

## **A Trinitarian reading of Aquinas's treatise on law**

Aquinas is typically presented to students of law or ethics as one of the fathers of a tradition of natural law conceived of as a universally applicable moral system self-evident to all human beings irrespective of whether they believe in God or not. Students are presented with extracts from the treatise on Law in the *Summa Theologiae* which focus on the four questions dealing with natural law and human law. The eight questions dealing with the Mosaic Law (which Aquinas describes as ‘the Old Law’), the three questions dealing with the New Law and the six questions on Grace are usually omitted or if mentioned at all are only considered in terms of their relationship to the natural law.<sup>1</sup>

Such selections fundamentally misrepresent Aquinas’s thought. The treatise on Law is driven by a soteriological dynamic as Aquinas seeks to explain the relationship of natural, human and Mosaic Law to the eternal law which is the providence by which the triune God directs the universe. In Aquinas’s argument, questions 90 to 114 of the *Prima Secundae* in the *Summa Theologiae* form not two treatises but one; and within that single treatise questions 98 to 105 on the Old Law are far more important in Aquinas’s understanding of law than the single question (Q.94) on natural law.

The treatise on law expounds a trinitarian theology of law, that is to say, Aquinas’s account of law is driven by his understanding of the work of the Son and the Spirit in the economy of salvation. In defending Aquinas as a trinitarian theologian, it has to be conceded that if one

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<sup>1</sup> E.g. Dyson ed. and tr. *Aquinas: Political writings* (Cambridge: Cambridge University Press, 2002); Regan *Aquinas On Law, Morality, and Politics On Law, Morality, and Politics* 2<sup>nd</sup> edn. (Indianapolis: Hackett, 2002); McNerny *Aquinas: Selected Writings* (Harmondsworth: Penguin, 1998).

expects an explicitly trinitarian structure to the whole of theology and a primary emphasis on the persons of the Trinity then Aquinas' theology is deficient, both in its methodology and its presuppositions. Aquinas is susceptible of being understood as seeing God's unity as prior to God's Trinity, because he places his treatment of *De Deo Uno* prior to his treatment of *De Deo Trino*. But, this is how God has revealed Himself: as One in the Old Testament and as triune in the New Testament. The *Summa Theologiae* is pedagogical and therefore follows the order of the divine revelation. In this regard, Fergus Kerr draws attention to Aquinas' affirmation in 1265 that 'The Christian faith consists above all in the confession of the Holy Trinity, and it glories especially in the cross of our Lord Jesus Christ'.<sup>2</sup>

Matthew Levering has written two major studies of Aquinas - *Christ's Fulfillment of Torah and Temple* and *Scripture and Metaphysics*, which emphasise Aquinas' view of salvation and his trinitarianism respectively. Levering presents a view of Aquinas as a biblical theologian, whose Trinitarian metaphysics is a reflection on biblical truths rather than a substitute methodology.<sup>3</sup> He argues that Aquinas works with a fulfilment model whereby the New Covenant fulfils rather than merely supersedes the Old Covenant.<sup>4</sup> With regard to salvation, Aquinas sees forgiveness and justification won by the Son, and the Spirit as indwelling the believer, working to sanctify them by conforming them to the image of the Son, making them fit for the beatific vision of the Father. The consummation of the believer is their glorification in union with God in Christ through the Spirit.

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<sup>2</sup> *De articulus fidei et ecclesiae sacramentis, ad Archiepiscopum Panormitanum* (Rome: Commissio Leonina, 1979) 42:207; Kerr *After Aquinas: Versions of Thomism* (Oxford: Blackwell, 2002) 162.

<sup>3</sup> Levering *Scripture and Metaphysics: Aquinas and the Renewal of Trinitarian Theology* (Oxford: Blackwell, 2004) 169; Torrell *Saint Thomas Aquinas* vol. II *Spiritual Master* tr. Robert Royal (Washington, DC: Catholic University of America Press, 2003) 377-78.

<sup>4</sup> See also Ryan *Thomas Aquinas as Reader of the Psalms* (Notre Dame, IN: University of Notre Dame Press, 2000) 16.

The justification for reading questions 90 to 114 of the *Prima Secundae* as a single treatise comes from what Aquinas himself says in the prologue to the treatise. There, Aquinas explains that ‘the extrinsic principle moving us to good is God, Who both instructs us by means of His Law, and assists us by His Grace’. The treatise is structured in a movement from Law to Grace, the aim of which is to demonstrate that notwithstanding the promulgation of God’s Law, in creation and in the Mosaic Law, human beings have been unable to obey it and therefore need to be saved by God’s grace. The treatise on Law is, therefore, soteriological in intention. It is concerned with the actions of God towards sinful human beings. As a result, what is said about human law is incidental to Aquinas’ overall purpose.

*I. The eternal law and God’s providence*

Aquinas begins his discussion of the category of law by defining law as rational (*aliquid rationis*), directed to the common good by a person or persons responsible for a community, and promulgated adequately (*ST I-II.90.1-4*). This category contains four species: eternal law, natural law, human law, and divine law, of which eternal law is clearly the core form, from which the others derive.

Eternal law is the law ‘ordered by God for the governance of things foreknown by him’.<sup>5</sup> It is therefore to be equated with God’s providence, provided this is understood in the broadest terms as the entirety of God’s good purposes for this world that He has created (*ST I-II.91.1*). God’s providence is the ordering of things to their end, to the purpose for which they were

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<sup>5</sup> *ST I-II, 91, 1 ad.1, see also 93; Torrell Aquinas Vol. II 283.*

created.<sup>6</sup> It therefore encompasses both God's '*conservation* of things in the good and their *motion* toward the good.'<sup>7</sup>

For Aquinas, the doctrine of divine simplicity means that 'the end or *telos* of divine government is God himself, and his law is nothing other than himself'.<sup>8</sup> The *telos* of the universe is to be found in the subsistent goodness of God Himself (*ST* I.103.2). Thus natural law, Mosaic Law and the New Law of the Gospel are all only properly understood 'in the light of the eternal law which is nothing other than God himself, nothing other than the divine light in which the blessed see God.'<sup>9</sup>

Levering sums up Aquinas' doctrine of providence in the following way:

'Aquinas's understanding of divine providence means that history has an end that determines it as "history": the right ordering of everything to God, in accord with God's wise plan for history from eternity. This providential ordering of history is God's "eternal law". Human beings, in history, share in this law in two ways: by nature and grace. To all human beings, God gives (in the gift of creation) a participation in his "eternal law". By the exercise of rationality, human beings may understand what conduces to their right ordering. This rational sharing in God's eternal plan for creatures is called "natural law". The right ordering expressed in God's eternal law is, when put into action, justice. Justice means that human actions

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<sup>6</sup> Yocum 'Aquinas' Literal Exposition on Job' in *Aquinas on Scripture: An Introduction to his Biblical Commentaries* (London: T&T Clark, 2005) 23.

<sup>7</sup> Torrell *Aquinas Vol. II* 235, italics in the original.

<sup>8</sup> Kerr *After Aquinas* 106.

<sup>9</sup> Kerr *After Aquinas* 106.

accord with the ends proper to human nature, that is, accord with God's eternal or wise plan for the attainment of human beings to their proper good.'<sup>10</sup>

## II. *Aquinas and the Old Law*

It is no accident that in the *Summa Theologiae*, there is only a single question about natural law (*ST I-II. 94*), in amongst 25 (90-114), of which three deal with human law, eight with the Mosaic Law ('the Old Law'), three with the New Law of the Gospel and six with grace. It is the Torah and not natural law which is the pivot of Aquinas's reflections on law, just as it forms the conclusion to his treatise on justice (*ST II-II.122*).<sup>11</sup> It is the New Law, that is to say, the grace of the Holy Spirit, which is the apex of Aquinas's argument. Excising the Old Law and the Holy Spirit from the treatise on law leaves a deformed rump.

### 1. Why the Torah?

For Aquinas, there are three fundamental problems with natural law. First, our knowledge of the natural goods towards which it directs us is obscured by sin.<sup>12</sup> Second, our natural ability to pursue those natural goods which we do discern is impaired by sin (*ST I-II.93.6; I.113.1 ad.1*). Third, these natural goods are not the end for which we are ultimately ordered. In order to direct us towards the end of eternal beatitude, it was therefore necessary for a divine law to be given (*ST I-II.91.4*).<sup>13</sup>

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<sup>10</sup> Levering 'The Liturgy of the Eucharist' 185; *Christ's Fulfillment of Torah and Temple: Salvation according to Thomas Aquinas* (Notre Dame: University of Notre Dame Press, 2002) 129.

<sup>11</sup> Gilby *Between Community and Society: A Philosophy and Theology of the State* (London: Longman Green, 1952) 324-25.

<sup>12</sup> *ST I-II.94.4, .6; 91.6; III.61.3 ad.2*; Hall *Narrative and the Natural Law: An Interpretation of Thomistic Ethics* (Notre Dame: University of Notre Dame Press, 1994) 34-35, 46.

<sup>13</sup> Hall *Narrative* 44.

That divine law was the Old Law. In part its moral precepts reiterated the natural law (*ST* I-II.98.5; 100.1; II-II.122.1). It was, however, a law ‘tailored (by God and by Moses, its mutual givers) to the needs of a specific community at a specific time.’<sup>14</sup> Some of its judicial provisions, such as those regarding divorce (*ST* I-II.105.4.8) and accepting usury from foreigners (*ST* I-II.105.3.3), therefore tolerate injustices from which it was intended that Israel would gradually be weaned.

For Aquinas, the moral precepts contained in the Old Law are binding for all, because they reiterate the natural law (*ST* I-II.98.5).<sup>15</sup> These moral precepts can be reduced to the Decalogue<sup>16</sup> (*ST* I-II.100.3), which can itself be reduced to the Two Great Commandments identified by Jesus (ad.1; II-II.122.5; *De decem preceptis* II-IV). The Old Law is therefore ordered to and around the love of God and the love of neighbour.

The Jews were, however, unable to keep the Old Law. Thus the Old Law reveals our need for grace (*ST* I-II.98.2 ad.3).<sup>17</sup> In its promulgation, God already ‘has in view the promulgation of the New Law, the grace of the Holy Spirit’.<sup>18</sup> Through the Torah, God withdraws men from idolatrous worship and includes them ‘in the worship of one God, by Whom the human race was to be saved through Christ.’ (*ST* I-II.98.2).

The Torah operates at three levels. It contains a revelation of the moral precepts of the natural law. It is given in the context of a covenant by which God wishes to restore human

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<sup>14</sup> Hall *Narrative* 60; *ST* II-II.122.1 ad.3.

<sup>15</sup> Hall *Narrative* 129, endnote 28; Finnis ‘Natural Inclinations and Natural Rights: Deriving “Ought” from “Is” according to Aquinas’ in Elders and Hedwig eds. *Lex et libertas: Freedom and Law according to St Thomas Aquinas* (Rome: Liberia Editrice Vaticana, 1987) 52-53; *Aquinas: Moral, Political, and Legal Theory* (Oxford: OUP, 1999) 125.

<sup>16</sup> Hall *Narrative* 56.

<sup>17</sup> Hall *Narrative* 48, 52.

beings to communion with Him. Finally, it points towards God's will to enter into closer communion than would have been naturally possible. Nonetheless, for all that this is the role of the Torah, it remains, like any human law, concerned with exterior acts and is not 'an inner law which guides and perfects the movements of the soul.'<sup>19</sup> Aquinas recognises that although the judicial precepts of the Mosaic Law point towards 'the right order that should exist between man and his fellow men, ... in practice, like any human politics, they are unable to produce this right order.'<sup>20</sup> Precisely by virtue of these limitations, 'the Mosaic Law is dynamically ordered toward a new law (and new covenant) that will make explicit the communion that God has in store for us.'<sup>21</sup> Aquinas therefore has a message for us about the limitations of what may be achieved through human law in his teaching about the Old Law.

As it looks forward to Christ, the Mosaic Law serves as a pedagogue by demonstrating that sinful human beings are incapable of perfectly following even a God-given law, which is acknowledged to be righteous (*ST I-II.91.5*). Thus Israel was taught to hope for a Messiah 'who would fulfill the written law, both in its literal commands and in its figurative significance'.<sup>22</sup>

Aquinas understands Christ as the fulfilment of the Torah, and indeed, of all that is recorded in the Old Testament.<sup>23</sup> The fulcrum of this relationship is the Transfiguration, in which 'Christ shows that his glory and his upcoming passion, far from cutting him off from the law and the prophets, magnificently fulfill what they had foretold.'<sup>24</sup>

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<sup>18</sup> *Levering Christ's Fulfillment* 22.

<sup>19</sup> *Levering Christ's Fulfillment* 21.

<sup>20</sup> *Levering Christ's Fulfillment* 61.

<sup>21</sup> *Levering Christ's Fulfillment* 21.

<sup>22</sup> *Levering Christ's Fulfillment* 113.

<sup>23</sup> *Commentary on the Gospel of John 576-577; Catena Aurea, vol.1 St. Matthew* 170.

<sup>24</sup> *Levering Christ's Fulfillment* 101; *ST III.45.3*.

## 2. Christ's fulfilment of Torah and Temple

Aquinas distinguishes between the moral, ceremonial and judicial precepts of the Mosaic law. In accordance with the threefold division of the Mosaic Law, so Christ fulfils the Torah in three ways.

Levering interprets Christ's fulfillment of the law in the light of His embodiment and transformation of the threefold office of prophet, priest and king. In Aquinas's definition, a prophet 'teaches the people how to live according to God's law, awaiting the fulfillment of God's plan of salvation.'<sup>25</sup> Christ fulfills this office by giving a New Law 'which is the inner principle by which human beings are enabled to observe the moral precepts.' The priests were responsible for ensuring the right worship of God, Christ fulfils this office by offering the perfect, acceptable sacrifice. The kings were charged with the administration of justice. Christ fulfils this office by 'establish[ing] justice between human beings by undergoing more than sufficient suffering for all sins.'<sup>26</sup> As Israel's king, when Christ fulfils the divine law, He does so *per pro* the people of Israel, as the embodiment of the community of Israel.

What looks, on the face of it, to be the revocation of the Torah is, in fact, nothing other than its fulfilment. So, 'Christ does not abolish the commandments; rather, he shows how they can be truly obeyed in the light of the supernatural destiny that he reveals.'<sup>27</sup> After Christ, the Mosaic Law is not simply superseded. Instead, 'Aquinas holds that Christians continue to observe the Mosaic Law, but no longer in its old form.'<sup>28</sup> They continue to obey its moral

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<sup>25</sup> Levering *Christ's Fulfillment* 69.

<sup>26</sup> Levering *Christ's Fulfillment* 69; *ST* III.46.5.

<sup>27</sup> Levering *Christ's Fulfillment* 76.

<sup>28</sup> Levering *Christ's Fulfillment* 88.

precepts, which abide; but they celebrate the fulfilment of its ceremonial precepts in the sacrifice of Christ (*ST I-II.103.3 ad.1*).

For Aquinas, Israel's history reveals the inadequacies of an external written law and gave rise to the hope that with the coming of the Messiah, the written law would become an inner law so that it could be perfectly obeyed.<sup>29</sup> This inner law is the New Law, the grace of the Holy Spirit, given by Christ, who 'enables all people to participate interiorly, by living faith and the sacraments of faith, in Christ's righteous worship.'<sup>30</sup>

### *III. The role of natural law in Aquinas' thought*

If the Mosaic Law is given the weight in Aquinas's thought which the length of his discussion of it suggests it should have, then natural law is seen in its proper light. It is key to understanding the place of natural law in Aquinas's thought to realise that 'the natural law is linked time and again, within that section of the *Summa* designated as treating of laws, with eternal law, by which God governs the entire cosmos.'<sup>31</sup> Like the Old Law, the natural law is directed towards Christ.

For Aquinas, the natural law is not meant to be a substitute for the teachings of Christ or the New Law. The primary role of the natural law is to point out to those who know nothing of Christ, what God requires of them. As he says in *De Regno* I.1 [4] 'the light of reason is placed by nature in every man, to guide him in his acts *towards his end*.' (emphasis mine).

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<sup>29</sup> *ST I-II.106.1 s.c.*; Levering *Christ's Fulfillment* 113.

<sup>30</sup> Levering *Christ's Fulfillment* 113.

<sup>31</sup> Hall *Narrative* 23.

Although ‘Thomas does not ... deny the goodness of natural goods; he ... argues that they cannot constitute the ultimate end for men and women. Indeed, he denies a constitutive place to all goods other than God in the ultimate end.’<sup>32</sup> (*ST* I-II.4.7-8). Therefore, in direct contradiction with the theory of non-commensurable goods which Finnis develops, for Aquinas there is one supreme good, one *summum bonum*, and then a series of penultimate goods which human beings habitually mistake for their ultimate end.

What Aquinas affirms through his teaching on natural law is that we *can* know what God requires of us.<sup>33</sup> That is what is meant by the famous self-evidence claim (*ST* I-II.94.2) We can know this because it is given to us to know the things which are human goods, and pre-eminent among those things is the knowledge and love of God. Pamela Hall argues that this ‘directedness is in fact the primary sense of natural law for Aquinas.’<sup>34</sup>

Hall contends that the strength of Aquinas’s theory of natural law is precisely the point identified as a weakness by critics such as Harry Jaffa.<sup>35</sup> Natural law is viewed by Aquinas as a species of law, which must, as with all law, be an ordinance of reason for the common good, made by the appropriate legislator, which must be properly promulgated (*ST* I-II.90.1). Therefore, as Jaffa rightly points out, on this account ‘for the natural law to be promulgated adequately to men and women, they must recognize the law as deriving from God as governor of the cosmos.’<sup>36</sup> This makes sense if Aquinas’s discussion of natural law has a soteriological purpose. The self-evidence of natural law does not establish that we do not need God in order to discern right and wrong, rather it establishes our guilt for failing to order

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<sup>32</sup> Hall *Narrative* 67; Torrell *Aquinas Vol. II* 244.

<sup>33</sup> Hall *Narrative* 2.

<sup>34</sup> Hall *Narrative* 96.

<sup>35</sup> Jaffa *Thomism and Aristotelianism* (Chicago: University of Chicago Press, 1952).

<sup>36</sup> Hall *Narrative* 4.

our lives according to the revelation of right and wrong, and of Godself, which the triune God has given us through the world God has made.<sup>37</sup>

It is therefore the goodness of God's creation and of His saving purposes, not rationality, which dictates Aquinas's insistence that, however mistaken we may be on particular points, the natural law, in its most general (*communissima*) principles, is known to all and cannot be erased from the human heart (*ST* I-II.94.6).<sup>38</sup> When Aquinas insists that 'sin cannot destroy man's rationality altogether, for then he would no longer be capable of sin' (*ST* I-II. 85.2), he reveals that for him natural law means that humans are without excuse before God, not that human beings may be righteous before God by means of their own unaided perfect observance of the natural law.<sup>39</sup>

This teleological and soteriological orientation in Aquinas's thinking about natural law means that Aquinas does not derive his account or principles of natural law as a result of operating the so-called naturalistic fallacy in violation of the is/ought distinction. For Aquinas, following Paul in Rom. 3:23, it is the glory of God of which human beings have fallen short. We *ought* to live lives worthy of the glory of God; therefore we *ought* to behave in these ways.<sup>40</sup>

Where Christ has been proclaimed, God has revealed that the world is ordered to Him in Christ. Where Christ has not yet been proclaimed but the Mosaic Law has been given, God

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<sup>37</sup> McIlroy 'What's at stake in natural law?' *New Blackfriars* (forthcoming).

<sup>38</sup> Hall *Narrative* 30-31.

<sup>39</sup> Rogers 'The Narrative of Natural Law in Aquinas's Commentary on Romans 1' *Theological Studies* 59 (1998) 257-58.

<sup>40</sup> Finnis makes this point by reference to *de Caritate* a. 2c. in 'Natural Inclinations' at 48; *Aquinas* 127; *ST* I-II.99.1; II-II.66.1 sc. Geiger observes 'The end for which a being is created must ... be part of its definition, if the definition of that being is perfect. The end helps us understand the nature of a being ...': 'L'homme image

has revealed through the declaration of its moral, judicial and ceremonial precepts that the world is ordered to Him. Where neither Christ nor the Mosaic Law has been proclaimed, God has revealed through creation that the world is ordered to Him. In all three cases it is the same ordering that is revealed. It is no accident that in *ST I-II.93.1 ad.2* Aquinas appropriated natural law to the Second Person of the Trinity.<sup>41</sup> Where only creation points to the ordering of the world to God, both the discernment of His nature and of His requirements is inevitably unclear, but this merely confirms that, for Aquinas, salvation is by grace not a human achievement. Where the Mosaic Law has been given, God's nature and requirements have been more clearly revealed, but the totality of His demands and the limitations of our fallenness are correspondingly more obviously exposed, and so again it is clear that, for Aquinas, salvation is by grace and not by works.

Grace is key to Aquinas's account of how natural law meets the criterion of promulgation which he has posited is essential for all law (*ST I-II.90.1*). What is 'natural' for Aquinas pertains to what has been given and continues to be given in God's work of creating, sustaining and providence, which God graciously gives for us to enjoy even if we reject Him. Natural law is effectively promulgated because, [Aquinas] says, '*God puts it into men's minds to be known naturally.*' (*ST I-II.90.4 ad.1*, emphasis mine). What Aquinas needed to go on and say was that the triune God puts the natural law into human minds by means of His Spirit. To have done so would have stressed the personal agency of the Spirit and therefore guarded against rationalist distortions of the idea of natural law.

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de Dieu A propos de *Summa theologiae*, Ia, 93, 4' *Rivista di Filosofia Neoscholastica* 66 (1974) 515; Torrell *Aquinas vol. II* 343-44.

<sup>41</sup> *ST I-II.93.1 ad.2* ; *In Rom* 1:20a no. 122, and 1:19 no.115; Rogers 'The Narrative of Natural Law' 270, 272.

#### IV. Aquinas on the New Law

Salvation, for Thomas, is expressly conceived in Trinitarian terms. Christians are saved by the work of Christ, and are given grace to accept that salvation through the Holy Spirit, who transforms the faithful through grace into Christ-likeness to make them fit for perfect communion with the Father (*ST I-II.108.1*).

The new life offered by Jesus is expressed in the form of a ‘New Law’. The New Law is ‘[t]he law of the Holy Spirit [which] is superior to every human law.’ (*ST I-II.96.5 ad.2*)<sup>42</sup>

The Holy Spirit is the capstone for Aquinas’ theology both of law and of virtue in the *Prima Secundae*. He is the agent through which human beings participate fully in the eternal law and by whom they are enabled to live virtuous lives; to put it in other terms He is the agent through whom we are incorporated into Christ and conformed to Christ.<sup>43</sup>

The natural law was beset by the problems of human sinfulness affecting our ability to discern it and to obey it. The Old Law dealt with the problem of discernment through its explicit declaration of its moral precepts. However, the problem of obedience remained unresolved. The New Law transcends the Old Law in that its moral precepts are given internally as is the strength to obey. These gifts are the grace of the Holy Spirit, who is associated so intimately with the New Law that Aquinas can say that the Law of the Gospel is ‘principally the grace of the Holy Spirit, which is given to believers in Christ.’ (*ST I-*

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<sup>42</sup> Kühn ‘Nova Lex. Die Eigenart der christlichen Ethik nach Thomas von Aquin’ in Elders and Hedwig eds. *Lex et Libertas*’ 243-47.

<sup>43</sup> *De potentia* q.10 a.4; *ScG IV*, 21, n.3580; Kerr *After Aquinas* 132, 112, 6; Kühn ‘Nova Lex’ 245; Torrell *Aquinas Vol. II* 145, 361, 372.

II.106.1), which sanctifies us through faith and charity and, on Aquinas' view, through the sacraments of the Church.<sup>44</sup> By these means, we are conformed to Christ.<sup>45</sup>

For Aquinas, there is a fundamental difference between the Old Law and the New Law. The Old Law was exterior, the New Law is interior. Christians are to take Jesus' words to heart, not merely to assent to them intellectually.<sup>46</sup> They are enabled to do this by the indwelling of the Spirit.<sup>47</sup>

'The New Law ... is not a set of laws governing external behaviour but instead an internal prompting to God directly. ... In fact, the New Law enables believers to achieve the highest end: union with God. It is of the nature of the New Law, understood as grace, to justify, says Aquinas, it makes possible the salvation of those who possess it. (*ST* I-II.106.2, s.c. and resp.)<sup>48</sup>

This understanding of the New Law is not antinomian, for the moral precepts of the Old Law remain valid. 'The moral precepts necessarily retained their force under the New Law, because they are of themselves essential to virtue' (*ST* I-II.108.3 ad.3). Christians fulfil the moral precepts of the Old Law, which remain binding upon them, through the power of the Holy Spirit. However, the written precepts attached to the New Law are secondary to the

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<sup>44</sup> Levering *Christ's Fulfillment* 93; Delhayé 'La Loi Nouvelle comme dynamisme de l'Esprit-Saint' in Elders and Hedwig eds. *Lex et libertas* 270-71.

<sup>45</sup> *Commentary on the Gospel of John* Part I, chapter 3, lecture 1.

<sup>46</sup> *ST* III.42.4 ; Levering *Christ's Fulfillment* 48.

<sup>47</sup> *In 1 Cor.* 3.16-23 [173].

<sup>48</sup> Hall *Narrative* 69.

grace of the Spirit; they are ordered to the instruction of the faithful as to the ‘use of this grace’ (*ST* I-II.106.1 ad.1).<sup>49</sup>

For Aquinas, true growth in virtue is only possible by ‘co-operating grace’, which enables us to make progress with God’s help (*ST* I-II.111.2; II-II.83.15 ad.1). ‘When describing the relation of grace to infused virtue, Thomas says that “the light of grace ... is a participation in the divine nature” (*ST* I-II.110.3). And he emphasizes that the gift of grace is nothing short of a genuine participation in God himself’.<sup>50</sup> ‘There can be no doubt, then, that for Thomas, the Spirit is the direct and personal source of all grace within us, and that he remains the personal source of the working of the gifts of grace in our ongoing sanctification.’<sup>51</sup>

#### V. *Aquinas on glorification*

Anna Williams has championed the reading of Aquinas as a theologian of deification. Deification is the completion of grace, ‘whereby man will not merely be able to persevere but will be unable to sin.’ (*ST* I-II.109.10 ad.3). Anna Williams identifies *ST* I-II.112.1 as the clearest example in the *ST* of Aquinas taking deification for granted.<sup>52</sup> That article occurs in the treatise of grace, that is to say, in the second half of the treatise on law! There are other references to the concept in *ST* I-II.110.3 and 114.3.

Far from being anchored to that which was given once for all in creation so as to give his ethics and philosophy a static and rationalist character, Aquinas is constantly looking forward

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<sup>49</sup> Hall *Narrative* 70; Rodriguez ‘Spontan  t   de la loi nouvelle et caract  re l  gal de la loi nouvelle’ in Elders and Hedwig eds. *Lex et libertas* 256-59, 264; Delhay   ‘La Loi Nouvelle’ 271-73 ; Torrell *Aquinas Vol. II* 203..

<sup>50</sup> Keating ‘Justification, Sanctification and Divinization’ 154.

<sup>51</sup> Keating ‘Justification, Sanctification and Divinization’ 151.

<sup>52</sup> A.N. Williams ‘Deification in the *Summa Theologiae*: A Structural Interpretation of the *Prima Pars*’ *The Thomist* 61 (1997) 223. *ST* III.1.2 sc would be another candidate.

to the beatific vision. Natural law itself is, in Aquinas's thinking, an orientation rather than a mode of conservation. Aquinas is clear not only that the purpose of human life is union with God, but also that this fulfilment is to be found not on earth but in another life.<sup>53</sup> As *ST I-II.114.10* puts it: 'man's good is simply his last end', which is a perfect communion with God 'is achieved through the sending of the Son and the Spirit.'<sup>54</sup>

As Anna Williams notes, for Aquinas, human sanctification and glorification are grounded in the intratrinitarian processions.<sup>55</sup> 'Those who enjoy the beatific vision do so as adopted sons in the Son',<sup>56</sup> an adoption which is secured by the Spirit.<sup>57</sup> '[S]piritual generation means conformity to the Son ... [which] comes about ... by our having his Spirit.'<sup>58</sup>

#### VI. *The place of human law after the drama of salvation*

The above argument has presented a sequence, dominated by eternal law, into which natural law, the old law and the new law all find a place. Aquinas's comments on human law are incidental to his purpose and direction in the treatise on Law. What is clear, however, is that his assessment of the proper role of human law looks very different if the work of Christ and of the Holy Spirit are excised from or overlooked in his thought.

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<sup>53</sup> Yocum 'Aquinas' Literal Exposition on Job' 31.

<sup>54</sup> Emery 'The Doctrine of the Trinity in St. Thomas Aquinas' in Weinandy, Keating and Yocum eds. *Aquinas on Doctrine* 61; Weinandy 'The Marvel of the Incarnation' in Weinandy, Keating and Yocum eds. *Aquinas on Doctrine* 83.

<sup>55</sup> A.N. Williams *The Ground of Union: Deification in Aquinas and Palamas* (New York: OUP, 1999) 59; Levering 'Reading John' 118.

<sup>56</sup> *Christ's Fulfillment* 139; *ST III.23.1*; *II-II.121.1 ad.3*; *III Sent. d.19 q.1 a.4 sol.1*; *In Ioan.* 1460, 2187.

<sup>57</sup> Emery *Trinity in Aquinas* 213, 227, 232, 289.

<sup>58</sup> Levering 'Reading John with St Thomas Aquinas' in Weinandy, Keating and Yocum eds. *Aquinas on Scripture* 106; *ScG IV ch.24*; *De potentia q.10 a.4*; *In Ioan.* 442, 1957.

## 1. Limitations on the role of human law

Aquinas's understanding of salvation relegates human law to no more than the antechamber of God's purposes at best. Human law-making and law-enforcement is set within a broader, more ultimate framework. For Aquinas law is only concerned with enforcing those matters of morality which belong to justice, i.e. those which relate to right relations between persons (*ST I-II.99.5 ad.1*). We might talk of 'shallow justice' in distinction from the deep justice, that is justice-righteousness, which is the virtue which the Holy Spirit nurtures in the Christian.

Human law is necessary because of the effects of the Fall on humans' ability to discern and obey the natural law. It is because of human beings' ability to misunderstand the natural law, that human law is necessary to make it 'efficacious on the political level.'<sup>59</sup> It is because human selfishness means that we fail to give to others what is due to them, that human rulers must direct us to the common good (*ST I.105.4*). In addition, 'the general principles of the natural law must be further articulated (and supplemented) according to the specific needs of individual communities.'<sup>60</sup> Thus human law is derived from natural law in two ways: one as conclusions from principles, the other as particulars from generalities (*ST I-II.95.2*).<sup>61</sup>

Aquinas argues that laws should be realistic: 'laws should be possible both according to nature and according to the customs of the country' (*ST I-II.96.2; 97.1; V Ethics lect.2*). Precisely because 'human law is established for the collectivity of human beings, most of whom have imperfect virtue ... human law does not prohibit every kind of vice, from which the virtuous abstain. Rather, human law prohibits only the more serious kinds of vice, from

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<sup>59</sup> Hall *Narrative* 21.

<sup>60</sup> Hall *Narrative* 41.

which most persons can abstain, and especially those vices that inflict harm on others, without the prohibition of which human society could not be preserved.’ (*ST* I-II.96.2; II-II.69.2 ad.1; 77.1 ad.1) This was true even of the Mosaic Law, which Aquinas comments permits divorce because of the Jews’ hardness of heart (*ST* I-II.105.4 ad.8) and lending money at interest to foreigners because of ‘the proneness of the Jews to avarice’! (*ST* I-II.105.3 ad.3).

Human law is derivative from the natural law in the sense that human law may not command what natural law forbids nor forbid what natural law commands (*ST* I-II.95.2). It also falls to human law to determine how to enforce principles of the natural law. However, human law may tolerate what natural law forbids (*ST* I-II.96.2) and indeed must do so (ad.3). Well-framed human laws must take into account the fact that they are designed to control the behaviour of those who do not have the indwelling power of the Spirit.

For Aquinas, human laws can only achieve limited good. The reasons for this are to do both with human limitations and with human sinfulness. What can be achieved through human justice is radically qualified by the persistence of human sinfulness. Attempting to prohibit all vices through human law would bring the law into contempt through the impossibility of adhering to it (*ST* I-II.96.2 ad.2).

The foregoing qualifications raise an issue about whether it is accurate to say, as Levering does, that for Aquinas, ‘Law is meant primarily to aid people in their quest to know and do the good, although certainly law also has the secondary role of restraining the wicked.’<sup>62</sup> The

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<sup>61</sup> Finnis *Aquinas* 266.

<sup>62</sup> Levering *Christ’s Fulfillment* 20.

problem is that while the statement is accurate with regard to Aquinas's view of the natural law, the divine law, and the eternal law, Aquinas's category of law contains an odd one out: human law. Although Aquinas may have begun by drawing analogies from human law to natural law, divine law and eternal law,<sup>63</sup> where he ends up leaves human law looking strangely out of place. In the light of Aquinas's discussion, human law is the odd one out. It is not directly given by God. It is not directly ordered to the eternal good of loving God and loving one's neighbour (in God). Instead, it is directly ordered to the temporal tranquillity and only indirectly ordered to eternal goods.<sup>64</sup> Human law is powerless to effect true virtue. Unlike the natural law and the Mosaic law, human law is not directly fulfilled in Christ. It is not of eternal value in the same way. It is a temporal ordinance, ordered providentially by God, during the time of humanity's rebellion against him.

Aquinas's most significant, though by no means only, departure from Aristotle is his denial that human rulers are competent to ensure the virtue of the communities which they govern.<sup>65</sup> Given the limits on their powers, all they can achieve is shallow justice and a protection of the freedom in which true virtue may flourish.<sup>66</sup> For human law, the priorities are reversed; restraining the wicked is its primary function and promoting defined forms of the good only secondary.<sup>67</sup>

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<sup>63</sup> McInerny 'The Basis and Purpose of Positive Law' in Elders and Hedwig eds. *Lex et libertas* 137.

<sup>64</sup> Gilby *Principality and Polity* (London: Longman Green, 1958) 182, 230.

<sup>65</sup> Finnis *Aquinas* 222-52.

<sup>66</sup> Gilby *Principality and Polity* 130; Finnis *Aquinas* 237-38.

<sup>67</sup> Gilby *Principality and Polity* 179-80, 306; *Between Community and Society* 327; Finnis *Aquinas* 228-31.

2. The contrasts between divine law and human law in ST I-II.98.1

Aquinas's clearest distinction between the role assigned to human law and the New Law which is the grace of the Holy Spirit comes in *ST I-II.98.1*, in the context of a discussion about the goodness of the Old Law, which stands between the two:

‘... it must be observed that the end of human law is different from the end of Divine law. For the end of human law is the temporal tranquillity of the state, which end law effects by directing external actions, as regards those evils which might disturb the peaceful condition of the state. On the other hand, the end of the Divine law is to bring man to that end which is everlasting happiness; which end is hindered by any sin, not only of external, but also of internal action. Consequently that which suffices for the perfection of human law, viz., the prohibition and punishment of sin, does not suffice for the perfection of the Divine law: but it is requisite that it should make man altogether fit to partake of everlasting happiness. Now this cannot be done save by the grace of the Holy Ghost, whereby charity, which fulfilleth the law, ... is spread abroad in our hearts (Rom. 5:5): since the grace of God is life everlasting (Rom. 6:23). But the Old Law could not confer this grace, for this was reserved to Christ ...’

The contrasts in this section are as follows:

	<u>Human Law</u>	<u>Divine Law</u>
End:	the temporal tranquillity of the state	everlasting happiness
Means:	direction of external actions	the grace of the Holy Ghost spread abroad in our hearts
Perfection:	prohibition and punishment of sin	charity

The three contrasts will be considered in reverse order. With regard to the third distinction, since true justice is a work of the indwelling Spirit, and this human law is powerless to effect, therefore the role of human law in prohibiting and controlling vice must be more fundamental than its role in promoting virtue.<sup>68</sup>

With regard to the second distinction, the scope of human law is inherently limited because ‘human beings can judge only sensibly perceptible external acts, not hidden internal movements.’ (*ST* I-II.91.4; 100.9; II-II.58.8; *IV Sent.* d.15 q.3 a.4 sol.1 ad.3).<sup>69</sup> Human law is therefore content with what might be termed ‘shallow justice’ while questions of ‘deep justice’ are matters for God alone.

With regard to the first distinction, precisely because the consummation of salvation must await the eschaton, a distinction has to be drawn between the perfect peace of the beatific vision and the imperfect peace, which is the best that can be hoped for in this world (*ST* II-II.29.2 ad.4). At *ST* I-II.99.1.ad.2, Aquinas says: ‘every law aims at establishing friendship, either between man and man, or between man and God.’ This is further clarified, at *ST* I-II.100.5, where Aquinas writes: ‘just as the precepts of human law direct man in his relations to the human community, so the precepts of the divine law direct man in his relations to a community or commonwealth of men under God.’<sup>70</sup> By this means, Aquinas distinguishes between the people of Israel, to whom was given the divine law to bring them into communion with God, and all other peoples, whose laws have a more limited purpose: a

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<sup>68</sup> Hall *Narrative* 85.

<sup>69</sup> Finnis *Aquinas* 241-42.

<sup>70</sup> Also *ST* I-II.99.3 resp. and II-II.59.1 ad.1 ‘Even as legal justice is referred to human common good, so Divine justice is referred to the Divine good’.

purpose which can be described as expansively as aiming at friendship between man and man (ST I-II.99.1 ad.2; 99.2) or more circumspectly as the temporal tranquillity of the state.<sup>71</sup>

## VII. *Conclusions*

Where the role of the Holy Spirit as the agent of the New Law is forgotten, then Aristotelian corporatism dominates the rump of Aquinas's thought which remains. Whereas, if Aquinas's teaching on law and grace is considered *in toto*, it is, in the New Covenant Era, not the role of human law but of the Holy Spirit to infuse virtue. The Holy Spirit alone can move human beings towards the beatitude of eschatological participation in the divine law which is attainable only through union with Christ and is the *summum bonum* of human existence (ST I-II.68.2). What human law can do, is to conduce to virtue (ST I-II.92.1 ad.1) and to habituate its subjects to externally virtuous actions (ST I-II 92.2 ad.4). It may even, insofar as it reflects the natural law or the moral precepts of the Old Law, instruct in virtue those who are inclined to good (ST I-II.98.6; 101.3). The truly spiritual man, however, may be said to be not under the law 'because he fulfils the law willingly, through charity which is poured into his heart by the Holy Ghost.' (ST I-II.93.6 ad.1).

For Aquinas, righteousness cannot be attained by observance of an exterior law. The Old Law demonstrated that. Similarly, human law can only be instrumental in bringing about limited peace. It can only constrain exterior acts. Only Christ can render the whole person peaceful.<sup>72</sup> Humans can only attain the good for which they were made, communion with God, through the saving work of Christ and the transforming work of the Holy Spirit. Human

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<sup>71</sup> Hall *Narrative* 85.

<sup>72</sup> Levering 'Reading John' 117-118; *In Ioan* 1964.

law is therefore powerless to effect salvation or sanctification. It is for good reason, therefore, that Aquinas warns against aiming too high with human law.

It belongs to human law to direct and control human behaviour in respect of sensibly perceptible and earthly goods, and in this respect to be informed by the Church's proclamation of what the true nature of those goods is. However, 'it belongs to the divine law [that is to say the Holy Spirit] to direct human acts regarding the order of righteousness.' (*ST I-II.91.5*).

Aquinas's account of natural law must be seen as an account of a realm of given reality and rules which have stability and normativity precisely because they have been created by God. The good gifts of God to humankind in creation are ordered to the Son, through whom they were given, and who dignified them through His Incarnation.

Key to Aquinas's account is his conception of the Spirit as the New Law, working in Christians to guide them and empower them to obey God. This work of the Spirit culminates in the eschatological glorification of human beings, when the need for external constraints is eliminated as human beings enjoy perfect communion with the Father, in the Son, by the Spirit.

Precisely because Aquinas's trinitarianism is focussed around a fully-orbed doctrine of salvation, he is able to say valuable things about the place of human law within the divine economy. Human law is recognised to be incompetent to effect true, inward, transformation but as performing the valuable function of executing shallow justice. Aquinas points the way

to a relatively liberal, relatively peaceful and relatively just legal order which is concerned with temporal goods whilst being open to God's calling to the eternal good.