

QUESTION 91

The Different Kinds of Law

We next have to consider the different kinds of law. On this topic there are six questions: (1) Is there such a thing as eternal law? (2) Is there such a thing as natural law? (3) Is there such a thing as human law? (4) Is there such a thing as divine law? (5) Is there just a single [divine] law, or more than one? (6) Is there such a thing as ‘the law of sin’?

Article 1

Is there such a thing as eternal law?

It seems that there is no such thing as eternal law:

Objection 1: Every law is imposed on someone. But there was no one on whom law could have been imposed from eternity, since God alone existed from eternity. Therefore, there is no such thing as eternal law.

Objection 2: Promulgation is part of the nature of law. But there could not have been a promulgation from eternity, since nothing existed from eternity to which the law might have been promulgated. Therefore, there cannot be any such thing as eternal law.

Objection 3: Law implies an ordering to an end. But there is nothing eternal that might be ordered to an end, since the ultimate end alone is eternal. Therefore, there is no such thing as eternal law.

But contrary to this: In *De Libero Arbitrio* 1 Augustine says, “The law that is called the ‘highest ideal plan’ (*summa ratio*) cannot but seem unchangeable and eternal to anyone who understands it.”

I respond: As was explained above (q. 90, a. 4), law is nothing other than a certain dictate (*dictamen*) of practical reason on the part of a ruler who governs some complete community. But once we assume, as was established in the first part (*ST* 1, q. 22, a. 1), that the world is governed by divine providence, it is obvious that the entire community of the universe is governed by divine reason. Therefore, the very nature of the governance of things that exists in God as the ruler of the universe has the character of law. And since, as Proverbs 8:23 puts it, God’s reason does not conceive of anything temporally but instead has an eternal conception, it follows that a law of this kind must be called eternal law.

Reply to objection 1: Those things that do not exist in themselves exist in God’s presence (*apud Deum*) insofar as they are foreknown and preordained by Him—this according to Romans 4:17 (“He calls the things that are not in the same way as those that are”). So, then, the eternal conception of God’s law has the character of an eternal law, since it is ordered by God toward the governance of the things foreknown by Him.

Reply to objection 2: Promulgation is accomplished by both the spoken word (*verbum*) and the written word (*scriptum*), and the eternal law has both sorts of promulgation on the part of God who promulgates it. For God’s Word is eternal (see *ST* 1, q. 34), and the writing in the book of life is eternal (see *ST* 1, q. 24).

On the other hand, as far as the creature who hears or reads is concerned, the promulgation cannot be eternal.

Reply to objection 3: Law implies an ordering to an end in the *active* sense—viz., in the sense that certain things are ordered to the end through law.

However, law does not imply an ordering to an end in the *passive* sense, i.e., in the sense that the law itself is ordered to an end—except, incidentally, in the case of a governor whose end lies outside himself and is such that his law, too, must be ordered to it. By contrast, the end of divine governance is

God Himself, and His law is not distinct from Himself. Hence, the eternal law is not ordered toward any further end.

Article 2

Is there any such thing as natural law in us?

It seems that there is no such thing as natural law in us:

Objection 1: Man is sufficiently governed by eternal law, since, as Augustine says in *De Libero Arbitrio* 1, “Eternal law is the law by which it is just that all things should be well ordered.” But nature does not abound in what is superfluous, just as it is not deficient in what is necessary. Therefore, there is no such thing as natural law for man.

Objection 2: As was established above (q. 90, a.1), it is through law that man is ordered to the end in his acts. But the ordering of human acts to their end does not stem from nature in the way that this occurs in non-rational creatures, which act for the sake of an end by natural appetite alone; instead, man acts for the sake of an end through his reason and will. Therefore, there is no law that is natural to man.

Objection 3: The more free someone is, the less subject he is to law. But man is more free than all the [other] animals because of the power of free choice (*liberum arbitrium*), which he has in contrast to all the other animals. Therefore, since the other animals are not subject to a natural law, neither is man subject to any natural law.

But contrary to this: A Gloss on Romans 2:14 (“For when the Gentiles, who do not have the Law, do by nature those things that are of the Law”) says, “Even if they do not have the written Law, they nonetheless have the natural law, by which everyone understands and knows within himself what is good and what is evil.”

I respond: As was explained above (q. 90, a. 1), since law is a rule and a measure, there are two senses in which it can exist in something: first, in the sense of existing in that which regulates and measures and, second, in the sense of existing in that which is regulated and measured. For a thing is measured and regulated to the extent that it has some participation in the rule and measure. So since, as is clear from what was said above (a. 1), all the things subject to divine providence are regulated and measured by eternal law, it is clear that all things in some way participate in eternal law. More precisely, because eternal law is imprinted on them, they have inclinations toward their own proper acts and ends.

Now among all creatures, the rational creature is subject to divine providence in a more excellent manner, because he himself participates in providence, providing for himself and for others. Hence, in him, too, there is a participation in eternal reason through which he has a natural inclination to his due act and end. And the rational creature’s mode of participation in the eternal law is called natural law.

Hence, after the Psalmist (Psalm 4:6) has said, “Offer up the sacrifice of justice,” he adds, as if someone were asking what the works of justice are, “Many say, ‘Who is there to show us good works?’” In reply to this question he says, “The light of Your countenance, Lord, is imprinted on us”—as if to say, the light of natural reason, by which we discern what is good and what is evil. This has to do with natural law, which is nothing other than the imprint of God’s light within us.

Hence, it is clear that natural law is nothing other than a participation in eternal law on the part of a rational creature.

Reply to objection 1: This argument assumes that natural law is something different from eternal law. However, as has been explained, natural law is nothing other than a certain kind of participation in eternal law.

Reply to objection 2: As was established above (q. 10, a. 1), every operation of reason and will in us is derived from what is in accord with nature. For every instance of discursive reasoning stems from principles that are naturally known to us, and every desire for things that are ordered to an end stems from a natural desire for the ultimate end. And so, likewise, the initial ordering of our acts to their end (*prima directio actuum nostrorum ad finem*) must be brought about through natural law.

Reply to objection 3: Non-rational animals participate in the eternal law in their own way, just as rational creatures do. However, since a rational creature participates in natural law in an intellectual and rational way, a rational creature's participation in the eternal law is itself properly called a law. For as was explained above (q. 90, a. 1), law belongs to reason. By contrast, a non-rational creature does not participate in the eternal law in a rational way, and so its participation cannot be called law except by way of a likeness (*per similitudinem*).

Article 3

Is there any such thing as human law?

It seems that there is no such thing as human law:

Objection 1: As has been explained (a. 2), natural law is a participation in eternal law. But as Augustine says in *De Libero Arbitrio* 1, all things are completely ordered through eternal law. Therefore, natural law is sufficient for ordering all human affairs. Therefore, it is unnecessary for there to be any such thing as human law.

Objection 2: As has been explained (q. 90, a. 1), law has the character of a measure. But human reason is not the measure of things; just the opposite, as *Metaphysics* 10 insists. Therefore, there cannot be a law that proceeds from human reason.

Objection 3: As *Metaphysics* 10 says, a measure should be absolutely fixed (*certissima*). But human reason's dictates about things to be done are not fixed, since according to Wisdom 9:14, "The thoughts of mortal men are fearful and our counsels uncertain." Therefore, there cannot be a law that proceeds from human reason.

But contrary to this: In *De Libero Arbitrio* 1 Augustine posits two kinds of law, one eternal and the other temporal, and the latter he calls 'human law'.

I respond: As was explained above (q. 90, a. 4), law is a dictate of practical reason. Now practical reason and speculative reason proceed in similar ways, since, as was established above (q. 90, a. 1), both proceed from given principles to given conclusions. Accordingly, then, just as, in the case of speculative reason, conclusions in the diverse sciences, which are not naturally known to us but are instead discovered by the activity of reason, are brought forth from naturally known indemonstrable principles, so too from the precepts of natural law, which are, as it were, common and indemonstrable principles, human reason must proceed to determine certain matters in a more particular way. And these particular determinations, devised by human reason, are called human laws—assuming the preservation of all the other conditions, described above (q. 90, a. 4), that are relevant to the nature of law.

Thus, in his *Rhetorica* Tully says, "The beginnings of justice came from nature; next, certain things came to be customs because of their advantageous nature; afterwards, fear and reverence sanctioned both what had come from nature and what had been approved by custom."

Reply to objection 1: Human reason is incapable of participating fully in the dictates of divine reason (*non potest participare plenum dictamen rationis divinae*); rather, it participates in its own way and incompletely. And so just as, in the case of speculative reason, there exists in us, through our natural

participation in God's wisdom, a cognition of certain common principles, but not a proper cognition of every truth as there is in God's wisdom, so too, in the case of practical reason, man naturally participates in eternal law with respect to certain general principles, but not with respect to the particular determination of singular acts, even though the latter are contained within the eternal law. This is why it is necessary for human reason to proceed further to the particular sanctions contained in laws.

Reply to objection 2: Human reason is not in its own right (*secundum se*) a rule with respect to things; instead, it is the principles naturally instilled in human reason that are general rules and measures of all the things which are to be done by man and with respect to which natural reason is the rule and measure—even though it is not a measure of what stems from nature.

Reply to objection 3: Practical reason is concerned with actions (*operabilia*), which are singular and contingent, and not with necessary things like those which speculative reason is concerned with. And so human laws cannot have the sort of infallibility that the demonstrated conclusions of the sciences do. Nor is it necessary that every measure should be in every way infallible and fixed; rather, it should be as fixed as is possible within its own genus.

Article 4

Was it necessary for there to be such a thing as divine law?

It seems to have been unnecessary for there to be such a thing as divine law:

Objection 1: As has been explained (a. 2), natural law is within us a kind of participation in eternal law. But as has been said (a. 1), eternal law is a divine law. Therefore, it is unnecessary for there to be a divine law in addition to natural law and the human laws that stem from it.

Objection 2: Ecclesiasticus 15:14 says, "God left man in the hand of his own counsel." But as was established above (q. 14, a. 1), counsel is an act of reason. Therefore, man was left to the governance provided by his own reason. But as has been explained (a. 3), a dictate of human reason is human law. Therefore, it is unnecessary for man to be governed by some other divine law.

Objection 3: Human nature is more self-sufficient than non-rational creatures. But a non-rational creature does not have any divine law in addition to the natural inclination that has been instilled in it. Therefore, *a fortiori*, a rational creature should not have any divine law in addition to natural law.

But contrary to this: David asked God for a law to be imposed on him, saying, "Set before me for a law the way of Your justifications, O Lord" (Psalm 118:33).

I respond: In addition to natural law and human law, it was necessary for us to have divine law in order to direct human life—and this for four reasons:

First, through law man is directed to his own proper acts in relation to the ultimate end. And if man were ordered just to an end that is not disproportionate to man's natural power, then it would not be necessary for man to have any directive from reason in addition to natural law and the humanly posited law that stems from it. However, since, as was established above (q. 5, a. 5), man is ordered to the end of eternal beatitude, which is disproportionate to natural human power, it was necessary that, in addition to natural law and human law, he should also be directed to his end by a law that is divinely given.

Second, due to the uncertainty of human judgment, especially about contingent and particular matters, different people can make diverse judgments about human acts, and these diverse judgments lead to diverse and contrary laws. Therefore, in order that man might be able to know without any hesitation what he should do and what he should avoid doing, it was necessary that he be directed in his proper acts by a law that is divinely given and is clearly such that it cannot be mistaken.

Third, man is able to make law with respect to those things which he is in a position to make judgments about. However, human judgments cannot encompass interior movements, which are hidden, but can encompass only exterior acts, which are observable. Yet for the perfection of virtue it is required that a man be upright with respect to both sorts of acts. So human law could not adequately restrain and order interior acts, and divine law had to be added for this purpose.

Fourth, as Augustine says in *De Libero Arbitrio* 1, human law is incapable of prohibiting or punishing all evil deeds. For if it tried to do away with all evils, many goods would also be destroyed as a result, and the promotion of the common good, which is necessary for human living, would be impeded. Therefore, in order that no evil remain unforbidden and unpunished, it was necessary that there should be, in addition, a divine law by which all sins are prohibited.

These four reasons are touched on in Psalm 18:8, where it says, “The law of the Lord is unspotted,” i.e., does not permit any foulness of sin; “..... converting souls,” since it directs not just exterior acts, but interior acts as well; “..... the testimony of the Lord is faithful,” because of the certitude of what is true and upright; “..... giving wisdom to the little ones,” because it orders man to his supernatural and divine end.

Reply to objection 1: Natural law participates in eternal law in a way proportioned to the power of human nature. But man has to be directed in a deeper way to his ultimate supernatural end. And so there is, in addition, a divinely given law, through which eternal law is participated in more deeply.

Reply to objection 2: Counsel is a certain sort of inquiry, and so it must proceed from given principles. But it is not enough that it should proceed from naturally instilled principles, i.e., from the precepts of the natural law—and this for the [four] reasons explained above. Rather, certain other principles must be added, viz., the precepts of divine law.

Reply to objection 3: Non-rational creatures are not ordered to an end higher than the end that is proportioned to their natural power. And so the arguments are not parallel.

Article 5

Is there just a single divine law?

It seems that there is just a single divine law:

Objection 1: A single king in a single kingdom has a single law. But the whole human race is related to God as to a single king—this according to Psalm 46:8 (“God is king of all the earth”). Therefore, there is just a single divine law.

Objection 2: Every law is ordered toward the end that the lawmaker intends in those for whom he makes the law. But what God intends in all men is one and the same thing—this according to 1 Timothy 2:4 (“He wills that all men be saved and come to knowledge of the truth”). Therefore, there is just a single divine law.

Objection 3: To the extent that the revelation of grace is higher than natural cognition, divine law seems to be closer to eternal law, which is a single law, than is natural law. But natural law is a single law for all men. Therefore, *a fortiori*, so is divine law.

But contrary to this: In Hebrews 7:12 the Apostle says, “For the priesthood having been changed, it is necessary for the law to be changed.” But as is explained in the same place, there are two kinds of priesthood, the Levitical priesthood and Christ’s priesthood. Therefore, there are two laws, viz., the Old Law and the New Law.

I respond: As was explained in the first part (*ST* 1, q. 30, a. 3), distinction is a cause of number.

Now there are two ways in which things can be distinct from one another. First, they are distinct in the sense of being altogether diverse in species, e.g., a horse and an ox. Second, they are distinct in the sense that the one is perfect and the other imperfect within the same species, e.g., a man and a boy. It is in this latter sense that the divine law is divided into the Old Law and the New Law. Hence, in Galatians 3:24-25, the Apostle compares the status of the Old Law to the status of a child under the tutelage of a pedagogue, while he compares the status of the New Law to a full-grown man who is no longer under the tutelage of a pedagogue.

Now perfection and imperfection apply to these laws relative to three of those elements pertaining to law that were noted above.

First, as was noted above (q. 90, a. 2), law is ordered toward the common good as its end. But there are two kinds of common good. The first is a *sensible and earthly good* (*bonum sensibile et terrenum*), and it is to this sort of good that the Old Law directly ordered [the people]; hence, in Exodus 3:8-17, at the very initiation of the Old Law, the people are invited into the earthly kingdom of the Canaanites. The second is an *intelligible and heavenly good* (*bonum intelligibile et caeleste*), and it is to this sort of good that the New Law orders [the people]; hence, at the very beginning of His teaching Christ issued an invitation to the kingdom of heaven, saying, “Repent, for the kingdom of heaven is at hand” (Matthew 4:17). Thus, in *Contra Faustum* 4 Augustine says, “Promises of temporal things were contained in the Old Testament, and this is why it is called ‘Old’; by contrast, the New Testament has to do with the promise of eternal life.”

Second, law has to do with directing human acts in accord with the order of justice. On this score, too, the New Law outstrips the Old Law by ordering the interior acts of the soul—this according to Matthew 5:20, “Unless your justice exceeds that of the Scribes and Pharisees, you will not enter into the kingdom of heaven.” For this reason it is said that the Old Law restrains the hand, whereas the New Law restrains the mind.

Third, law has the role of inducing men to obey the commandments. The Old Law did this through the fear of punishment, whereas the New Law does it through the love that is infused into our hearts by Christ’s grace, which is conferred under the New Law but was prefigured under the Old Law. This is why in *Contra Adimantum Manichaei Discipulum* Augustine says, “In brief, the difference between the Law and the Gospel is this: fear and love.”

Reply to objection 1: Just as the father of a household issues different commands to children and to adults, so too the one king God, within His single kingdom, gives one law to men who are still imperfect and another more perfect law to those who have already been led by the hand through the prior law to a greater capacity for divine things.

Reply to objection 2: The salvation of men was impossible except through Christ—this according to Acts 4:12 (“There is no other name given to men, whereby we must be saved”). And so a law that leads all men perfectly to salvation could not have been given prior to Christ’s coming. Before that, the people from whom Christ was to be born had to be given a preparatory law for receiving Christ, and in this law certain rudiments of salvific justice were contained.

Reply to objection 3: The natural law directs man in accord with certain general precepts which are shared by both perfect and imperfect men, and this is why there is a single natural law for everyone. In addition, however, the divine law directs man in certain particulars with respect to which the perfect and the imperfect are not similarly positioned. And as has already been explained, this is why it was necessary for there to be two divine laws.

Article 6

Is there such a thing as a ‘law of the stimulant [to sin]’?

It seems that there is no such thing as a ‘law of the stimulant [to sin]’ (*lex fomitis [peccati]*):

Objection 1: In *Etymologia* 5 Isidore says, “The law is founded upon reason.” But the stimulant to sin does not consist in reason; instead, it deviates from reason. Therefore, the stimulant to sin does not have the character of law.

Objection 2: Every law is obligatory in the sense that anyone who does not keep it is called a transgressor. But the stimulant to sin does not render anyone a transgressor by virtue of his not following it; to the contrary, he is rendered a transgressor if he does follow it. Therefore, the stimulus to sin does not have the character of law.

Objection 3: As was established above (q. 90, a. 2), law is ordered toward the common good. But the stimulant to sin inclines one not toward the common good, but instead toward his own private good. Therefore, the stimulant to sin does not have the character of law.

But contrary to this: In Romans 7:23 the Apostle says, “I see another law in my members, fighting against the law of my mind.”

I respond: As was explained above (a. 2), law exists in an essential way in that which rules and measures, whereas it exists by way of participation in that which is measured and ruled—so that, as is clear from what was said above, every inclination or ordering that is found in things subject to the law is itself called ‘law’ by way of participation.

Now there are two ways in which an inclination stemming from the lawmaker can be found in things that are subject to the law: (a) in one way, insofar as such an inclination *directly* inclines what is subject to it toward something, and sometimes diverse subjects to diverse acts, in the way that military law (*lex militum*) can be said to be different from business law (*lex mercatorum*); (b) in another way, *indirectly*, viz., insofar as the fact that the lawmaker takes away some office (*dignitas*) from one who is subject to him results in the latter’s passing into another order and, as it were, into another law. For instance, if a soldier is discharged from the army, then he will pass into rural law (*lex rusticorum*) or business law.

So, then, under God the Lawmaker different creatures have different natural inclinations, with the result that what is in some way law for one is contrary to what is law for another. For instance, *being fierce* is in a certain sense the law for a dog, whereas it is contrary to the law for a sheep or some other gentle animal.

Thus, the law for man, which is given by divine ordination according to man’s proper condition, is that he should act in accord with reason. This law was, to be sure, so strong in man’s initial state that nothing either beyond reason or contrary to reason could take man unawares (*posset subrepere hominem*). But once man turned away from God, he fell into being carried away by the impetus of sensuality; and this happens in a particular way to each man the more he recedes from reason, so that he becomes in a certain sense like the beasts, which are carried away by the impetus of sensuality—this according to Psalm 48:21 (“Man, when he existed in honor, did not understand: he has been put on the same footing as senseless beasts and been made similar to them”).

So, then, this inclination toward sensuality, which is called the ‘stimulant’ (*fomes*), has the character of law absolutely speaking in the case of the other animals—yet in the manner in which it can be called ‘law’ in such animals, viz., as a direct inclination. In men, by contrast, the stimulant does not have the character of law in this way, but is rather a deviation from the law of reason. Yet insofar as man was stripped of original justice and of vigorous reason through God’s justice, this impetus to sensuality

which leads him on has the character of law in the sense that it is a punishment and follows from God's law, which strips man of his proper dignity (*hominem destituente propria dignitate*).

Reply to objection 1: This argument proceeds from the stimulant considered by itself, insofar as it inclines one to evil. For, as has been explained, it does not in this sense have the character of law. Instead, it has the character of law insofar as it follows from the justice of God's law—in the way that one might call it a law that a nobleman should, because of some sin, be subjected to the work of a servant.

Reply to objection 2: This objection proceeds on the assumption that the stimulant is a law in the sense of a rule and measure; for those who deviate from the law in this sense are rendered transgressors. However, the stimulant is not a law in this sense, but is instead a law by participation of a certain sort, in the way explained above.

Reply to objection 3: This argument proceeds from the stimulant's proper inclination and not from its origin. Yet if the inclination toward sensuality is considered as it exists in other animals, then it is indeed ordered to the common good, i.e., to the conservation of nature in the species and in the individual. And this is also true in the case of man, to the extent that sensuality is subject to reason. However, the name 'stimulant' is used for it insofar as it departs from the order of reason.