

QUESTION 94

The Natural Law

We next have to consider the natural law. And on this topic there are six questions: (1) What is the natural law? (2) Which precepts belong to the natural law? (3) Are all the acts of the virtues part of the natural law? (4) Is there a single natural law for everyone? (5) Is the natural law changeable? (6) Can the natural law be erased from the human mind (*possit a mente hominis deleri*)?

Article 1

Is the natural law a habit [of the soul]?

It seems that the natural law is a habit [of the soul]:

Objection 1: As the Philosopher says in *Ethics* 2, “There are three sorts of things in the soul: powers, habits, and passions.” But as is clear from going through each of these one by one, the natural law is not one of the powers of the soul or one of the passions. Therefore, the natural law is a habit.

Objection 2: Basil says, “Conscience (*conscientia*) or synderesis (*synderesis*) is our intellect’s law”—and by this he cannot mean anything other than the natural law. But as was established in the First Part (*ST* 1, q. 79, a. 12), synderesis is a certain habit. Therefore, the natural law is a habit.

Objection 3: As will be shown below (a. 6), the natural law remains within a man always. But a man’s reason, which is what the law has to do with, is not always actually thinking about the natural law. Therefore, the natural law is a habit and not an act.

But contrary to this: In *De Bono Coniugali* Augustine says, “A habit is that by means of which something is done when there is need.” But the natural law is not like this, since it exists even in children and in the damned, who cannot act through it. Therefore, the natural law is not a habit.

I respond: There are two senses in which something can be called a habit.

In the first sense, something is called a habit *properly and essentially*, and in this sense the natural law is not a habit. For it was explained above (q. 90, a. 1) that the natural law is something constituted by reason, in the same way that a proposition is a work of reason. But *what* someone does or makes is not the same as *that by means of which* he does it or makes it. For instance, it is by means of the habit of grammar that someone makes a coherent utterance. Therefore, since a habit is *that by means of which* one acts, no sort of law can be a habit properly and essentially.

In the second sense, *that which is had* by means of a habit can itself be called the habit—in the way that the Faith is that which is held by means of faith. And since the precepts of the natural law are such that even though at times they are actually being considered by reason, at other times they exist only habitually in reason, one can say in this sense that the natural law is a habit. In the same way, the indemonstrable principles in speculative matters are not the habit itself with respect to the principles; rather, they are principles with respect to which there is a habit.

Reply to objection 1: In this passage the Philosopher means to be looking for the genus of *virtue*, and since it is clear that a virtue is a principle of acts, he proposes only the sorts of things that serve as the principles of human acts, viz., powers, habits, and passions. However, besides these three, there are other sorts of things that exist in the soul. For instance, certain kinds of acts exist in the soul, e.g., an act of willing exists in one who wills; (b) again, things that are known exist in the one who knows them; and (c) the natural properties of the soul exist in the soul, e.g., immortality and others of this sort.

Reply to objection 2: Synderesis is called our intellect’s law because it is a habit containing the precepts of the natural law, which are first principles of human works.

Reply to objection 3: The conclusion of this argument is that the natural law is had in a habitual manner. This we concede.

Reply to argument for the contrary: By the very fact that something exists habitually in a man, it follows that he is sometimes unable to make use of it because of an impediment. For instance, a man who is sleeping cannot make use of his habit of knowing conclusions (*habitus scientiae*). In the same way, because he is not the right age, a young child cannot make use of the habit of grasping first principles (*intellectus*) or, again, of the natural law, which exists in him habitually.

Article 2

Does the natural law contain many precepts or just one precept?

It seems that the natural law contains just one precept and not many precepts:

Objection 1: As was explained above (q. 92, a. 2), law is contained under the genus *precept*. Therefore, if the natural law contained many precepts, it would follow that there are likewise many natural laws.

Objection 2: The natural law follows upon the nature of man. But human nature is one taken as a whole, even though it has multiple parts. Therefore, either (a) there is just one precept of the law of nature because of the oneness of the whole or (b) there are many precepts because of the multiplicity of the parts of human nature, in which case even what stems from the inclination of the concupiscible [part of the soul] will belong to the natural law.

Objection 3: As was explained above (q. 90, a. 1), law is something that belongs to reason. But there is just a single faculty of reason in a man. Therefore, the natural law contains just one precept.

But contrary to this: The precepts of the natural law play the same role in a man with respect to matters of action that first principles play with respect to matters of demonstration. But there are many indemonstrable first principles. Therefore, there are likewise many precepts of the natural law.

I respond: As was explained above (a. 1), the precepts of the law of nature bear the same relation to practical reason that the first principles of demonstration bear to speculative reason. For in both cases they are principles that are known *per se* (*per se nota*).

Now there are two senses in which something is said to be known *per se*: (a) in its own right (*secundum se*) and (b) as regards us (*quoad nos*).

Every proposition (*propositio*) said to be known *per se* in its own right is such that its predicate is part of the notion of its subject (*de ratione subiecti*); and yet it happens that such a proposition will not be known *per se* to someone who does not know the definition of the subject. For instance, the proposition ‘A man is rational’ is known *per se* given its own nature, since anyone who expresses *man* expresses *rational*; and yet this proposition is not known *per se* to someone who does not know the real definition (*quid sit*) of man. This is why, as Boethius points out in *De Hebdomadibus*, certain fundamental truths (*dignitates*) and propositions (*propositiones*) are known *per se* in general to everyone—and these are the ones whose terms are known to everyone, e.g., ‘Every whole is greater than its part’ and ‘Things equal to one and the same thing are equal to one another’—whereas other propositions are known *per se* only to the wise, who understand what the terms of the proposition signify. For instance, to someone who understands that an angel is not a body it is known *per se* that an angel does not exist circumscriptively in a place; however, this is not obvious to unsophisticated people, who do not grasp the point in question.

Now there is a certain ordering among those things that fall within everyone’s apprehension. The first thing to fall within apprehension is *being*, a grasp of which is included in everything that anyone apprehends. So the first indemonstrable principle, founded upon the notions *being* and *non-being*, is

‘One is not to affirm and deny [the same thing] at the same time’. And, as *Metaphysics* 4 says, all the other principles are founded upon this one.

Now just as *being* is the first thing to fall within apprehension absolutely speaking, so *good* is the first thing to fall within the apprehension of practical reason, which is ordered toward action. For every agent acts for the sake of an end, which has the character of a good. And so the first principle in practical reasoning is what is founded on the notion *good*, which is the notion (*quod fundatur supra rationem boni quae est*): *The good is what all things desire*. Therefore, the first precept of law is that good ought to be done and pursued and that evil ought to be avoided. And all the other precepts of the law of nature are founded upon this principle—so that, namely, all the things to be done or avoided that practical reason naturally apprehends as human goods are such that they belong to the precepts of the law of nature. For since what is good has the character of an end and what is bad has the character of the contrary of an end, it follows that all the things man has a natural inclination toward are such that (a) reason naturally apprehends them as goods and thus as things that ought to be pursued by action and (b) reason naturally apprehends their contraries as evils and thus things that ought to be avoided.

Therefore, there is an ordering of the precepts of the natural law that corresponds to the ordering of the natural inclinations.

First, man has an inclination toward the good with respect to the nature he shares in common with all substances, viz., insofar as every substance strives for the conservation of its own *esse* in accord with its own nature. And what belongs to the natural law in light of this inclination is everything through which man’s life is conserved or through which what is contrary to the preservation of his life is thwarted.

Second, man has an inclination toward certain more specific [goods] with respect to the nature that he shares in common with the other animals. Accordingly, those things are said to belong to the natural law which nature teaches all the animals, i.e., the union of male and female, the education of offspring, etc.

Third, man has an inclination toward the good with respect to the rational nature that is proper to him; for instance, man has a natural inclination toward knowing the truth about God and toward living in society. Accordingly, those things that are related to this sort of inclination belong to the natural law, e.g., that a man avoid ignorance, that he not offend the others with whom he has to live in community, and other such things related to this inclination.

Reply to objection 1: Insofar as all these precepts of the law of nature are traced back to a single first principle, they have the character of a single natural law.

Reply to objection 2: All the inclinations of any of the parts of human nature, e.g., the concupiscible part and the irascible part, are relevant to the natural law insofar as they are regulated by reason, and, as has been explained, they are traced back to a single first precept. Accordingly, even though the precepts of the law of nature are many in themselves, they nonetheless share a single root.

Reply to objection 3: Even if reason is in itself one, it nonetheless orders all the things relating to men. Accordingly, the law of reason contains everything that can be regulated by reason.

Article 3

Do all the acts of the virtues belong to the law of nature?

It seems that not all the acts of the virtues belong to the law of nature:

Objection 1: As was explained above (q. 90, a. 2), it is part of the notion of law that it is ordered toward the common good. But as is especially clear in the case of acts of temperance, some acts of the

virtues are ordered toward an individual's private good. Therefore, not all the acts of the virtues fall under the natural law.

Objection 2: All sins are opposed to some virtuous act or other. Therefore, if all the acts of the virtues belonged to the law of nature, then, as a result, all sins would seem to be contrary to nature. But this is said specifically [only] of certain sins.

Objection 3: All share in those things that are in accord with nature. But it is not the case that all share in acts of the virtues, since something that is virtuous for one person is vicious for another. Therefore, not all the acts of the virtues belong to the law of nature.

But contrary to this: In [*De Fide Orthodoxa*] 3 Damascene says, "The virtues are natural." Therefore, virtuous acts likewise fall under the law of nature.

I respond: We can speak of virtuous acts in two ways: (a) first, insofar as they are virtuous and (b) second, insofar as they are acts of certain kinds considered in their own proper species.

Thus, if we are speaking of the acts of the virtues insofar as they are virtuous, then in this sense all the acts of the virtues belong to the law of nature. For it was explained above (a. 2) that everything toward which man is inclined in accord with his nature belongs to the law of nature. But every entity is naturally inclined toward action that is appropriate for it in light of its form, in the way that fire is naturally inclined to give warmth. Hence, since the rational soul is the proper form of man, every man has a natural inclination toward acting in accord with reason—which is just to act in accord with virtue. Hence, in this sense all the acts of the virtues belong to the natural law, since the faculty of reason proper to each man dictates by nature that he act virtuously.

By contrast, if we are speaking of virtuous acts in their own right, i.e., insofar as they are considered in their own proper species, then in this sense not all virtuous acts belong to the natural law. For many things done in accord with virtue are such that nature does not incline one toward them in the primary sense; rather, it is through reasoned inquiry that men have discovered these things to be, as it were, advantageous to living well.

Reply to objection 1: Temperance has to do with sensory desires for food and drink and sexual pleasure, all of which are ordered toward the common good of nature, just as other matters pertaining to the law are likewise ordered toward the common moral good.

Reply to objection 2: By 'nature of man' one can mean either (a) those things that are proper to man, and in this sense all sins, since they are contrary to reason, are likewise contrary to nature, as is clear from Damascene [in *De Fide Orthodoxa*] 2; or (b) those things that are common to man and the other animals, and in this sense certain specific sins are said to be contrary to nature. For instance, sexual intercourse between males is contrary to the sexual union between male and female, which is natural to all animals, and is in a special sense called a vice contrary to nature.

Reply to objection 3: This argument has to do with acts considered in their own right. For it happens in this way that, because of the diverse conditions men find themselves in, some acts are virtuous for some people, in the sense of being proportioned to and suitable for them, but are nonetheless vicious for others in the sense of not being proportioned to them.

Article 4

Is there a single law of nature for everyone?

It seems that it is not the case that there is a single law of nature for everyone:

Objection 1: *Decretals*, dist. 1, says, "Natural law (*ius naturale*) includes what is contained in the

Law and what is contained in the Gospel.” But this is not common to everyone, since as Romans 10:16 says, “Not everyone is obedient to the Gospel.” Therefore, there is not a single natural law for everyone.

Objection 2: As *Ethics* 5 says, “Things that are in accord with the law are called just.” But the same book says that nothing is just for everyone to such an extent that it is not different for some. Therefore, it is likewise not the case that the natural law is the same for everyone.

Objection 3: As was explained above (a. 2-3), the law of nature has to do with what man is inclined to according to his nature. But different men are naturally inclined toward different things; for instance, some are inclined toward a desire for pleasures, others toward a desire for honors, and others toward other things. Therefore, it is not the case that there is a single natural law for everyone.

But contrary to this: In *Etymologia* Isidore says, “The natural law (*ius naturale*) is common to all nations.”

I respond: As was explained above (a. 2-3), those things to which man is naturally inclined belong to the law of nature—and, among other things, it is proper to man that he be inclined to act in accord with reason.

Now as is clear from *Physics* 1, it belongs to reason to proceed from what is universal (*ex communibus*) to what is particular (*ad propria*). However, speculative reason and practical reason behave differently on this score. For since speculative reason deals principally with necessary things, which are such that it is impossible for them to be otherwise, truth is found without exception (*absque aliquo defectu*) in the particular conclusions in just the way it is found in the universal principles. By contrast, practical reason deals with contingent things, which include human actions, and so even if there is some sort of necessity in the universal principles, nonetheless, the further down one descends to particulars, the more exceptions there are. So, then, in speculative matters there is the same truth for everyone both in the principles and in the conclusions, even though the truth is known to everyone only in the principles, which are called common conceptions (*communes conceptiones*), and not in the conclusions. By contrast, in practical matters, there is the same practical truth or correctness (*rectitudo*) for everyone only with respect to the universal principles and not with respect to the particulars. Further, in the case of those for whom there is the same correctness in the particulars, it is not equally well known to all of them.

So, then, it is clear that *with respect to the universal principles of either speculative reason or practical reason*, there is the same truth or correctness for everyone and it is equally well known to everyone.

Again, *with respect to the particular conclusions of speculative reason*, there is the same truth for everyone, though it is not equally known to all of them. For instance, it is true for everyone that a triangle has three angles equal to two right angles, but this is not known to everyone.

However, *with respect to the particular conclusions of practical reason*, there is not the same truth, i.e., correctness, for everyone, and even in the case of those for whom it is the same, it is not equally well known to everyone. For instance, it is right and true for everyone that one ought to act in accord with reason, and from this principle it follows as a sort of particular conclusion that what has been entrusted to one for safe-keeping ought to be returned. To be sure, this is true in most cases. Yet, in a given case, to return what has been entrusted to you may be injurious and thus unreasonable (*irrationale*)—for instance, if someone were seeking to harm your country. And the further down one descends to particulars, the more often [original rule] fails—as, for instance, when someone says that entrusted things ought to be returned with such-and-such precautions or in such-and-such a manner. For to the extent that more and more particular conditions are added, there are more ways in which the [original rule] can fail and thus be incorrect about returning or not returning what has been entrusted.

Therefore, one should claim that with respect to its first universal principles, the law of nature is the same for everyone both with respect to correctness and with respect to knowledge. On the other

hand, with respect to various particular [rules], which are, as it were, the conclusions of those universal principles, the law of nature is the same for everyone in most cases both with respect to correctness and with respect to knowledge, and yet there can be exceptions in a few cases both (a) with respect to *correctness*, and this because of certain impediments (just as the generable and corruptible natures are defective in a few cases because of impediments), and also (b) with respect to *knowledge*, and this because the faculty of reason has been perverted in some people by passion or by bad habits or by a bad natural condition. For instance, as Julius Caesar reports in *De Bello Gallico*, at one time among the Germans theft was not considered bad, even though it is clearly contrary to the law of nature.

Reply to objection 1: This passage should not be understood to mean that all the things contained in the Law and the Gospel belong to the law of nature. For many things set forth in the Law and the Gospel go beyond nature. Rather, the passage means that what belongs to the law of nature is found more fully in the Law and the Gospel.

This is why, after Gratian had claimed that the natural law is what is contained in the Law and the Gospel, he immediately added, by way of example, “..... by which everyone is commanded to do to another what he wishes to be done to himself.”

Reply to objection 2: This passage from the Philosopher should be understood to be talking about rules that are naturally just not in the manner of universal principles, but rather in the manner of conclusions stemming from those principles. Such conclusions are correct in most cases and fail in a few cases.

Reply to objection 3: Just as man’s reason rules and commands the other powers, so all the natural inclinations belonging to the other powers should be ordered in accord with reason. Hence, it is universally right for everyone that all the inclinations of men should be directed in accord with reason.

Article 5

Can the law of nature be changed?

It seems that the law of nature can be changed:

Objection 1: The Gloss on Ecclesiasticus 17:9 (“He gave them instructions, and the law of life”) says, “He wanted the ‘law of the letter’ to be written in order to correct the natural law.” But what is corrected is changed. Therefore, the natural law can be changed.

Objection 2: The killing of the innocent is contrary to the natural law, as are adultery and theft as well. But these have been changed by God, viz., (a) when God commanded Abraham to kill his innocent son, according to Genesis 22:2; (b) when He commanded the Jews to steal the vases they had borrowed from the Egyptians, according to Exodus 12:35; and (c) when He commanded Hosea to take an adulterer as his wife, according to Hosea 1:2. Therefore, the natural law can be changed.

Objection 3: In *Etymologia* Isidore says, “The communal possession of all things and equal liberty belong to natural law.” But we see that these have been changed through human laws. Therefore, it seems that the natural law is changeable.

But contrary to this: *Decretals*, dist. 5, says, “The natural law dates from the very beginnings of the rational creature. Neither does it change over time, but remains immutable.”

I respond: There are two ways to understand what it is for the natural law to be changed.

First, it is changed by something’s being added to it. In this sense nothing prevents the natural law from being changed. For many things useful to human life have been added to the natural law, both by the divine law and also by human laws.

Second, the natural law might be thought of as being changed by way of subtraction—so that, namely, something that was previously in accord with the natural law ceases to belong to the natural law.

Given this sense of change, the law of nature is altogether unchangeable with respect to its first principles.

On the other hand, with respect to its secondary precepts—which we have claimed to be, as it were, particular conclusions in the neighborhood of the first principles (*proprias conclusiones propinquas primis principiis*)—the natural law is not changed so as to prevent its always being the case that what the natural law says is right in the preponderance of particular cases. However, as was explained above (a. 4), in a few cases it can be changed in some particular because of special causes that obstruct the observance of the secondary precepts.

Reply to objection 1: The written law is said to have been given in order to correct the law of nature either because (a) what the natural law lacks was supplied by the written law, or because (b) the law of nature had in certain respects been corrupted in the hearts of some people to such an extent that they took what was naturally bad to be good—and this sort of corruption required correction.

Reply to objection 2: Everyone in general, whether innocent or guilty, dies a natural death, and according to 1 Kings 2:6 (“The Lord gives death and gives life”), natural death is imposed by God’s power because of Original Sin. And so by God’s command death can be inflicted without any injustice on any man, guilty or innocent.

Similarly, adultery is sexual intercourse with someone else’s wife, where it is by a divinely given law that she is sworn to that other man. Hence, for someone to be intimate with any woman by God’s command is neither adultery nor fornication.

The same holds for theft, which is the taking of what belongs to another. For whatever someone takes at the command of God, who is the owner (*dominus*) of the universe, is such that he is not taking it against the owner’s will—which is what theft is.

And not only is it the case that whatever is commanded by God in human affairs is by that very fact just, but also, as was explained in the First Part (*ST* 1, q. 105, a. 6), whatever is done by God among natural things is in some sense natural.

Reply to objection 3: There are two ways in which something is said to belong to the natural law (*esse de iure naturali*).

First, something is said to belong to the natural law because nature inclines one toward it, e.g., that one should not harm another.

Second, something is said to belong to the natural law because nature has not induced the contrary. For instance, we could say that it belongs to the natural law that man is unclothed, since nature does not give him clothes, but instead human art invented them.

It is in the second sense that a communal possession of all goods and equal liberty for all are said to belong to the natural law—since, namely, servitude and the distinctions among possessions are induced not by nature but by men’s reason because of their usefulness to human life. And so on this score the law of nature has not been changed except by addition.

Article 6

Can the natural law be wiped out of a man’s heart?

It seems that the natural law can be wiped out of a man’s heart (*possit aboleri a corde hominis*):

Objection 1: The Gloss on Romans 2:14 (“When the Gentiles, who do not have the Law, etc.”) says, “The law of justice, which sin had erased, is written in the inner man who is made new through

grace.” But the law of justice is the same as the law of nature. Therefore, the law of nature can be erased (*potest deleri*).

Objection 2: The law of grace is more efficacious than the law of nature. But the law of grace is erased through sin. Therefore, *a fortiori*, the law of nature can be erased.

Objection 3: What is established by the law is proposed as being just. But there are many things established by men contrary to the law of nature. Therefore, the law of nature can be wiped out of the hearts of men.

But contrary to this: In *Confessiones 2* Augustine says, “Your law was written in the hearts of men, and no sort of wickedness erases it.” But the law written in the hearts of men is the natural law. Therefore, the natural law cannot be erased.

I respond: As was explained above (a. 4-5), the natural law contains in the first place certain very general precepts that are known to everyone, but it also contains certain secondary, and more particular, precepts that are like conclusions lying in the neighborhood of the principles.

Thus, as far as the universal principles are concerned, the natural law cannot in any way be erased entirely from the hearts of men. However, it is erased with respect to particular actions insofar as reason is impeded from applying a universal principle to a particular action because of sense desire or some other passion, as was explained above (q. 77, a. 2).

However, as far as the other, i.e., secondary, precepts are concerned, the natural law can be erased from the hearts of men, either (a) because of bad arguments, in the same way that errors occur in speculative matters with respect to necessary conclusions, or (b) because of depraved customs and corrupt habits—in the way that, as the Apostle points out in Romans 1:24ff., theft or even vices contrary to nature are not thought of as sins by some people.

Reply to objection 1: Sin erases the law of nature in particular cases, but not in general, except perhaps with respect to the secondary precepts of the law of nature in the way that has been explained.

Reply to objection 2: Even if grace is more efficacious than nature, nature is nonetheless more essential to man and thus more permanent.

Reply to objection 3: This argument has to do with the secondary precepts of the law of nature. Some lawmakers have made statutes opposed to these precepts, and such statutes are wicked.