, taken both collectively and distributively.
- The common good also requires the establishment and maintenance of order.
- The means society uses to develop and share the common good are often called *institutions*. These are such things as schools, libraries, hospitals, police, military forces, public utilities, courts etc.

HOW DOES THE NATURAL LAW DEAL WITH
THE RELATIONSHIP BETWEEN THE INDIVIDUAL
AND THE STATE?

THE VIRTUE OF JUSTICE

- Justice is one of the four Cardinal virtues along with Prudence, Fortitude and Temperance.
- Justice is giving another person his due (duty). It is the primary social virtue that provides harmony in society.
- Commutative justice exist between equals man and man or between two independent states. Commutative justice is the basis of contracts.
- Distributive justice is a relation of community to its members. It does not exist between equals, but between a superior and his subordinates, it applies chiefly to the state.
- Legal justice, the converse of distributive justice, is a relation of the members to the community. It shows itself chiefly in law-abiding conduct by the members of the community.

**WHAT ARE THE TWO NATURAL SOCIETIES AND
HOW DO THEY RELATE TO ONE ANOTHER?**

THE FAMILY AND THE STATE

- There are two natural societies, the domestic society or the family, and political society or the state.
- The state is a natural society because it arose as a natural outgrowth of the family.
- The state cannot be the source of its own right to existence, for it would have already to exist before it could confer this right upon itself. Either it has no right to exist, or it has this right from the natural law. To admit that the state has the right to exist is to admit that there is some source of rights prior to the state, that there are natural rights founded on the natural law.
- Man is a person and because he is a person, he has an immortal soul and so his destiny is for supernatural life, therefore the state which definitely governs temporal society is of a lesser reality than the person.
- The Church is not a natural but a supernatural society founded on divine positive law revealed to man.

THE FAMILY

- The family or domestic society consists of the union of husband and wife (marriage) and the begetting and raising of children.
- The state of marriage implies four chief conditions:
 1. There must be a union of ***opposite sexes***. Since marriage has to do with the reproduction the human race this requirement is obvious.
 2. Marriage is a ***permanent*** union. It must last at least as long as necessary for the fulfillment of its primary purpose, the begetting and rearing of children.
 3. It is an ***exclusive*** union. The partners agreed to share relations only with each other, so that extramarital acts are a violation of justice.
 4. Its permanence and exclusiveness are guaranteed by ***contract***. Mere living together without being bound to do so does not constitute marriage because they do not form a society unless they enter into a contract.

**IF MARRIAGE IS ORDERED TO THE BEGETTING
AND RAISING OF CHILDREN, THEN WHO HAS
THE PRIMARY RIGHT OF EDUCATING THE
CHILDREN, THE PARENTS OR THE STATE?**

EDUCATION

- Education is a function both of the family and of the state.
- The right to educate their children belongs primarily to the parents by natural law and is therefore a natural right.
- The family is prior to the state and had the obligation of educating the children before there was any state. The state is founded to supplement the family, not to destroy it, and hence cannot take away from the family its already existing right.
- However, both Church and State have secondary rights in education, which by no means contravene the parents primary right.
- The state has not the right to monopolize education. Education is a legitimate form a private enterprise, subject indeed to a certain amount of government regulation, but there is nothing in its nature that makes it a public or state monopoly.
- The state's right in education is entirely secondary and supplementary. The state may not make the attendance at state schools compulsory, either by law or by undo favoritism. The state has no right to put private schools out of business by use of unfair tax-supported competition.

WHO SHOULD OWN THE PROPERTY, THE
INDIVIDUAL OR THE STATE?

PROPERTY

- Ownership may be defined as the right of exclusive control and disposal over a thing at will.
- Living things cannot maintain their lives except by the use and consumption of lower beings, both living and inanimate. Since man is the highest being on earth, all other things are for him. Nature does not portion out her goods to definite individuals. If no other man has already taken them, they are there for any man to take. One who does so appropriates them, or makes them into his property.
- Man has a natural capacity for ownership. His intellect and will naturally equip him to become a self – provider, with ingenuity to control nature and make it supply his wants.

WHAT IS THE RELATIONSHIP BETWEEN THE
NATURAL LAW AND THE CIVIL LAW?

CIVIL LAW

- All states pass laws, execute the laws passed, and bring offenders to justice. Thus the three powers, legislative, executive, and judicial are all necessary to every form of government.
- Positive law or the civil law is necessary to complete the natural law.
- Hence in the natural order the state is the institution entrusted with the task of framing civil laws as the positive laws needed to supplement the natural law.
- The primary aim of the state and of the civil law is to secure for its-citizens the greatest benefits that can be derived from communal living and to distribute these benefits justly.

**WHAT IS THE TEACHING OF THE CHURCH AS IT
RELATES TO RELATIONSHIP BETWEEN
PERSONAL FREEDOM AND GOVERNMENT?**

PRINCIPLE OF SUBSIDIARITY

- **CCC 1883:** Socialization also presents dangers. Excessive intervention by the state can threaten personal freedom and initiative. The teaching of the Church has elaborated the principle of *subsidiarity*, according to which "a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to co-ordinate its activity with the activities of the rest of society, always with a view to the common good."
- That no higher organization should take over work that a lower organization can do satisfactorily.
- The higher does not exist to absorb or extinguish the lower but to supplement and extend it.
- Otherwise the rights given by nature to the individual and to the family, and man's freedom to organize for lesser pursuits within the state, are rendered meaningless.

