

AQUINAS ON NATURAL LAW AND THE FOUNDATIONS OF MORAL AND LEGAL ORDER

Donatus Nath Uzoma Okwara PhD*, Daniel Obioma Chukwukere PhD**, Constance Onyinyechi Ozuomba PhD*** & Obinna Victor Obiagwu PhD****

Abstract

This article critically examines Thomas Aquinas's theory of natural law and its significance for the foundations of moral and legal order. It argues that Aquinas offers an integrated account in which eternal law provides the ultimate order of reality, natural law makes that order accessible to rational creatures, practical reason directs human action toward objective goods, and human law translates general moral principles into concrete social regulations. Particular attention is given to Aquinas's understanding of law as an ordinance of reason for the common good, his account of the natural inclinations and the first principle of practical reason, the relationship between natural and human law, and the concept of *determinatio*. The study further examines the implications of natural law for moral objectivity, virtue, human dignity, justice, political authority, and the evaluation of unjust laws. In engaging contemporary scholarship, the article situates Aquinas within the broader natural-law tradition represented by Aristotle, John Finnis, Jean Porter, J. Budziszewski, Russell Hittinger, Martin Rhonheimer, and Alasdair MacIntyre. The analysis shows that Aquinas avoids both moral relativism and an understanding of positive law as morally self-sufficient. Although positive law possesses a legitimate sphere of discretion in determining how general principles apply to particular social circumstances, its legitimacy ultimately depends upon reason, justice, and the common good. The article concludes that Aquinas remains philosophically significant because he provides a coherent framework for relating human nature, practical reason, moral obligation, political authority, and legal legitimacy.

Keywords: Aquinas; natural law; practical reason; common good; legal order.

1. Introduction

The question of the foundation of morality and law is one of the enduring problems in philosophy. Human beings do not merely act; they deliberate about how they ought to act, evaluate actions as good or evil, establish rules intended to regulate communal life. Similarly, political communities enact laws to maintain order, protect rights, promote justice, and pursue social stability. Yet the existence of a rule does not by itself answer the deeper philosophical question of why that rule ought to be regarded as morally binding or legitimate. This raises a fundamental problem: whether moral obligations and the authority of law can be adequately grounded in human preference, social convention, political power, or legislative enactment, or whether they require reference to objective principles that transcend particular acts of legislation. The natural-law tradition represents one of the most influential attempts to address this problem by maintaining that moral and legal order is ultimately connected with the nature and rational capacities of human beings.

Thomas Aquinas occupies a particularly important place in this tradition because he develops a comprehensive account of law within a wider metaphysical, anthropological, ethical, and theological framework. His theory does not treat law as merely an instrument of coercion or as a command issued by a superior political authority. Rather, law is fundamentally an ordering of human action by reason toward a proper end. In the *Summa Theologiae*, Aquinas defines law as “an ordinance of reason for the common

good, promulgated by him who has care of the community.”¹ This definition is philosophically significant because it identifies four essential dimensions of law: reason, the common good, legitimate authority, and promulgation. Law therefore has a rational and teleological character; it exists to direct human actions toward a good that is shared by members of a political community.

Aquinas’s account of natural law is inseparable from his understanding of the rational structure of reality. He maintains that eternal law is the divine wisdom according to which the whole of creation is ordered, while natural law represents the rational creature’s participation in this eternal order.² Human beings are capable of participating in this order because they possess reason. Through practical reason, they can apprehend fundamental principles of action and direct themselves toward goods appropriate to human flourishing. Natural law is therefore neither simply an externally imposed set of commands nor an arbitrary collection of religious rules. It concerns the rational orientation of human action toward the good and provides the foundation upon which more specific moral and legal determinations can be developed.

The philosophical problem addressed in this article concerns the foundation and legitimacy of moral and legal obligations. Human societies require laws to regulate conduct, protect social order, settle disputes, and coordinate communal life. Nevertheless, the mere existence of legislation does not necessarily establish that the legislation is morally right or worthy of obedience. A law may be formally enacted while being oppressive, discriminatory, unreasonable, or destructive of the common good. The central question is therefore whether there exists an objective moral standard by which human laws can be evaluated. This problem becomes particularly important in the debate between natural-law approaches and legal positivism. Legal positivist theories generally distinguish the question of what the law *is* from the question of what the law ought to be. Aquinas, by contrast, places law within a broader moral and teleological framework. For him, law is intrinsically connected with reason and the common good.³ The philosophical challenge is consequently to determine whether Aquinas succeeds in establishing a convincing relationship between moral truth and legal validity without reducing law to theology or making legal obligation dependent upon a particular religious worldview. The article also addresses the problem of translating general principles of natural law into particular legal rules. Aquinas recognizes that natural-law principles are universal while human laws must deal with concrete social circumstances. His concept of determination is therefore important: human legislators determine, specify, and apply general principles to particular situations.⁴ This raises questions about the degree of discretion legitimately available to political authorities and about the point at which positive law ceases to be a legitimate determination of natural law and becomes contrary to it. The central aim of this article is to critically examine Aquinas’s theory of natural law and demonstrate its significance for the foundations of moral and legal order. The article seeks to show that natural law functions in Aquinas not merely as a theory of individual morality but as a foundational principle connecting moral reasoning with legislation, political authority, justice, and the common good.

¹ Thomas Aquinas *The Summa Theologica of St. Thomas Aquinas* (Fathers of the English Dominican Province, Trans.). Christian Classics., 1274 .I–II, q. 90, a. 4).

² Jean Porter, *The Recovery of Virtue: The Relevance of Aquinas for Christian Ethics*. Westminster John Knox Press, 2005, 49.

³ Thomas Aquinas, *The Summa Theologica of St. Thomas Aquinas* (Fathers of the English Dominican Province, Trans.). Christian Classics, 1274 I–II, q. 90, aa. 1–2)

⁴ John Finnis, *Natural Law and Natural Rights* (2nd ed.). Oxford University Press.2011, 27.

2, Aquinas's Theory of Law

The Meaning and Definition of Law

Aquinas begins his systematic treatment of law by asking what law is. His answer is foundational for the whole natural-law tradition. In *Summa Theologiae* I–II, Question 90, he considers whether law belongs to reason, whether it is directed toward the common good, who has authority to make law, and why promulgation is necessary. From these elements he formulates his celebrated definition of law as an “ordinance of reason for the common good, promulgated by him who has care of the community.”⁵ The definition is not merely descriptive. It establishes normative conditions for something to function properly as law. First, law must be rational rather than arbitrary. Second, its proper end is the common good rather than the private interest of the legislator. Third, it must originate from an authority responsible for the community. Fourth, it must be promulgated so that those subject to it can know and respond to its requirements.⁶ Aquinas therefore rejects a conception of law that identifies legislation simply with the will of a powerful person or institution. Political authority is important, but authority itself is ordered toward an end. The ruler possesses legislative competence because of responsibility for the community, not because political power is intrinsically self-justifying.

Law as an Ordinance of Reason

The rational character of law is central to Aquinas's theory. A law is not merely a command backed by sanctions. It is an ordinance of reason, meaning that it should represent an intelligible ordering of human action toward an appropriate end. Aquinas treats reason as the principle capable of directing human acts because human beings act deliberately toward ends.⁷ This explains why law is related to practical reason. Practical reason determines what ought to be done in order to attain appropriate ends, while law provides a public and authoritative ordering of conduct within a community. Law therefore participates in the rational structure of action. Its authority is connected not simply to the identity of the person issuing it but to the rational order that it is intended to establish. The rational character of law also provides a basis for evaluating legislation. A rule that is arbitrary, contradictory, or radically destructive of the common good fails to realize the essential purpose of law. Aquinas does not claim that every imperfect law immediately ceases to be legally operative, but he provides a normative standard through which laws can be evaluated according to reason, justice, and the common good.⁸

Law and the Common Good

The common good is the proper end of law. Aquinas argues that law must be directed toward the good of the community because the political community is not merely an aggregation of isolated individuals. Its

⁵ Thomas Aquinas, *The Summa Theologica of St. Thomas Aquinas* (Fathers of the English Dominican Province, Trans.). Christian Classics, 1274 I–II, q. 90, aa. 1–2)

⁶ Robert P. George, *In Defense of Natural Law*. Oxford University Press, 1999, 19

⁷ Martin Rhonheimer, *Practical Reason and the Law of Nature: An Essay on the Thomistic View of Moral Rationality*. Catholic University of America Press, 1993, 82.

⁸ Thomas Aquinas, I–II, q. 96, a. 1–4

members share a common social order and are mutually related through institutions, practices, responsibilities, and ends. Law therefore coordinates individual actions for the sake of a good that can be shared by the community.⁹ The common good should not be interpreted simply as the greatest numerical benefit for the greatest number. In the Thomistic framework, it concerns the conditions under which persons and the community as a whole can flourish. Aquinas consequently distinguishes the common good from private or sectional interests. A law that primarily serves the private advantage of a ruler or a particular group fails to embody the proper purpose of law. This understanding places an important limitation upon legislation. A law designed primarily to benefit the ruler, a narrow interest group, or a privileged minority is defective insofar as it departs from the common good. Aquinas's theory therefore contains an important critique of political domination: legitimate legislation must be concerned with the good of the community rather than merely the advantage of those who possess power.

Legitimate Authority and Promulgation

Aquinas also identifies authority as an essential element of law. Law must be made by "him who has care of the community."¹⁰ This does not mean that every command issued by a political authority automatically possesses the full moral character of law. Rather, legitimate authority derives from responsibility for directing the community toward its proper end. Political authority is therefore functional and teleological. The ruler has authority because the community requires coordination toward a common end. The legislator is not the owner of the community but its governor and therefore bears responsibility for directing it toward the common good. Promulgation is equally important. A rule cannot properly bind people as law if it is not communicated to those subject to it. Aquinas explicitly argues that promulgation is necessary for law to possess its binding force. Promulgation therefore expresses a basic principle of legal rationality: citizens must be capable of knowing the norms by which their conduct is to be regulated. This principle has enduring legal significance. Secret or inaccessible rules undermine the possibility of rational compliance because individuals cannot reasonably orient their conduct toward rules of which they have no adequate knowledge. Aquinas thus connects legal authority with intelligibility and public accessibility.

Law, Human Action, and Moral Formation

For Aquinas, law is directed toward human action. It regulates conduct not simply to prevent disorder but to cultivate conditions in which human beings can live well together. Law can therefore have an educative and formative function. Aquinas argues that law can make people good by habituating them to appropriate forms of conduct and by directing external actions toward the common good.¹¹ This does not mean that legislation can transform every aspect of human morality through coercion. Aquinas recognizes that human law has a limited competence and that not every vice should be prohibited legally. Human law must take account of the circumstances of actual communities and the capacity of citizens to obey.¹² Nevertheless, law has an important role in establishing conditions that support justice, social peace, and virtuous conduct. The connection between law and moral formation distinguishes Aquinas from conceptions of law that regard legislation as merely a mechanism for coordinating external behaviour. For

⁹ Finnis, John. (2011). *Natural Law and Natural Rights* (2nd ed.), 74.

¹⁰ Thomas Aquinas, I–II, q. 90, a. 3;

¹¹ Alasdair MacIntyre, *After Virtue: A Study in Moral Theory* (3rd ed.). University of Notre Dame Press, 2007, 35.

¹² John Finnis, *Natural Law and Natural Rights* (2nd ed.). 173

Aquinas, the political community exists for a substantive human purpose, and law contributes to that purpose by directing actions toward the common good. Thus, the legal order is ultimately connected with the moral order.

The Fourfold Structure of Aquinas's Law

Eternal Law Eternal law occupies the highest position in Aquinas's account of law. It refers to the divine wisdom by which God orders the whole of creation toward its proper ends. Aquinas maintains that all things are governed by eternal law, but rational creatures participate in it in a distinctive way because they can know something of its order through reason. Eternal law therefore provides the ultimate metaphysical foundation of the Thomistic account of law. The moral order is not accidental or arbitrary. It is rooted in the rational ordering of creation. Human laws, natural moral principles, and divine revelation must consequently be understood within this larger framework.

Aquinas's appeal to eternal law also demonstrates that his theory of natural law is not simply a theory of secular morality expressed in medieval language. The ultimate foundation of natural law is theological. Nevertheless, its immediate human mode of access is rational participation. This distinction is important because it allows Aquinas to maintain simultaneously that moral order originates in divine wisdom and that human beings can genuinely know fundamental moral principles through reason.¹³

Natural Law

Natural law is humanity's participation in eternal law. Aquinas famously states that the rational creature participates in eternal law "in a more excellent way" because it participates through reason and providence.¹⁴ Natural law is therefore the principle by which human beings rationally discern the basic requirements of moral action. The concept of participation is central. Natural law is not a second, independent law existing alongside eternal law. Rather, it is the manner in which rational creatures participate in the divine ordering of reality. Human beings do not need direct access to the totality of divine wisdom in order to know basic moral truths. Their rational nature enables them to recognize fundamental practical principles. In Question 94, Aquinas develops this account by identifying the first principle of practical reason: good is to be done and pursued, and evil is to be avoided. From this primary principle, practical reason recognizes further precepts in accordance with natural human inclinations.¹⁵ The resulting moral order is objective but not mechanical; its application requires judgment, prudence, and attention to particular circumstances.

Divine Law

Divine law refers to law given through divine revelation. Aquinas argues that natural law, although genuinely accessible to human reason, is not sufficient for every aspect of humanity's relationship with God. Human beings possess a supernatural end that exceeds what natural reason can fully comprehend.

¹³ Thomas Aquinas, I-II, q. 91, a. 1-2.

¹⁴ Budziszewski, J. *Written on the Heart: The Case for Natural Law*. InterVarsity Press, 1997, 46.

¹⁵ Thomas Aquinas, 1981, I-II, q. 94, a. 2

Consequently, divine revelation provides additional moral and spiritual guidance.¹⁶ Aquinas identifies several reasons for the necessity of divine law. Human reason can err, human beings are directed toward a supernatural end, and certain matters concerning salvation exceed the capacity of natural reason. Divine law therefore complements rather than simply replaces natural law. It provides revealed guidance concerning humanity's ultimate destiny and supernatural relationship with God. The relationship between divine and natural law is consequently complementary. Divine law does not render natural reason irrelevant. Instead, revelation confirms, completes, and elevates the moral knowledge available through natural reason. This distinction is important for understanding Aquinas's philosophical contribution because it shows that his natural-law theory has a genuine rational structure even though it exists within a wider theological system.

Human Law

Human law is the form of law most directly relevant to political and legal institutions. Aquinas describes human law as particular determinations of the general principles of natural law. Human beings cannot govern complex societies through general moral principles alone. Concrete circumstances require specific rules concerning property, contracts, punishment, public order, administration, and other aspects of communal life.¹⁷ This process of specifying general principles is associated with Aquinas's account of *determination*. Natural law may establish that social order requires appropriate regulation, but it does not necessarily determine one universally fixed rule concerning every particular matter. Legislators therefore exercise legitimate judgment in determining how general principles should be applied in particular political communities. Human law consequently has an element of contingency and diversity. Different societies may reasonably adopt different legal arrangements while remaining consistent with natural-law principles. What matters is that the determinations remain rationally related to the common good and do not contradict fundamental moral requirements.

3. The Nature and Principles of Natural Law

The First Principle: Good Is to Be Done and Pursued, and Evil Avoided

The foundation of Aquinas's theory of natural law is the first principle of practical reason: "good is to be done and pursued, and evil is to be avoided."¹⁸ This principle occupies a fundamental position in Aquinas's moral philosophy because it expresses the most basic orientation of human practical reasoning. Just as speculative reason begins with self-evident principles that make intellectual knowledge possible, practical reason begins with a first principle that directs human action toward what is good. Natural law therefore begins not with a detailed list of commandments but with the rational recognition that good is the proper object of human action. For Aquinas, this principle is not an arbitrary rule imposed upon human beings by an external authority. It follows from the structure of practical reason itself. Human beings necessarily act for perceived ends, and they do so because they understand those ends under the aspect of goodness. The first principle of natural law consequently expresses the fundamental orientation

¹⁶ Russell Hittinger, *A Critique of the New Natural Law Theory*. University of Notre Dame Press, 2003, 19

¹⁷ Thomas Aquinas, 1981, I–II, q. 95, a. 2

¹⁸ Jean. Porter, *The Recovery of Virtue: The Relevance of Aquinas for Christian Ethics*, 274.

of rational action. Every further moral precept derives its intelligibility from this basic distinction between what is to be pursued as good and what is to be avoided as evil.¹⁹

The first precept should not, however, be interpreted as if it provided a complete answer to every moral question. It is a universal starting point from which practical reason proceeds toward more particular judgments. Human beings must determine what constitutes genuine human good in different circumstances, and this requires practical wisdom and moral formation. Aquinas therefore combines universal principles with contextual moral reasoning. Natural law provides the fundamental direction of morality, while practical reason determines its concrete application. This distinction is particularly important for understanding Aquinas's response to moral disagreement. People may agree that good ought to be pursued while disagreeing about what particular actions promote genuine human flourishing. Such disagreement does not necessarily undermine the objectivity of natural law. Rather, it demonstrates the need for practical reasoning, virtue, experience, and moral education. Natural law supplies the foundational orientation, while practical reason moves from general principles toward particular judgments.

Natural Human Inclinations and Moral Knowledge

Aquinas develops the content of natural law by relating it to the natural inclinations of human beings. He argues that because natural law is the rational creature's participation in eternal law, its precepts correspond to the inclinations that belong naturally to human beings.²⁰ These inclinations provide the material basis through which practical reason identifies fundamental human goods. Aquinas distinguishes different levels of inclination. First, human beings share with all substances an inclination toward the preservation of their existence. Second, they share with other animals an inclination toward sexual union, reproduction, and the care of offspring. Third, as rational beings, they possess inclinations toward knowledge of truth, especially truth concerning God, and toward living in society. These inclinations are not themselves complete moral rules. Rather, they provide the basis upon which reason identifies the corresponding goods as worthy of pursuit.

This account demonstrates that Aquinas does not derive morality simply from biological instinct. An inclination becomes morally significant when it is apprehended and ordered by reason. Human beings do not merely preserve life; they can understand life as a basic good and therefore recognize obligations concerning its protection. They do not merely reproduce; they can understand family relationships, parental responsibilities, and education as goods requiring rational commitment. Similarly, the human inclination toward social life becomes a rational basis for recognizing duties of justice, cooperation, and peaceful coexistence. Natural human inclinations therefore provide a bridge between human nature and moral knowledge. They explain why certain goods are fundamental to human flourishing while practical reason explains how these goods generate moral requirements. Aquinas's position is thus neither a purely deductive theory nor a theory based exclusively on empirical observation. It is a teleological account in which human nature, reason, and objective goods are interconnected.

Preservation of Life

¹⁹ Aristotle, *Nicomachean Ethics* (2nd ed., T. Irwin, Trans.). Hackett Publishing Company, 1999, 293

²⁰ Thomas Aquinas, I-II, q. 94, a. 2.

The preservation of life constitutes the most basic of the natural inclinations identified by Aquinas. Every substance naturally seeks to preserve its existence, but rational human beings can recognize the preservation of life as a good and can therefore organize their conduct around its protection. Human life consequently possesses moral significance beyond its biological existence.

The natural-law principle concerning preservation of life provides a foundation for moral norms against unjust killing, unnecessary destruction, and actions that deliberately undermine the basic conditions necessary for human existence. It also supports positive responsibilities concerning care, protection, and the preservation of social conditions in which human beings can live. Aquinas's account thus moves from the simple fact of human existence to the normative recognition that life is a good that ought to be protected. The preservation of life also has implications for political and legal order. A political community that systematically threatens the lives of innocent persons contradicts one of the most fundamental goods recognised by practical reason. This provides a natural-law basis for evaluating legislation and political practices that endanger human life. Positive law cannot make every action morally legitimate merely by authorizing it. Its legitimacy remains subject to the rational requirements of natural justice.

Aquinas's position should therefore be understood as providing a foundation for the broader principle that political institutions exist to protect, rather than arbitrarily destroy, fundamental human goods. The protection of life is consequently not merely a private moral concern but also an important requirement of a just legal order.

Knowledge of Truth and the Pursuit of Human Flourishing

Because human beings are rational, Aquinas identifies the inclination to know truth as a distinctive human good. Human beings naturally seek knowledge, and their rational nature directs them toward understanding reality and ultimately toward knowledge of God.²¹ The pursuit of truth is therefore not merely an intellectual preference but part of the fulfillment of human nature. The pursuit of truth is closely connected with human flourishing. A person who is systematically deprived of knowledge or prevented from exercising rational capacities is hindered in achieving full human development. This explains the importance Aquinas assigns to intellectual virtue, education, and contemplation. In the *Summa Theologiae*, he argues that the ultimate end of human life is happiness and that human happiness involves the fulfillment of the intellectual and moral capacities of the person.

The natural inclination toward truth also has implications for the moral evaluation of political institutions. Governments that deliberately promote falsehood, suppress legitimate inquiry, or prevent people from exercising rational judgment undermine an important dimension of human flourishing. While Aquinas does not provide a modern theory of freedom of expression, his account of human rationality establishes a philosophical basis for recognizing the importance of truth and rational inquiry. The pursuit of truth also demonstrates that natural law cannot be reduced to a collection of prohibitions. It positively directs human beings toward goods that constitute a flourishing life. Natural law is therefore fundamentally constructive: it identifies the goods toward which rational beings ought to orient their lives.

4. Natural Law and the Foundations Of Moral Order

²¹ Thomas Aquinas, I-II, q. 94, a. 2.

A central contribution of Aquinas's natural-law theory is its attempt to establish an objective foundation for morality. Moral truth, on this account, does not depend entirely upon individual preference, social convention, or political authority. Human beings can rationally apprehend fundamental moral principles because these principles correspond to the objective structure of human nature and its proper goods. This objectivity does not mean that every moral question has an immediately obvious answer. Aquinas acknowledges the possibility of error in practical reasoning. Nevertheless, the possibility of error presupposes that there is a truth toward which practical reasoning is directed. Moral reasoning would lose its normative significance if good and evil were nothing more than expressions of individual preference. Natural law therefore provides a basis for distinguishing between what people merely desire and what they have reason to desire. A person may desire something that is harmful or unjust, but desire alone does not transform that object into a genuine human good. The role of practical reason is to distinguish apparent goods from genuine goods. Aquinas's position consequently challenges strong forms of moral relativism. Although moral judgments can vary across societies and individuals, the existence of variation does not establish that no objective moral standards exist. Fundamental moral principles remain grounded in the nature and rational capacities of human beings.

Natural law cannot be fully understood without Aquinas's theory of virtue. Human beings do not achieve moral excellence simply by knowing general principles. They must develop stable dispositions that enable them to act reasonably and consistently. Virtue therefore connects natural-law principles with lived moral conduct. Aquinas defines virtue as a good habit or stable disposition that enables a person to act well.²² The moral virtues order the passions and actions according to reason, thereby enabling human beings to pursue genuine goods. Natural law provides the fundamental moral orientation, while virtue forms the character required to act consistently in accordance with that orientation. Human flourishing consequently involves more than the satisfaction of isolated desires. It requires the integrated development of rational, moral, social, and intellectual capacities. Aquinas connects these dimensions with happiness, understood ultimately as the fulfillment of the human person. The relationship between natural law and virtue is therefore mutually reinforcing. Natural law identifies objective goods and principles, while virtue enables the person to pursue those goods effectively. A moral order that contains rules without corresponding moral formation would be incomplete.

Although the contemporary language of "human dignity" is not identical to Aquinas's terminology, his account provides substantial resources for a philosophical understanding of human dignity. Human beings possess a distinctive dignity because they are rational creatures capable of understanding truth, directing themselves through reason, and participating consciously in the moral order. The dignity of the human person therefore does not depend upon social status, political recognition, economic usefulness, or physical strength. It is grounded in human nature itself. Every human person possesses rational and moral capacities that make participation in the good possible. This provides an important foundation for evaluating political and legal institutions. Laws that treat human beings merely as instruments for political, economic, or ideological objectives risk violating the dignity inherent in persons. Natural law consequently supplies a philosophical basis for insisting that political authority is limited by the moral status of the persons over whom it exercises authority.

Conscience is closely related to the application of natural law. Aquinas understands conscience not as an independent source of moral truth but as an act of practical reason through which a person applies moral knowledge to a particular situation.²³ Conscience therefore involves judgment concerning what one ought

²² Thomas Aquinas, 1981, I–II, q. 55, a. 4.

²³ Thomas Aquinas, I, q. 79, a. 13.

or ought not to do. Because conscience applies general principles to particular circumstances, moral responsibility involves both knowledge and judgment. A person may know the general requirement to pursue good and avoid evil while nevertheless making an erroneous judgment about a particular action. Aquinas recognizes the possibility of such error, but this does not eliminate moral responsibility. The proper formation of conscience therefore requires education, virtue, practical wisdom, and intellectual discipline. Natural law provides the objective principles, while conscience applies those principles within the concrete circumstances of human life. This relationship illustrates again that Aquinas's moral theory combines objective norms with responsible personal deliberation.

5. Natural Law and the Foundations of Legal Order

Aquinas's theory of human law depends fundamentally upon natural law. Human law is necessary because general moral principles must be translated into concrete rules capable of regulating complex social relations. Nevertheless, human legislation is not an entirely autonomous source of moral authority. Its legitimacy depends upon its relationship to reason, justice, and the common good.²⁴ Human law therefore occupies a mediating position between universal moral principles and particular social circumstances. It specifies how general requirements should be implemented within a particular political community. This explains why different societies may adopt different legal rules without necessarily contradicting natural law. Aquinas's theory thus avoids two extremes. On one side is the view that every positive law is simply a matter of political will. On the other is the view that natural law provides a complete legal code requiring identical positive laws everywhere. Aquinas instead allows positive law genuine discretion while maintaining that such discretion must remain rationally ordered toward the common good.

The concept of *determinatio* is essential to Aquinas's understanding of how natural law becomes positive law. General moral principles do not always determine a single concrete course of legal action. Human legislators must therefore make particular determinations suited to the circumstances of their communities. For example, natural reason may establish that wrongdoing should be punished and that social order requires sanctions. It does not necessarily determine the exact form, amount, or procedure of every punishment. These matters require legislative judgment. Similarly, natural law may recognize the importance of property and social order without determining one universally fixed system of property regulation. *Determinatio* therefore demonstrates that Aquinas recognizes a legitimate sphere of legislative creativity. Positive law possesses specificity that natural law, at the level of general principle, does not possess. Yet the exercise of legislative discretion is not unlimited. Determinations that contradict fundamental principles of justice or undermine the common good cease to be legitimate expressions of political authority.

Justice is central to the legitimacy of legislation. Since law is ordered toward the common good, legislation must distribute benefits and burdens in a manner consistent with reason and what is due to persons. Aquinas understands justice as a virtue that gives each person what is due and orders relationships within the community. A law can therefore be formally valid while morally defective. Its enactment by a recognised authority does not automatically make it just. Aquinas's account introduces a normative dimension into the evaluation of legislation: the legislator must exercise authority for the common good and within the limits established by reason and justice. This provides an important foundation for the distinction between legal authority and arbitrary power. Authority is legitimate when it serves the proper end of political community. Where political power is systematically exercised for private advantage rather than the common good, it departs from the rational purpose of law.

²⁴ Thomas Aquinas, I–II, q. 95, a. 2.

6. Aquinas on Unjust Laws and the Limits of Political Authority

Aquinas's discussion of unjust laws is one of the most significant aspects of his theory for contemporary legal philosophy. He identifies injustice in human law when legislation departs from its proper purpose or exceeds legitimate political authority. Laws may be unjust because they promote the private advantage of rulers, impose unequal burdens, or contradict higher moral requirements. This position demonstrates that Aquinas does not regard legal enactment as sufficient for moral legitimacy. A law may exist as a positive legal rule while failing to fulfil the moral requirements of law properly understood. This distinction creates space for critical evaluation of political institutions without denying the general necessity of legal authority.

A law directed toward the private advantage of a ruler rather than the common good is defective because it reverses the proper purpose of political authority. The legislator exercises public power for a private end, thereby converting law from an instrument of common welfare into an instrument of domination. The same principle applies where legislation imposes burdens on citizens that are not proportionate to legitimate communal purposes. Justice requires that laws be reasonably related to the common good. Where this relationship is absent, the moral legitimacy of the legislation becomes questionable. Aquinas's position is particularly relevant to contemporary concerns about corruption, abuse of office, discriminatory legislation, and governmental arbitrariness. Although the historical circumstances differ, the underlying philosophical question remains the same: whether political authority can legitimately use public power for ends that contradict the common good.

7. Conclusion

Aquinas's theory of natural law provides a comprehensive philosophical account of the relationship between eternal law, natural law, human reason, morality, and positive law. At the foundation of this account is eternal law, understood as the rational ordering of creation in divine wisdom. Natural law constitutes the rational creature's participation in this eternal order, enabling human beings through practical reason to recognize fundamental moral principles and orient their actions toward genuine human goods. Human reason therefore occupies a mediating position between the objective moral order and concrete human conduct. Through practical reasoning, conscience, and virtue, persons are capable of discerning what ought to be pursued and what ought to be avoided. The moral life is consequently not grounded merely in subjective preference, social convention, or political command, but in an objective order of goods accessible, at least in principle, to rational human beings.

This structure extends directly into Aquinas's understanding of human law. Positive or human law is necessary because general principles of natural law must be translated into specific rules capable of regulating the complex circumstances of social life. Through *determinatio*, legislators determine particular legal requirements in accordance with the needs of their communities. Nevertheless, this legislative authority is neither absolute nor morally self-justifying. Since law is "an ordinance of reason for the common good" and must be promulgated by legitimate authority, the validity of legislation cannot be adequately understood merely in terms of enactment or coercive power.²⁵ Human law derives its proper moral authority from its rational relationship to natural law, justice, and the common good.

²⁵ Thomas Aquinas, I–II, q. 90, a. 4.

Aquinas's distinction between just and unjust laws is particularly significant for this argument. A law that is formally enacted may nevertheless be morally defective when it serves private interests, exceeds legitimate political authority, imposes disproportionate burdens, or contradicts fundamental requirements of natural or divine law. Natural law therefore provides a standard by which positive law can be critically evaluated. It establishes that political authority is itself subject to moral limits and that ruler and legislators remain accountable to the common good. This principle has continuing relevance for contemporary constitutionalism, human rights, democratic governance, and the struggle against arbitrary political power.

The article has further shown that the enduring significance of Aquinas does not depend upon transferring his medieval legal institutions directly into contemporary society. Rather, his importance lies in the philosophical framework through which he connects human nature, practical reason, moral obligation, justice, political authority, and legal legitimacy. His theory provides a middle position between moral relativism and rigid legal formalism: fundamental moral principles possess objective significance, while their concrete application requires prudence, contextual judgment, and legitimate legislative determination. Contemporary natural-law theorists, particularly John Finnis, have demonstrated that these Thomistic insights can continue to engage modern questions concerning basic human goods, practical reason, rights, justice, and political community.

Aquinas challenges the idea that law can be adequately understood simply as whatever a political authority has successfully enacted. Although enactment, authority, and coercive enforcement are important features of positive legal systems, they do not by themselves establish moral legitimacy. A genuinely legitimate legal order must be rationally ordered toward justice, human flourishing, and the common good. The enduring contribution of Aquinas's natural-law theory is therefore its insistence that morality and law, while distinguishable, cannot be completely separated. Eternal law grounds natural law; natural law informs human reason; human reason guides moral action; and human law translates general moral principles into concrete social regulations. In this integrated vision, the ultimate purpose of law is not merely to control behaviour but to order communal life toward justice and the common good. This remains one of the most enduring philosophical resources offered by Aquinas for understanding the foundations of moral and legal order.

***Donatus Nath Uzoma Okwara PhD**

Directorate of General Studies,
Federal University of Technology Owerri

****Daniel Obioma Chukwukere PhD**

Directorate of General Studies,
Federal University of Technology Owerri

*****Constance Onyinyechi Ozuomba PhD**

School of General Studies
Dr B.U. Nzeribe State Polytechnic, Awo Omanma, Imo State, Nigeria.

******Obinna Victor Obiagwu PhD**

Directorate of General Studies,
Federal University of Technology Owerri
08033433261
obinnaobiagwu71@gmail.com

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