

The Metaphysical Foundations of the Natural Law tradition:

Dr Angus Brook, 2 May 2019

Preamble:

I have been asked, this evening, to provide a talk on the metaphysical foundations of the natural law tradition and to do so in such a way that the talk will also provide some kind of context and horizon for this series of talks on the Metaphysics of Humanity: Life, Death, Identity & Language. It is no easy thing to provide an introduction to natural law in an hour, and it is even more difficult to provide an introduction to metaphysics in an hour. As such, tonight's talk necessarily need begin with some apologies:

- (i) First, there is no real possibility that I can introduce you to the complexity or depth of the natural law tradition. As such, all that we will succeed in focusing on tonight is the bare bones, the structural elements, of the metaphysical foundations of natural law;
- (ii) Second, there is even less possibility that I can introduce you to the entirety of metaphysics, let alone the tumultuous debates in contemporary metaphysics. As such, tonight's talk will be restricted to outlining a traditional approach to metaphysics - an approach that gets called moderate realism - and here, only a few of the basic concepts and arguments that are crucial to understanding the metaphysical foundations of law.

Having provided two inadequate apologies, let me now turn to the crucial concepts and arguments of tonight's talk:

- (i) First, some definitions:
 - When I use the term 'law' in tonight's talk I will be doing so within the context of the metaphysical conception of law as *λογος*. In this sense, law is defined in the most general sense as the 'rule and measure of motion and change'. With respect to the metaphysical foundations of natural law then, I will be using the term law to signify 'the rule and measure of action';
 - When I use the term 'metaphysics' in tonight's talk I will be referring to the Aristotelian definition of metaphysics as the 'science of first principles and causes';
 - A first principle is a universal source or origin of motion and change
 - A first cause is a universal cause of the existence of individuals (or substances)

(ii) Second, an overview of the arguments I will provide in tonight's talk:

P₁. Metaphysics is the science that studies the first principles and causes of substances;

P₂. Motion and change is a real feature of substances (things in the world)

P₃. What we mean by law, in a metaphysical sense, is a rule and measure of motion and change

P₄. There is a proportional or analogous relationship between universal law and the law of human nature

∴ Therefore, the metaphysical foundation of natural law is universal law itself. If there is a first or primary cause of reality, i.e., if there is God (or something like God), then what we call 'natural law' is ultimately an expression of the practical reason of God in human nature...

In order to make this argument, tonight's talk will be divided into three parts: 1) the basics of Aristotle's metaphysics, 2) The basics of the metaphysical system of Thomas Aquinas, and 3) The metaphysical foundations of natural law in Thomas' *Summa Theologiae*.

Part One – The Basics of Aristotle's metaphysics:

Aristotle's metaphysics; in fact, his philosophy in its entirety, is grounded upon two fundamental principles: first, that humans and especially our intellects are part of reality and thus must be just like reality in all essential ways; and second, which follows from the first: that all considered human explanations of reality are at least partly true. When Aristotle begins to tackle the questions of metaphysics; the questions of ultimate principles and causes of reality, these two fundamental methodological principles orient Aristotle's approach such that he always considers both the *phenomena* (which literally means in Ancient Greek – how things show themselves) and *endoxa* (the opinions of the educated or wise).

Aristotle begins the *Metaphysics* with the infamous statement that 'all humans by nature desire to know' and then demonstrates that there is a developmental ordering to what we find when we start to pursue knowledge. When we start, first, to ask about the world we start with experience; which gives us knowledge of particular things and their features. Once we have some experiential knowledge, we then move on to trying to 'know how' things in the world can be manipulated. This Aristotle – alongside his predecessors – calls technical knowledge or art or production. However, the desire to know then extends to trying to know why things happen – to providing universal explanations of the motion and change of things in the world. This then gives rise to

scientific and/or demonstrative knowledge, e.g., logic and mathematics. In turn, and finally, our desire to know then culminates in an effort to understand not merely why things happen, but why things **are** universally. This is precisely what Aristotle means by wisdom: the person who knows all things universally without necessarily knowing all of the particulars, and thus wisdom is the goal of first philosophy or metaphysics. The ultimate subjects of metaphysics are first principles and causes because primary principles are universal explanations of motion and change and primary causes are universal explanations of why things exist at all.

Aristotle's first metaphysical question, following his phenomena-endoxa method, is implicitly what 'shows itself' as the ground of all of our knowledge when we consider our experience of the world. What Aristotle finds when he explores this question is – in very brief – as follows:

1. The first thing Aristotle finds when he examines our experience of reality is that reality is composed of real individuals which are structured. All of our experiences of the world involve individual things and we understand these individual things because they all have an intelligible structure. Further, it is impossible for us to experience the world without individuals. By way of a thought experiment, try thinking 'nothing' for a moment and you find yourself either thinking of 'nothing' as if it is 'something', or you give up thought altogether. Humans cannot even think at all without our thought having a subject – a thing that we are thinking about. So, given that Aristotle thinks that the human intellect is essentially the same as the reality in which we live, Aristotle thinks that we have good reason to presuppose that reality is composed of individual things. He calls these real individual things οὐσίαι or substances. At the same time, Aristotle was also deeply aware that all of our experiences of substances is an experience of something that has structure, and has structure in such a way that the individual is intelligible to us. Aristotle calls this feature of substances their 'τι εἶναι' – their 'whatness' or quiddity (in the Latin). Thus, not only can we not experience anything real without immediately grasping that they are an individual, but we also cannot experience things in the world without also grasping their 'whatness'. We can take any individual thing in this room as a demonstration of this fact: the question of 'what is this individual?' is immediately followed by the statement: 'it is a light', 'it is a chair', 'it is carpet', and so on and so forth. The question for Aristotle is then: how do we explain this at the universal level – with respect to everything that exists?
2. Aristotle answers the question of intelligibility or what things are by the concept of essence. To be a substance, Aristotle argues, is to have an essence. If the substance is physical or sensible, the then substance will be

composed of essence + accidents. For example: I – as a substance – am essentially human, but I also have accidental properties like maleness (a necessary accident), and colour, and baldness, and so on... The essence of a substance, according to Aristotle, is the primary principle – the being of the substance. **Most important to note here is that because Aristotle defines a principle as a source of motion; it will be our essence or nature that explains all motion and change that is intrinsic to what we are as individuals.** This will become important when we turn to explaining natural law later on...

3. At the same time, to be a substance is to be an individual. Aristotle explains the existence of individuals by reference to primary causes. Aristotle divides causes into two kinds: essential causes – which cause the existence of a substance – and accidental causes, that explain accidental properties of substances or – in a scientific sense – explain natural processes (like the precipitation cycle). Aristotle argues that there are four essential causes of the existence of physical substances: the efficient cause, the material cause, the formal cause, and the final cause. Of these, it is the final cause that is primary. To understand why the final cause is primary, however, we first need to unpack and explain the special problem of motion and change...
4. One of the great debates in philosophy prior to Aristotle regarded the reality or lack thereof of motion and change. The materialists or naturalists argued that all there is, is change, and that change is just change in composition (material or with respect to properties). This explains the existence of things, but left philosophy with the problem of how to explain the identity (unity and intelligibility) of things. The Platonic tendency, on the other hand, was to explain away change precisely because ideas or essences do not change at all. Aristotle took it for granted - given that we experience change and motion - that we must also conclude that motion and change are real. On the other hand, given that we know the world, and that substances in the world are intelligible to us, we can't go with the materialist account that all is change of composition.

Aristotle's solution was particularly clever (albeit inspired by a Pre-Socratic philosopher Heraclitus) in that Aristotle argued that motion and change are real (and really intelligible) inasmuch as motion and change is ordered... that is ruled by a logos – a **law**.

The conceptual expression of this law of motion in Aristotle's metaphysics is his arguments about the potency-act relation. According to Aristotle all movement and change can be explained by a transition from potency to act.

To oversimplify: Aristotle argues that all movement is grounded in the fact that substances have an essence which delimits and defines the kind of motions and changes it can undergo inasmuch as the substance is naturally inclined to perfect itself through existence and activities.

Some examples might help illustrate Aristotle's point:

- A sunflower seed does not grow up to be a frog;
- An apple tree does not produce mango fruit (unless a branch of a mango tree is grafted onto it – if this is even possible)
- A chair does not, of its own power, begin to dance (nor in fact, do any inanimate objects)
- A human cannot, without artificial intervention, grow wings and fly
- A builder has the capacity to build a house (even when they are not building)
- A human has the capacity to use reason (even if they choose not to be reasonable) and thus the capacity for truth and goodness.

The point of Aristotle's arguments about potency and act; whether we think about act as existence or whether we think about it as activity, is that it is the substance's essence that serves as the principle of the substance's capacities or powers to move and change. The end or completion of that movement and change will either be the existence of the substance or activities that are perfections of that substance's essence, e.g., to be a horse is both to be an actual existing adult horse and is also to act as a horse does; to gallop, to roll on the grass, to be a member of a herd, etc... Other examples

5. This places Aristotle's overarching metaphysical system firmly in the framework of what gets called natural teleology – the thesis that all motion and change can be explained as a motion and change towards the completion of an end or purpose. According to this position all motion and change that occurs in the universe is fundamentally embedded in the essence of substances and their movement and change towards perfecting their natures or completing the ends and purposes intrinsic to their natures. In this respect, then, we must say that all motion and change is subject to a universal law; a rule and measure of motion and change, which is intrinsic to the nature of the substance which moves and changes. According to Aristotle, this law is expressed in three ways: 1) first the law of the nature of the individual substance inasmuch as it moves from potency to act; 2) universal laws of substances in community inasmuch as there is a common

end towards which the members of the community move, and 3) finally, there is a singular universal law inasmuch as the very existence, essence, and motion of everything in the cosmos is explained by a motion which originates in and then moves back towards the first and final cause of the cosmos. This third expression of universal law is, according to Aristotle, the first cause – or what we generally call God.

It is at this point that many instinctively reject both Aristotle's metaphysical position and the account of natural teleology implicit in it. This, of course, traces back historically to the late medieval period in the philosophy of those like Duns Scotus and Ockham – who tried to protect God from philosophy by detaching God from creation. In another sense, this instinctive reaction also traces back to the early British Empiricists such as Thomas Hobbes who ridiculed the idea that science should depend upon a belief in God. Both positions, however, miss the point of Aristotle's arguments. Aristotle is arguing that if we are to know the world at all:

- reality must be like our experience of it.
- However, if reality is really like our experience of it, then substances exist,
- substances have essences or natures,
- substances only exist because they are caused,
- Communities are composed of individuals, all of which are caused by and move towards something external to themselves;
- the universe, as a community of substances only exists in the way that it exists because it has a first and final cause.

Our only real alternative to this position is to argue that there is no connection between the human intellect and reality, and therefore, that there is no truth, no knowledge, except what the human mind imposes on the world. If this is true, then one may as well believe in God as not, because one cannot know either way. All there is – is a matter of accident, probability, and the imposition of our will on the world. (This is the position of those who these days propose multiverse theory as an alternative hypothesis to a universe which requires a creator to explain fine tuning)

Part Two: The basics of Thomas Aquinas' metaphysics:

We turn now to part two of the talk and the subject of Thomas Aquinas' metaphysical position. At this point I need to disclose something like a conflict of interest in talking about Thomas Aquinas. Tracey Rowland pointed out in a recently published book that there are a wide variety of schools of Thomism at play in our contemporary world. The approach I take to interpreting Thomas Aquinas' philosophy – perhaps unsurprisingly – is closest to that which gets called 'Aristotelian Thomism'. What does this mean?

I think that it is fairly clear and obvious that Thomas Aquinas' philosophical (and metaphysical) position is essentially Aristotelian. That is, I am of the view that careful reading of Thomas' philosophical and theological works reveals:

- a) A dependence and agreement with Aristotle regarding the method of philosophy;
 - b) A fundamental agreement with Aristotle on the nature of reality, the human mind, and metaphysics
 - c) Thomas Aquinas, I think, clearly agrees with Aristotle on every fundamental point of metaphysical investigation: about first principles and causes, about substance, about essence, about potency and act, about God as the first and final cause, and crucially about natural teleology
 - d) At the same time, however, Thomas – following Aristotle's phenomena-endoxa method (which he calls dialectic) – also integrates these Aristotelian concepts and arguments with Augustine's Christian neo-Platonism, medieval Jewish and Islamic metaphysics, and with Revelation.
 - e) The crucial question is then: what does Thomas Aquinas take from Augustinian neo-Platonism, medieval Jewish and Islamic thought, and Revelation? I am, because I am a philosopher rather than theologian, going to beg off giving a complete answer to the question with respect to Revelation. From a philosophical point of view – what Thomas Aquinas does – in my reading of him - is integrate natural teleology with a Neo-Platonic 'hierarchical' account of perfection + an account of created being (ens commune + esse commune). I will unpack these aspects of Thomas' metaphysics under four headings. Please note that I am arguing that Thomas Aquinas agrees with everything I have thus far said about metaphysics as it is found in Aristotle. This part of the paper will merely unpack and briefly explain the innovations we find in Thomas' metaphysics that are not to be found explicitly in Aristotle's position.
1. The first important innovation we find in Thomas Aquinas' metaphysical position is first articulated in his short work 'De Ente Et Essentia' – generally translated as 'on being and essence'. This work, written when he was the

equivalent of a masters student – and thus likely only in his early 20's – is thought to be his efforts to help his Dominican colleagues understand Aristotle's metaphysics. The most famous, indeed infamous, argument in this work is Thomas' argument that there is a real distinction (in created substances) between essence and existence. Much ink, and some blood, has been spilt over trying to work out what Thomas is arguing in making the distinction. In my slightly educated opinion, I take the essence-existence distinction to be a refinement of Aristotle's potency-act distinction. For our purposes, however, the implications of the real distinction between existence and essence can be spelt out quite simply:

- (i) Firstly, Thomas Aquinas uses the real distinction to reinforce Aristotle's position that God is a pure and perfect act (without any potency whatsoever). So, there is no distinction in God between God thinking something and God doing something; no distinction between God's will and reason; no distinction between God's unity, truth, knowledge, action, goodness, etc... **This tells us, with respect to the metaphysical foundations of natural law, that the law of the created universe as an effect of God's activity is an expression of God's intellect and moreover, that the created universe reflects God's goodness.**
 - (ii) Second, Thomas uses the real distinction to demonstrate how there is a hierarchy of substances in the created universe which corresponds to the degree of perfection of existence of the substance. The more potency a substance has, the less perfect its existence; the less potency a substance has, the more perfect its existence. This is very important to understanding the metaphysical foundations of Thomas Aquinas' account of natural law inasmuch as **he will argue that the law of the nature of a particular substance must be thought of as participating to a greater or lesser perfection in the effects of God's activities, and thus participating to a greater or lesser degree in God's creative act.** Substances which have an intellect, and thus an important likeness to God, will participate in God's creative act in a higher and more perfect way than other substances in creation.
2. A second key feature of Thomas' innovations in metaphysics is his argument for the integration of faith and reason. In one respect, this innovation is just an expression of Thomas' Catholicity inasmuch as it reflects the moderate position that sits at the heart of the development of the creed and doctrine in the Catholic tradition. From a philosophical point of view, however, Thomas takes

his argument regarding the necessity of integrating faith and reason from Jewish and Islamic metaphysics; particularly Ibn Rushd (who he calls Averroes) and Moses Maimonides (who gets called the Rabbi). Both Ibn Rushd and Maimonides were in turn inspired by their efforts to interpret Aristotle within the context of a monotheistic faith inspired by Revelation – particularly scripture. The argument that we find in the introductory section of the *Summa Contra Gentiles* is as follows:

P₁. There is only one reality. It is a unified and ordered place which can be known by humans

P₂. Truth claims, whether they are truths claims of faith or truth claims of reason, are truth claims about reality

P₃. It may be the case that the truth claims of faith are more important to human life

P₄. However, to make truth claims one necessarily uses reason

P₅. Furthermore, it is impossible according to the principle of non-contradiction for two truth claims which contradict each other to both be true

∴

Conclusion 1: faith and reason are both necessary for the pursuit of truth

Conclusion 2: The truth claims of faith and reason; theology and philosophy (and positive sciences) must be integrated with each other so as to leave as few contradictions as it is possible for the human intellect, even if that involves re-interpretation of the truth claims of both theology and philosophy (and the positive sciences) when necessary. The primary task of philosophy is to work towards this integration through metaphysics, logic, epistemology, and through reasoned response to the truth claims of the positive sciences in light of the unified and ordered nature of reality as a whole.

The implications of this innovation for the metaphysical foundations of natural law will be quite profound for it follows from this argument that ‘divine law’ – the law as we find it in Scripture particularly – will be according to Thomas Aquinas, compatible with the fundamental laws of the universe and with natural law. The divine law (and faith) will as Thomas puts it supplement and perfect natural law without contradiction. (It is important to

note here that Thomas argues that one cannot and must not read the scripture in a way that contradicts the fundamental laws of human nature and the first principles of metaphysics).

3. Thomas' account of natural teleology (natural and supernatural perfection)

Thomas Aquinas' account of natural teleology is informed by two historical schools of thought (in addition to Aristotle); the first is Augustinian neo-Platonism, the second is traditional and a kind of Christian Stoicism implicit in Roman Christianity.¹

What Thomas takes from Augustinian Neo-Platonism is the view that natural teleology, particularly as it is expressed in ethics and politics, is personal (reflecting the personal nature of God), relational (because persons are relational), and in this an expression of God's personal love for creation. It is for this reason, with respect to law, that Thomas will argue that law (as a rule and measure of action) is in some respect an expression of God's love and thus desire to educate humans. Likewise, that fact that the law is an expression of love will also lead to Thomas' argument that the law, inasmuch as it is just, will be oriented towards restoring the good (rather than merely educating).

Thomas takes from classical and Christian Stoicism the natural teleological view that 'law is the rule and measure of action in accord with nature'. He will also take from Christian Stoicism the view that the end of law is not merely goodness, but also virtue, and not merely virtue, but ultimately happiness.

An important element of this heritage that Thomas Aquinas integrates with Aristotelian metaphysics is the fleshing out of happiness as the ultimate end or purpose of human nature. In Aristotle, there are implicitly two related kinds of happiness; an inferior natural human flourishing (which is always under threat by accidental causes) and contemplative happiness (which is only possible according to Aristotle if something divine lives in us). Thomas integrates the Aristotelian account of human happiness (or natural human flourishing) with the Stoic account of natural law and then integrates Aristotle's contemplative happiness with the Augustinian neo-Platonic account of perfect or supernatural happiness – a happiness that cannot be lost; is gained by the gifts of faith, hope, and charity; and is perfect precisely because it is personal – it is an immediate and personal relation with the object of contemplation.

¹ whether St. Paul was influenced by the cynic or stoic schools of thought is a matter great interest, but not relevant to our purposes here

Part Three: The metaphysical foundations of Thomas' account of natural law: (20 min)

With the essential elements in place it is now time for us to turn to Thomas Aquinas' account of natural law. In doing so, I am going to attempt to do something which is – in metaphysics – a little dangerous, that is: I am going to try to demonstrate Thomas' account of natural law from first (metaphysical) principles with all of our previous discussions of metaphysics sitting in the background. I will attempt this demonstration in four steps, starting with God...

1. The analogy of perfection – the analogy between God and Creation:

Our demonstration from first metaphysical principles must necessarily begin with what gets called the 'analogy of perfection' – Thomas Aquinas' argument that there is necessarily a proportional likeness between God (as cause) and creation (as effect). The formula that Thomas uses to describe this analogous relationship between God and creation goes something like this: 'whatever perfection is found in creation is found in God absolutely and without distinction'. The perfections we find in creation are all analogues of being, ergo: unity and integrity, truth and knowledge, and goodness (and love). This argument is normally used to name God or to name the characteristics of what God must be like.

I want to try to go the other way in a sense, and carefully, to illustrate precisely what the foundations of natural law are. I would suggest, in this respect, that the argument that perfections in creation tell us what God must be like also, in an important way, tell us what we have the capacity to become and what God desires us to be, and therefore, what any law of our nature must be like – if it is written on our hearts (to paraphrase St. Paul) and inasmuch as we are created in the image of God. In the most transcendent sense then, I am suggesting, what we mean by natural law must be **the rule and measure of our actions inasmuch as these perfections** (to a lesser or greater degree) **are our own end**. Thus, the ultimate goal of natural law must be thought of as the attainment of integrity, of truth, and goodness. We could add to these variations of the transcendentals like: community (which is nothing more or less than a unity held in common), love (a desire for the good of others), internal justice (interior rightness), external justice (right relations), appropriate pleasure in art and beauty, and so on...

2. The essence of Law:

Thomas defines the essence of law, in the most general sense, as: ***the rule and measure of action by reason, in relation to the common good, by a legitimate***

authority, and promulgated. It is worth slowing down for a moment and unpacking each element of the definition in a little depth:

- (i) The first element of the essence of law is reason. It is reason, and reason alone, that is the 'rule and measure' of actions which aim to fulfil some purpose. Please also note that the purposes that are subject to reason in law are not necessarily derived from reason, but rather always originate in a desire for some end or object. Thus, law – according to Thomas Aquinas – is essentially the way that reason 'rules and measures' any action that follows from conscious and intentional consideration of how objects of desire are to be made real or a purpose is to be fulfilled.
- (ii) The second element of law is the common good. That is: law is essentially and properly ordered towards the attainment of the common good. We can think about this in two ways: a) in one sense, in the created order, all goods are ultimately held in common and are only achieved through relations of mutual dependence. This expresses Thomas' metaphysical account of the created universe as '*ens commune*' or '*esse commune*' – all created substances are dependent on other substances and on God for the attainment of their good. For example: I can only achieve the good of health by eating other living substances, we can only learn the truth inasmuch as we are taught or relate to the world. Our attainment of good depends on God because our very existence and natures depend on God. b) In another sense, we can say that the law is directed towards the common good inasmuch as the law is directed towards happiness and thus ultimately directed towards God. God in this sense is the good which is common to all creatures.
- (iii) The third element of the essence of law is 'legitimate authority'. This follows from the first element of the essence of law – reason. The primary sense of legitimate authority (as opposed we might say to illegitimate authority) is not primarily – for Thomas Aquinas the will or consent but rather reason itself. Thus, a legitimate authority is anyone who has perfected reason. In fact, Thomas argues elsewhere that if all the human powers were subject to reason, and reason perfected, there would be no need for any external law at all. What Thomas means here, I would suggest, is not that authority rests specifically with persons arbitrarily, or with the will of persons, but rather essentially rests upon reason and what a perfect reasoner commands. Of course, according to Thomas, the absolutely perfect reasoner is God and thus God is ultimately the legitimate authority which underpins all law. It is interesting to note, at this point, that Thomas argues that with respect to legitimate human authority, it must either be the whole community

(the tradition of reasoning if you will) or a reasonable person (or group of persons) given care over the good of the community.

- (iv) The fourth and final element of the essence of law is promulgation. This one, I think, is self-evident. Thomas takes promulgation to be self-evident in two ways: one intrinsic inasmuch as the very nature of motion and change in the universe (including human nature) discloses law; in a second and extrinsic way, that one cannot be subject to a law that has not been communicated and/or applied.

3. The kinds of law:

Once Thomas provides an essential definition of law, he then goes on to discuss the kinds of law we find in the created order. In a way, these kinds of laws shift from the most universal down to the most individual and personal. Thomas begins his investigation of kinds of law by discussing eternal law...

(i) Eternal law

According to Thomas Aquinas, the eternal law is the effects of God's creative activities (and thus God's practical reason). If you concede that there is a God, and that this God is the creator, then it follows that the law of creation is nothing more or less than God's intellect inasmuch as it is God's practical reason which rules and measures the act of creation, for the sake of the common good, is a legitimate authority (or perfect reasoner), and is promulgated through the generation of existence and essence. In other words, the essence of substances (or kinds of substances) in the universe (or the created order) is an expression of God's reason and thus also an expression of God's goodness. Therefore, the eternal law is: a) the way that all movement and change in creation is unified and ordered as change towards the completion of essence and motion towards God, and b) a reflection of God's goodness. The eternal law affirms God's goodness and the goodness of creation.

(ii) Natural law

When Thomas turns to natural law, we find a similar claim. Thomas argues that there is a law of human nature and that this law is found in us in two different ways. The first way that natural law is in human nature is in relation to the way that we are subject to the eternal law as it is expressed in our own nature. Thus, the first way that there is a law of human nature expresses itself in us through natural inclination; in other words, our appetites and natural desires. It is worth pausing for a minute here to reflect on the implications of this claim. Thomas is arguing that: a) it is God's reason that rules and measures fundamental

structures of change and motion in reality, b) that human appetites and desires are an effect of these fundamental structures, and c) therefore, all human appetites and desires are in and of themselves a reflection of God's rule over reality. This is why Thomas Aquinas will argue that no appetite or desire are in and of themselves bad or evil. This becomes more apparent when we understand the goals or purposes; the intelligible ends, that natural inclinations and desires point us towards.

The second way that law is to be found in human nature is via our reason. In this respect, Thomas argues that human reason participates in a special way in divine providence and therefore God's creative act inasmuch as we are provident for ourselves and for others. In other words, humans through our practical reasoning participate in creating our own person and in the creation of the common good for others. In essence, Thomas Aquinas argues that the natural law in humans is how we participate in divine providence inasmuch as our actions have the capacity to make the good real in our lives and the lives of others.

This special way that reason participates in God's eternal law can be further broken down into two features: a) theoretical, and b) practical. In the first way, the fact that humans have the capacity to reason gives rise to the rule of our natural inclinations by our intellectual grasp of the idea of the good. Humans do not simply find ourselves experiencing appetites and desires and acting upon them without thought. Rather, it is our intellectual formation; the moral beliefs we have been taught, the way we have understood our experiences, and so on..., that lead us to develop ideas about the good which then in turn shape our interpretation of inclinations, appetites, desires, emotions, and so on... In short: the human intellect rules and measures our actions in the first way inasmuch as our intellectual formation; our moral education, leads to the formation of ideas about what is good and bad. (Provide examples here).

In the second way, the human intellect participates in divine providence and the eternal law inasmuch as our practical reason rules and measures our particular actions in pursuit and attainment of particular goods (or in avoidance of particular evils). This second way is in many respects the feature of natural law most familiar and closest to law in the ordinary sense for it is practical reason in this sense that makes 'laws' of action. By way of example, once we have realized that health is good, the

authority and use of practical reason commands us to protect and promote health through our actions. This command is then the basis for the formulation of a law for myself as an individual and ourselves as a community of humans: that health should be protected and promoted and illness or disease treated.

Natural Law, as an expression of the way humans act for the sake of fulfilling our nature, has two essential features: the fundamental law of practical reason and the basic goods towards which we are inclined by nature. It is worthwhile briefly outlining how Thomas considers these in his infamous discussion of the first principles of natural law (*Summa Theologiae, I-II, Q.94, Article 2.*). In this article, Thomas considers the important metaphysical question of whether the natural law has one first principle or many. His answer, in typical Thomist fashion is to argue that in one way there is only one first principle, and in another, that there are several. The argument goes something like this:

P₁. The principles of natural law are analogous to the principles of theoretical reason

P₂. Both the principles of natural law and the principles of theoretical reason are said to be 'per se nota' self-evident principles

P₃. A principle can be self-evident in two ways:

- (i) in itself – a proposition is said to be self-evident if the predicate is contained in the definition of the subject
- (ii) in relation to us – some propositions are self-evident to all rational beings; the whole (of a real substance) is greater than its parts, real substances that are equal to one are equal to each other

P₄. There is a certain order to self-evident principles, e.g., in theoretical reason the first self-evident principle is that "the same thing cannot be affirmed and denied at the same time" (principle of non-contradiction)... this principle in turn is based on the notion of being and not-being

P₅. In an analogous way (to the way that being is the first thing grasped by the intellect), good is the first thing that falls under the apprehension of practical reason

Therefore, the first principle of practical reason (is founded upon the concept of good) that "**good is to be done and pursued, and evil is to be avoided**"

P₆. All other principles of natural law are based upon this...

P₇. Since good has the nature of an end (and evil the contrary), natural inclinations are apprehended by reason as good

P₈. Those things to which we have a natural inclination are: existence or life itself, those ends we share with all other living things (reproduction, nurturing, movement, etc...), and those ends particular to being rational, e.g., truth, society, etc...

Therefore, there is both one first principle of natural law (qua practical reason) and at the same time many self-evident principles of natural law (qua natural good).

Thomas' account of natural or basic goods is metaphysical. He divides basic goods up into those features of human nature to be found in our essence:

- (i) We are substances like all other created substances. Therefore, it is good for us to preserve, protect, and promote our own existence – life;
- (ii) We are animals, and like all other animals, it is good for us to reproduce, care for and educate our young, and so on and so forth;
- (iii) We are also rational (and created in the image of God). In this respect, it is good for us to know the truth about God, live in community, and so on...

A more contemporary version of Thomas' account of basic goods has been posited by Grisez, Boyle, and Finnis:

- (i) Life, health, and safety
- (ii) Knowledge and beauty
- (iii) Work and play
- (iv) Mental well-being (inner harmony)
- (v) Conscience
- (vi) Community (friendship, family, society, justice)
- (vii)** Religion

If I have not run out of time: discuss human and divine law:

- **Human law** = the application of natural law within a particular human community that is located in a particular environment, cultural and historical context (laws regarding water use as an example);

- **Divine Law** = Revelation – laws that perfect human law without contradicting either the eternal or natural law.

Conclusion: Some final thoughts about metaphysics and natural law:

According to Thomas Aquinas, natural law is the law of human nature. Inasmuch as humans are created living beings, the law of our nature is subject to eternal law (or universal law). Our subjection to universal law is found in our natural inclinations which motivate us to move and change towards those things that fulfil our nature, and thus all of our natural inclinations orient us towards the good. Inasmuch as humans have the capacity for reason, Thomas Aquinas argues that human nature participates in eternal law in a special way. That is, through reason, humans are able to form knowledge of what is good and then use our reason to decide how we ought to act in order to make the good real in our own lives and the lives of others. Thomas, like Cicero, takes it to be self-evidently true that when humans live in community; in political states, the positive laws we generate are expressions of the natural law. When a human political community writes laws, we do so within the threefold framework of the natural law: first, as a response to our natural inclinations; second, on the basis of beliefs we have about right and wrong (good and evil); and third, inasmuch as we use practical reason to develop laws that are rules and measures of action for the political community within the framework of those moral beliefs.

A crucial issue for us today, in Australia (and arguably in the 'Western World' generally), is the fact that we do not have any real agreement about what is good. Over the last 500 years of Western Civilisation our moral beliefs have fractured and disintegrated (at the same time arguably that metaphysics has also been dissolved). The view that creation (including human nature) is good came under theological attack leading up to and during the Protestant Reformation leaving room for the development of moral theories that reduced the good to either desired outcomes (as in consequentialism) or reason alone (as in deontology where it was assumed that natural inclinations are all evil). Likewise, in politics, the authority of reason came under attack and the power of the 'will' took its place as the basis for political authority. Consent, and the dominance of the will, in politics has framed the divide of political-economic theory (and parties) into Capitalist and Socialist; individualist and collectivist accounts of authority. The point I would like to make, with respect to these changes, is that nothing in these changes mean any threat to natural law... these changes have not removed one crossing of a 't' or dotting of the 'i' from natural law. All they have achieved is a fracturing of our understanding of the good and evil at stake in our response to our natural inclinations and our practical decision making with

respect to action. Humans have, you could argue, lost touch with our nature and in doing so lost track of what is naturally good for us and what will make us happy. Even in this state, however, we nonetheless continue to act in accord with natural law within the framework of our understanding of the good and we nevertheless write and promulgate human laws on the basis of natural law.

So, a final concluding point: It is my view that it is not primarily speaking natural law that is under threat in our contemporary age. Natural law is our very nature, and thus unless we manage to work out how to destroy our capacity to reason or desire the good, we will never lose the natural law. The bone of contention, I think, is our ideas of good and evil. Most of our moral disagreements today are not about law per se but are in fact disagreements about the nature of good and evil and our corresponding conception of justice.

A consequentialist takes human nature to be selfish and thus posits good as the achievement of outcomes that derive from our self-interest. Consequentialism tends to political collectivism and thus takes the good (and justice) to be outcomes achieved at the collective level, i.e., equality of some form or another;

A deontologist takes human nature to be selfish and rational and thus posits good as doing one's duty to reason (and overcoming our selfish inclinations). Deontology, traditionally, is associated with individualism and thus takes politics to be a matter of individual rights and duties;

A natural lawyer (or a virtue ethicist – for most of the time these two go together) takes human nature to be good; at least potentially, and asserts the thesis that all humans by nature desire to be good and to fulfil themselves. Natural law also takes humans to be rational animals; again at least potentially, and thus asserts the formation and use of practical and theoretical reason to be essential to seeking and attaining the good. Natural law is associated with the promotion of community, tradition, and the common good and in this respect takes politics and law to be a matter of ruling and measuring human action for the sake of virtue and happiness; both natural and theological.