

## Natural Law: New Directions in Thomistic Theological Ethics

Charles R. Pinches

**N**ATURAL LAW, MUCH DISCUSSED OF LATE, has always been an attractive topic. Part of the attraction lies in what might be done with it. It would be a fine thing if humans the world over could share a universal ethic—and perhaps the natural law can give us that. However, precisely because it is so promising we do well to be cautious. Natural law has sometimes been wrenched from its context in Christian theology. It may be useful, but is not really portable. We are repeatedly tempted to carry it here and there to address the problems, or the perceived problems of the day, forgetting about its essentially theological location, which is the only place it can be thoroughly and rightly understood. Recently, we have become more aware of this theological location, and of the need to honor it. But how to do this well—particularly given the temptation?<sup>1</sup>

In what follows I consider three Thomistic thinkers who are helpful in establishing the proper location of natural law in theological context: Jean Porter, Servais Pinckaers and Herbert McCabe. Of these, Porter's work is the most recent and likely the best known. It is helpful, I argue, but takes a certain turn, following the "promising" temptation. The work of Pinckaers and McCabe,<sup>2</sup> in that order, helps tether natural law more thoroughly to Thomas's theologically informed understanding. Both also thoughtfully open new directions for the further exploration of natural law today.

---

<sup>1</sup> A sign of renewed attention to natural law, as well as of its temptations, The International Theological Commission of the Catholic Church recently published *In Search of a Universal Ethics: A New Look at the Natural Law*. As John Berkman and William Mattison say in their introduction to a recent printing of the document, "a new look is warranted by the all too often impersonal and ahistorical presentations of Christian teaching on the natural law in the past" (Grand Rapids: Eerdmans, 2014), 3.

<sup>2</sup> Pinckaers and McCabe were both Dominican friars whose work in moral theology sparkled brilliantly in the second half of the 20<sup>th</sup> century, even if it remains unknown to many. We have yet fully to appreciate its significance. The two were born months apart, in 1925 and 1926 respectively. McCabe died in 2001; Pinckaers in 2008.

### JEAN PORTER ON THE NATURAL LAW

The first of Jean Porter's trio of works on natural law, *Natural and Divine Law: Reclaiming the Tradition for Christian Ethics*,<sup>3</sup> positions natural law historically within the tradition of scholastic theological discussion. Although she treats Aquinas's views often, he does not dominate this first book. This has an important broadening effect; natural law inquiry has frequently rushed to question 94 in I-II of the *Summa Theologiae*. While this is an important and rich question, it cannot be understood on its own.<sup>4</sup> Porter helpfully reminds us that Thomas was commenting on, extending, and critically examining natural law within the scholastic discussion.

This makes room for Porter's second book on the topic, *Nature as Reason: A Thomistic Theory of the Natural Law*. As the subtitle indicates, here Porter focuses more directly on Aquinas on the natural law.<sup>5</sup> This is the book that will most concern us in this paper; it is also Porter's most influential work on the topic. It is followed by a third book: *Ministers of the Law: A Natural Law Theory of Legal Authority*.<sup>6</sup> This is a fine book in many ways, but, as I argue below, its topic suggests a certain trajectory in Porter's work on the natural law that relates to the named temptation: to understand natural law by one of its promising uses. Throughout it she holds firmly, and rightly, to the point that the law's context is always fundamentally moral. As she quotes favorably from Richard Shweder, "the social order is a moral order vigilantly and incessantly sustained by small and large judgments about right and wrong, good and bad, virtue and vice."<sup>7</sup> Laws in a given society, then, cannot but attend to this essentially moral matrix. In this way, a strict legal positivism that conceives of law as whatever happens to be specified by law-making authorities in that society

---

<sup>3</sup> Jean Porter, *Natural and Divine Law: Reclaiming the Tradition for Christian Ethics*. (Ottawa: Novalis, 1999).

<sup>4</sup> As Porter says near the beginning of her second book (and looking in this way back to the first), "Aquinas's account of the natural law cannot be understood, even on its own terms, unless it is placed in the context of the views of his own immediate forbearers and contemporaries, nor is its significance for our time fully apparent apart from this context." Jean Porter, *Nature as Reason: A Thomistic Theory of the Natural Law* (Grand Rapids, MI: Eerdmans, 2005) 47.

<sup>5</sup> As one might guess, not all Thomists agree that Porter gets Thomas right. For instance, Martin Rhonheimer holds that Porter's treatment is principally her own invention, not at all consonant with Thomas's full view of the natural law. "Porter," he says, "disregards the core of Aquinas's concept of natural law. She also fails to consider key points of Aquinas that do not fit into her agenda." *The Perspective of the Acting Person: Essays on the Renewal of Thomistic Moral Philosophy*, ed. William F. Murphy, Jr. (Washington: Catholic University of America Press, 2008), 284-5.

<sup>6</sup> Jean Porter, *Ministers of the Law: A Natural Law Theory of Legal Authority* (Grand Rapids: William B. Eerdmans Pub., 2010).

<sup>7</sup> Porter, *Ministers of the Law*, 111.

will always miss the mark. This point is important and well displayed throughout the book.

In the second book Porter develops a point that arises in her first, namely, that the scholastics assumed an essential connection between natural law and virtue. Both are fundamentally indexed to human happiness or well-being, and therefore must be teleologically understood. As Porter believes, Aquinas inherited this understanding and developed it in important ways.

What is distinctive about Aquinas's account [beyond his scholastic interlocutors] is rather the way he identifies terrestrial forms of happiness with the practice of the virtues. In what follows I take this connection as a starting point for developing a Thomistic account of the natural law.

More specifically, I will argue that happiness is the proximate origin for the norms of the natural law. The kind of happiness in question is terrestrial happiness, understood in both its natural and graced forms as equivalent to the practice of the virtues. The virtues, in turn, are dispositions perfecting our capacities for knowledge and love, as these are exercised throughout the whole range of activities necessary to sustaining human life. Thus, considered as normative ideals, they stem from and are ineliminably shaped by the natural inclinations and needs of the human organism. Hence, our paradigms for virtuous behavior, together with the reflective ideals grounded in those paradigms, represent the point of connection between well-being and the norms of the natural law—between nature as nature, in Albert's words, and nature as reason.<sup>8</sup>

For Aquinas, Porter believes, natural law is about both nature and reason, and these are intrinsically linked. The link comes in the *telos* of the human person, happiness, to which we naturally and reasonably move. Within this movement, fundamentally grounded as it is in the "needs, desires, projects, and long-standing commitments" which promote the well-being of ourselves and other people, practical reason (or prudence) can do its work.<sup>9</sup> And it is this same practical reason that guides and infuses the natural law.

Porter's work is corrective; as such, it helps open the possibility of a return to natural law that avoids a stultifying modern mindset about natural law, one that ignores the virtues. Indeed, as Porter says, the connection between natural law and virtue "may seem strange to us, accustomed as we are to drawing a sharp dichotomy between natural law and virtue as two approaches to moral reflection. But this dichot-

---

<sup>8</sup> Porter, *Nature as Reason*, 162.

<sup>9</sup> Porter, *Nature as Reason*, 170.

omy was unknown to the early scholastics, and as we will see, it reflects assumptions about the relation of virtue to law that we need not make our own."<sup>10</sup> Particularly in Aquinas's thinking, the connection is based on his assumption that "the end of action which informs and gives structure to the precepts of the natural law is the overall perfection, which is to say, the happiness of the acting person." This happiness, especially understood "terrestrially" (i.e., in this life) is "the life of virtue"—which "provides the goal which informs and gives structure to the various precepts of the natural law."<sup>11</sup>

Porter is right that any further fruitful work on natural law must recognize its essential link with virtue; she has done a great service by bringing this clearly before us. However, there remains a distinction between the two that she perhaps blurs too much.

Rightly accenting what is clear in Aquinas, Porter notes that "the precepts of the natural law pertain to the natural inclinations of the human person, and stand in an ordering to one another determined by those inclinations." As such, even though the natural law is in one sense "external" the "precepts themselves are not imposed 'from without', so to speak; rather, they emerge out of the natural and rational exigencies emerging from the operation of the virtues themselves."<sup>12</sup> However, as Aquinas goes on to work out, natural law and virtue *operate differently* with respect to the natural inclinations, and with respect to our formation towards our true end, happiness in one or the other form.

Unfortunately, Porter does not stop to work on this difference, which might be done by considering specifically what are the precepts of the natural law, what external actions they specify, and how keeping the precepts might form us as human beings.<sup>13</sup> Instead, she moves forward quickly to a discussion of the virtues. As she tells us, she believes

---

<sup>10</sup> Porter, *Nature as Reason*, 50.

<sup>11</sup> Porter, *Nature as Reason*, 50.

<sup>12</sup> Porter, *Nature as Reason*, 176.

<sup>13</sup> Porter refrains from specifying any negative commands that flow from the natural law such as, for instance, "no murder." Yet one can easily hold that specific prohibitions (don't steal, don't murder, etc.) are there for our good, the same good that the virtues equip us to pursue. Given the rich context she has provided it, the natural law need not be understood to be exhausted in such prohibitions. Its principles are broad: for instance, that we have a natural inclination to seek the truth. Naming prohibitions in the natural law need not diminish its connection to virtue.

Porter moves instead to a treatment of the virtues that echoes back on the natural law, marking out "paradigmatic acts" related to the virtues which are identifiable but also always debatable from culture to culture, e.g., regarding acts of courage she tells us that "One society's heroic martyrs are another society's murderous and perverse suicide bombers" (*Nature as Reason*, 334). It is clear that she has an aversion to such prohibitions. I suspect this relates most to what she wants to do with the natural law, namely to carry it forward to a discussion of natural law as the basis of positive law

she has “sketched a naturalistic framework for interpreting and defending the four cardinal virtues” and comments that the cardinal virtues “seem to be almost universally recognized as cardinal, or primary or fundamental, for a good reason. These represent traits of character that contribute to human well-being in such basic ways.”<sup>14</sup> Importantly for Porter, the cardinal virtues are linked with “paradigmatic actions,” as fortitude, for example, is linked with the willingness to endure death for the sake of some greater good.<sup>15</sup>

This quick move—from virtues to paradigmatic acts—tells us something important about how Porter is proceeding. Her interest in the virtues is not so much in how, operating in conjunction with the natural law, they move human persons further towards the good, but rather *what they might help us identify*. In particular, she seems most interested in searching out “moral norms” that the virtues (or the natural law) might help us articulate, norms that might supply something like a universal ethic.

As it happens, though, the search must be constantly qualified since, as Porter holds, paradigmatic acts of the cardinal virtues cannot give us the specific moral norms for which she seems to be looking. For the paradigmatic acts turn out to be ambiguous. This point relates to what Aquinas notes in his discussion of the similitudes of the virtues: the similitude of fortitude, for instance, is something that looks like fortitude, but is not specifically tooled to the complete life of virtue in which the virtues are united. And so Porter is led to say, with an air of perhaps feigned disappointment: “If the paradigmatic virtues are morally ambiguous in this way, then it would seem that we cannot, after all, derive moral norms from a consideration of these acts. And if this is so, then it would appear that we cannot derive stable moral norms from the general parameters of human well-being, from which our ideas of these paradigmatic acts emerge.”<sup>16</sup>

This kind of statement is repeated often in Porter’s work, like a refrain. It reveals a certain dynamic: As she works with the virtues, or natural law, Porter opens the possibility that we might find the basis for something like a set of universal moral norms. This, she gives the impression, is what natural law inquiry is searching for. But, we never quite find it—or at least what we find is never enough to allow us specify a set of “stable moral norms.”<sup>17</sup>

---

in any society. This explanation is made all the more plausible by the fact that she notes that the cardinal virtues are “almost universally recognized as cardinal.”

<sup>14</sup> Porter, *Nature as Reason*, 181.

<sup>15</sup> Porter, *Nature as Reason*, 183.

<sup>16</sup> Porter, *Nature as Reason*, 186.

<sup>17</sup> For instance, fifty pages after the quote noted here, Porter, referring to Lee Yearly’s work, notes that “he observes that there does seem to be considerable agreement across cultural boundaries on the values of the central virtues.” However, when we

To summarize the point so far made about Porter's treatment, she has rightly and helpfully connected natural law with virtue by rooting both in the teleology of happiness or well-being. This opposes, again helpfully, conceptions of natural law that have dominated previously, such as those proposed by John Finnis or Germain Grisez "whose normative judgments do not depend in any substantive way on more broadly natural or metaphysical—let alone theological—commitments."<sup>18</sup> Yet as her analysis proceeds, Porter says very little about what natural law might contain or how it might operate in a way different from the virtues to which she has rightly connected it. Instead, she presses on with the virtues (and their paradigmatic acts) always in an attempt to find a "universal ethic" or a set of "stable moral norms" that might function in a way similar to those Finnis and Grisez propose. The virtues, in effect, are treated by Porter as a possible means to discover the sort of moral precepts we might have hoped the natural law would provide. What happens—and this seems by Porter's design—is that we repeatedly discover that work with the natural inclinations, the virtues and the teleological structure of happiness can't quite produce these norms. Indeed, much of the latter part of *Nature as Reason* takes on the convention of following out an always incomplete search for a universal ethic. This seems quite unfortunate, for in pursuing this search, Porter's attention is drawn away from how the natural law and the virtues actually function to form us towards the *telos* from which both take their meaning and substance.

The next section of this paper elaborates this critical point. Yet before proceeding there, let us mark two more features to appreciate in Porter's work on the natural law, which will assist us later on.

Early on in *Nature as Reason* Porter tells us that Aquinas believes "human reason is one expression of a more general intelligibility proper to the natural world." Yet she also goes on to say that Thomas and most of his scholastic interlocutors "do not regard actually existing social institutions and practices as the immediate expressions of prerational nature."<sup>19</sup> These institutions and practices come, rather, out of "reasoned communal reflection, giving rise to the laws and customs appropriate to a society of rational men and women."<sup>20</sup>

---

take various complicating factors into consideration "it becomes apparent that the broad consensus on the virtues and the paradigmatic form of practicing the virtues cannot be regarded as a fully universal ethic" (229). This refrain can be also found in Porter's third book. After surveying certain agreements among cultural psychologists, she says: "It may seem that we have now found what so far has eluded us, namely the starting points for a universally valid natural law morality. But this conclusion would be too quick..." (Porter, *Ministers of the Law*, 111).

<sup>18</sup> Porter, *Nature as Reason*, 66-7.

<sup>19</sup> Porter, *Nature as Reason*, 49.

<sup>20</sup> Porter, *Nature as Reason*, 49.

That is to say, as part of creation, the natural world is ordered and therefore intelligible. It moves towards an end—Christians will say an end in its creator. Yet in the case of human beings this movement is not predetermined by nature. Human beings live by and within “social institutions and practices,” but these do not follow directly from our “nature,” for example from our needs and desires to eat, seek refuge from danger, sexually reproduce, etc. Such features of human life—what Porter calls our “prerational nature”—do indeed help shape social institutions and practices. But they do not predetermine their form. Rather, their form comes through “reasoned communal reflection” which is neither over-against nature nor predetermined by it.

Porter spends less time than she might considering just how this “communal reflection” might go in one or the other society. For instance, as different peoples communally reflect in the quite different environments in which their common life takes shape, they will need to be aware of such things as their peculiar natural habitat. Are they a mountain people or do they live on the seashore, etc.? Yet Porter is eminently clear throughout that the *telos* of this reflection will be well-being, or “terrestrial happiness.” As such—and this is a second point to appreciate in her analysis—whatever form their “social institutions and practices” take will relate to prudence. Prudence will operate mainly within the context of the cultural setting of a people, providing them with wisdom about how to live well. Yet prudence also links essentially, with all the virtues, to the nature of the human person, conceived not simply as comprised of certain prerational features of our animal existence spread out as if on a chart, but the very destination of our created nature in human happiness.

Porter’s reflection on these points helpfully locates natural law within the complicated mix of human culture—arising, as she has it, from our “prerational nature”—but turns this in any number of interesting ways as the “reasoned communal reflection” of a given people carries it. This implies that signs of the natural law will be spread throughout a given culture; yet to identify them clearly we will need to study that culture. It is possible in this way to think of cultural studies as a kind of natural law inquiry.

This sort of complexification of the natural law in relation to evident differences we discover from one culture to another may appear to crowd out judgment, which the notion of “law” includes. However, the process of “reasoned communal reflection,” Porter holds, “can be carried out well or badly.”<sup>21</sup> That is, the “moral traditions” that arise as particular peoples engage in reasoned communal reflection...

---

<sup>21</sup> Porter, *Nature as Reason*, 49.

are not impervious to rational critique, or completely opaque or unpersuasive to those standing outside them. We need a more nuanced account of the relationship between specific beliefs and practices, and the moral claims they generate. Because it focuses on the complex relation between social conventions and the natural principles from which those conventions stem, a Thomistic theory of the natural law is well suited to provide a starting point for developing such an account.<sup>22</sup>

This sets a promising agenda. Porter has rightly found in Aquinas (and his scholastic forbearers and contemporaries) a complex linking of nature with reason, which gives room for the virtue of prudence to operate from and in relation to the trajectories in nature towards a fuller articulation and specification of what we must do (or not do), and who we must be if we are to live fully human lives. Natural law is to be understood in relation to this complex mix. Inquiry into it needs to be appropriately subtle and flexible.

In this context Porter points out, rightly, I think, that there is not simply one way to be human. She believes this follows from her analysis. “If the Thomistic theory of natural law developed here is valid... [t]here are many ways to be human, including a plurality of defensible and legitimate expressions of the basic inclinations of human nature.”<sup>23</sup> Porter here and elsewhere complexifies the relation between the natural inclinations and the happy life. They are fundamentally related, since nature is teleological. They set us on the path of being human. But precisely how this goes will vary as the virtues develop and interact with particulars of a given life, lived as it always is in the context of culture and the practices, institutions, and traditions it carries. Moreover, as the saints show, goodness diversifies.<sup>24</sup>

One final caveat, though, on this point. As noted, Porter speaks of “reasoned communal reflection” as sometimes going badly. Affirming that there are different ways to be human does not preclude also saying that there are also clear ways to deviate from being human. This deviation, especially as it is willful, has been long understood in the Christian tradition under the notion “sin.” However, “sin” is not in the index of Porter’s book; it may be mentioned, but it plays no central part. This deviates from what appears to be the force of Saint Paul statement, much used within natural law reflection: “For what can be known about God is plain to them [‘the Greeks’], because God has shown it to them. Ever since the creation of the world his eternal power and

---

<sup>22</sup> Porter, *Nature as Reason*, 51.

<sup>23</sup> Porter, *Nature as Reason*, 333.

<sup>24</sup> The point has been made often. As C.S. Lewis succinctly puts it: “How monotonously alike all the great tyrants and conquerors have been: how gloriously different are all the saints” (*Mere Christianity* [New York: Harper Collins, 2001], 226).

divine nature, invisible though they are, have been understood and seen through the things he has made. So they are without excuse” (Romans 1:19-20 [NRSV]). In this regard, one of the functions of the natural law, is to help identify sin. As we read in the Decalogue (which for Aquinas is essentially coextensive with the natural law): “thou shalt not....”<sup>25</sup>

#### FURTHER CRITICAL ISSUES—A “NATURAL LAW MORALITY”?

I have meant for my reflections so far on Jean Porter’s treatment of natural law to be both appreciative and critical. She has, I believe, steered natural law inquiry away from diversions and eddies that have caught many a craft, particularly those powered by “the new natural law.” Yet there is a direction in Porter’s work that, I believe, is over determined by what she seems eager to derive from the natural law. This causes her to miss key points about how natural law actually works. I hope to bring this more clearly to the surface in this section.

Recently in this journal Bill Mattison and David Cloutier featured Porter’s *Nature as Reason* as one of six books that have strongly influenced the resurgence of virtue in Christian ethics. They admire some of the features of Porter’s work so far noted, then pause on a “bold claim” that Porter makes late in the book. As she says there, “a Thomistic theory of natural law is not at odds with a virtue-oriented approach to morality; this theory of natural law is a theory of virtue.”<sup>26</sup> The claim is indeed bold; but it also overreaches. It is essential to connect natural law with virtue, yes, but also to note their *difference*. To say that a theory of natural law *is* a theory of virtue risks obliterating this difference.

It is important to recall that virtue modifies character, and law does not. Thomistic ethics is principally about character in the sense that God opens the Trinitarian life to us; God re-makes us into the sorts of beings who can become God’s friends. This is ratified by the structure and weight of the *Summa*. Thomas repeatedly draws our attention to virtue since it is what we need to become good—not as if goodness becomes our possession but that it properly describes how we feel and act and live.<sup>27</sup>

For Thomas law is always preparatory, and in this sense secondary, to virtue. “Consequently it is evident that the proper effect of law is to

<sup>25</sup> Porter notes that for Aquinas the Decalogue is nothing more nor less than a revealed form of the natural law. And she does not seem to believe he is wrong. See Porter, *Nature as Reason*, 268-88, where she discusses Aquinas on the Decalogue.

<sup>26</sup> David Cloutier and William C. Mattison III, “The Resurgence of Virtue in Recent Moral Theology,” *Journal of Moral Theology* 3, no. 1, (Jan. 2014): 245-6

<sup>27</sup> This weight can also be felt in the *Summa* by the fact that Aquinas dedicates some nineteen questions to law, and just one specifically to natural law; virtue in its various forms informs and infiltrates virtually the entirety of the second part.

lead its subjects to their proper virtue: and since virtue is ‘that which makes its subject good’, it follows that the proper effect of law is to make those to whom it is given, good, either simply or in some particular respect.”<sup>28</sup> This point goes relatively unexplored in Porter’s work: how law moves us toward virtue. She holds, of course, that law is teleological. Yet if so, how does it move toward its end? And as it moves, how is its movement completed by virtue?

In fact, and as noted above, Porter is more eager to use law—and, indeed, virtue—to *identify* a morality than to consider how it forms us toward virtue. This trouble is demonstrated by the fact that she comes to speak of something called “natural law ethics” or “natural law morality,”<sup>29</sup> and it is compounded when she speaks of not one, but *many* natural law moralities.

If the natural law in its primary sense is understood in terms of a basic capacity operating through first principles, and if we add, as we must, that these underdetermine the specific norms in terms of which they are expressed, then clearly we cannot speak of *the* natural law ethic, seen as foundational to, or indeed as a contrast to, *the* distinctively Christian way of life. Earlier I remarked that any socially embodied morality can be regarded as a natural law ethics, and the same can be said of the moralities that have emerged through the practice and reflection of the church in its many embodiments.... For this reason, I would suggest that we should extend scholastic flexibility by speaking of natural law moralities in the plural, including some which predominate among “the nations,” and others which are distinctively Christian.<sup>30</sup>

---

<sup>28</sup> Thomas Aquinas, *Summa Theologiae*, trans. Fathers of the English Dominican Province (New York: Benziger, 1947), I-II q. 92, a. 1. Thomas also says “the principles of common law are called the ‘nurseries of the virtues’” (*ST* I-II q. 51, a. 1). He says this in a question addressing the cause of habits, where he is considering whether habits are natural at their beginning. He believes they are not, but they arise in connection to principles that are—which, in this case are none other than the principle of the natural law, the appropriate basis of common law. For our purposes here, we need simply note that, for Thomas, law forms us, even nurses us, so that we can come to acquire virtue.

<sup>29</sup> There is no difficulty in saying that Aquinas has a theory of natural law—which is to say that he puts forward views about natural law and how it functions in a broader moral and theological order. But to say that Aquinas has a natural law ethics is to take quite another step. It suggests that if you have Aquinas’s theory of natural law, you have his ethics. But this is plainly not true.

<sup>30</sup> Porter, *Nature as Reason*, 330. The term “natural law morality” is used various times in this region. In a couple of cases (333, 339) the term “natural ethic” is used. It is noteworthy that Porter gathers distinctively Christian ethics into the category of natural law moralities. A consistent question for Porter’s work is, what difference, really, does the adjective “Christian” make in her “natural law thinking” about ethics? Stanley Hauerwas has recently said, “As far as I can see, in spite of her strong claims

As noted, Porter has repeatedly given the impression that she is on a search for a “natural law morality,” which seems to mean that she is searching after set of universal norms. As she apparently discovers, however, any “natural law morality” she finds can’t give this, especially in the form we might have been expecting.

In the passage just quoted Porter shifts to speaking of natural law moralities in the plural. In doing so she makes it difficult to see how “natural law,” per se, will help us make any discriminating judgments between these moralities. In effect, following her, we have been led on a long search for some apparent thing, some law or moral code, by which universal moral judgments might be made—even if we have never quite been able to find it. Yet now, after repeatedly being disappointed in this search, we are suddenly offered many natural laws, or “natural law moralities,” which qualify as such simply because they arise from and within human cultures.

Now, with so many natural law moralities, a question will arise: How do we adjudicate between them when they differ? Porter is aware of this; as she goes on to say, “[i]t stretches credulity to claim that all these moralities are equally sound or desirable. A rational grasp of the exigencies of our nature does offer criteria for distinguishing between better and worse social arrangements.”<sup>31</sup> Here I wonder if we have perhaps discovered what Porter has been aiming at all along: a kind of ongoing conversation between and among “natural law moralities” about better or worse social arrangements, informed by some basic human agreements about natural human inclinations.

It is helpful to recall that these passages come to us near the end of Porter’s second book on natural law—and there is a third. Another passage from this same region close to the book’s end helps display where things might be leading.

[T]he Thomistic theory of the natural law does identify morally significant constraints in human nature, considered as such. We cannot establish a determinate yet universally compelling moral code on the basis of these constraints, but that does not rule out the possibility of arguing for their moral significance with a reasonable expectation that others will find our arguments persuasive.<sup>32</sup>

---

concerning the necessity of creation to justify a natural law ethic, her theological convictions do no work for her” (*Approaching the End: Eschatological Reflections on Church, Politics and Life* [Grand Rapids: Eerdmans, 2013], 18).

<sup>31</sup> Porter, *Nature as Reason*, 340.

<sup>32</sup> The frequency of this pattern is illustrated by the fact that six pages before this Porter says: “From this point we might seem to have all we need to develop a full-blown substantive set of moral norms which are grounded in human nature and can therefore be justified without any reference to any particular theological, philosophical or cultural tradition. But,” Porter continues, “on reflection, that is not so obvious....” And so she goes on to note how different societies define courage differently,

Settled within this framework of reasoned persuasion, within and between cultures, seems to be where Porter most desires to work. In the last section of *Nature as Reason* she considers how natural law as she has described it might help articulate an understanding of natural rights. To be sure, the question of natural rights is today an important consideration for people worldwide. Many of these people are not Christian, nor are they likely to be convinced by the rationalism of Finnis or Grisez's natural law. If Porter is to participate in a discussion with this worldwide audience about rights she will need some recourse to statements that suggest a moral code even if they do not explicitly lay one down. Or, one moral code will need to be tested against another as leaders of governments and societies discuss together what behavior they believe should or shouldn't be tolerated.

Discussions of rights in this sort of context can be important. Further, affirmations such as the United Nations declaration on human rights have had and continued to have good effect.<sup>33</sup> Indeed, when Porter moves at the end of *Nature as Reason* to a discussion of the language of human rights she is following a one clear trajectory in Aquinas, namely from natural law to human law. *Ministers of the Law*, Porter's sequel, carries her analysis precisely in this direction. It is an impressive foray into legal scholarship.

Yet the fact that natural law might help in this way is not to say that this is its true destination, or even its identifying feature. What is this feature? Natural law is not the same thing as virtue, neither is it identified by virtue. Nor is it by itself a morality that can help the human race to agree upon a universal moral code. Rather, natural law holds a place within the Christian tradition of discussion about the beginning of the journey of the human being toward God. In this way, natural law is not a place to stand; it is not a morality in itself. Rather it is a feature of a much larger picture of the moral life, which is nothing more or less than the movement of the human being towards perfection. Most proximately, natural law is on the way to virtue. In the end, this is not where Porter carries it.<sup>34</sup>

Natural law theory, such as it is, needs continually to remain aware of how it functions in relation to the whole. Natural law opens a path;

---

opining that "one society's heroic martyrs are another society's murderous and perverse suicide bombers" (*Nature as Reason*, 334).

<sup>33</sup> See Porter, *Nature as Reason*, 361, where she discusses this and other efforts to build world consensus on human rights.

<sup>34</sup> To be fair, Porter's final section in the final chapter of *Nature as Reason* turns to grace. This is the strongest theological section of her whole book, and a promising last note. However, the turn at the beginning of the chapter sets its framework. Moreover, the theological references of the first section are separated from the theology of the last section by a lengthy consideration of human rights as they might suitably fit within a variety of "natural law moralities," including especially Christian morality.

it helps us begin to articulate what it means to be human creatures whose natural inclinations draw us upward. It is a gateway to virtue, to the discovery that what we should be and do is also what we love. In this way it fits within the pattern of formation and transformation that is the moral life. As law it constrains us with limits; in any larger view of the moral life these constraints will need to find their appropriate context. But we cannot tip the whole of our understanding and vision of the moral life in this direction—as if what we finally need from “morality” is mainly a set of norms; a list of obligations that can be compared with others’ lists.

Many things Porter says in *Nature as Reason* and elsewhere suggest this is not all she hopes for; her analysis is consistently richer than that. Nonetheless, there is a consistent strain in her work that suggests such norms, and the comparisons that might be drawn between them, are the target of her analysis.<sup>35</sup> By apparently conducting a search for a “natural law morality,” and thereby implying that this is really what ethics is all about, she does nothing to allay this impression.

#### SERVAIS PINCKAERS ON NATURAL LAW

Servais Pinckaers, O.P., has repeatedly drawn our attention to an important contrast in how morality is conceived, according to two quite different paradigms. The contrast is between a morality of virtue and a morality of obligation. Compared to the former, the latter is a latecomer, even if it emerges as early as the fourteenth century. He calls it “new.”

St. Thomas, like the Fathers, clearly recognized the existence of moral obligations, but he subordinated them to the virtues. In the new conception the relationship was reversed: Obligation is given priority and invades the entire domain of the moral life. This period marks the birth of what can properly be called the “morality of obligation.” Later this morality will be embodied in moralities of duty and moral imperatives, for which Immanuel Kant will provide the model in philosophy.<sup>36</sup>

As the morality of obligation takes hold, law becomes prominent. “As the source of morality, law reigns over the entire domain of morality. It is henceforth understood as an edict of a legislative will and no longer as a work of wisdom.”<sup>37</sup> For Pinckaers this is not first or even primarily something that happens in the Enlightenment, but rather in

---

<sup>35</sup> I have discussed Porter’s work before on another topic with this criticism in mind. See Pinches, *Theology and Action* (Grand Rapids: Eerdmans, 2002), 140-8.

<sup>36</sup> Servais Pinckaers, *Morality: The Catholic View* (South Bend, IN: St. Augustine’s Press, 2001), 32.

<sup>37</sup> Pinckaers, *Morality*, 34.

the Church. Post Aquinas, the great weight of Catholic moral reflection shifts from virtue to law. Pinckaers notes, for instance, how the casuist Alphonsus Liguori spends over 900 pages in his major work discussing laws, and 73 on the theological virtues. Moreover, as Pinckaers points out, moral theology came to be separated from other “branches” of theology, like scripture or systematic theology, sacraments or ecclesiology.

For Pinckaers the turn from virtue to obligation had sweeping repercussions; these have set into our habits of moral and theological reflection including up until very recent times including assumptions informing some of the discussions of Vatican II.<sup>38</sup> While Pinckaers thought the new *Catechism* and Pope John Paul II’s *Veritatis splendor* marked significant steps forward, even at his death in 2008 he plainly thought the renewal of Catholic moral theology, which on his view corresponded to a reclaiming of the virtues and of the New Law in Aquinas, was a work in progress.

The return of natural law in recent years may or may not demonstrate a sign of that renewal. In truth, signs are mixed. Porter’s work displays this quality. As we have followed her, she insightfully shows how natural law must be linked with virtue and teleology, and therefore to our human destination as creatures on their way to the God who created them. But, nevertheless, she falls back into the old (or, for Pinckaers, “new”) “morality of obligation” when she searches throughout her treatment for a universal moral code, giving credence to the view that what morality is really all about is to be found in a set of norms that governed human life—and that natural law is most useful insofar as it can help us identify this.

As Pinckaers treats natural law, he begins (like Porter) with the significance of Aquinas’s language of the “natural inclinations.” Yet he does so cautiously, noting that it is “difficult to speak of natural inclinations today because of the subtle modifications of ideas and associations that have been caused by nominalism.”<sup>39</sup> Nominalism, which Pinckaers traces to William of Ockham, can be associated with Divine command theories of ethics, which accent that the good is good because God commands it—and so morality arises precisely from these commands and only from them.

Pinckaers believes that nominalism and the morality of obligation depend on a bifurcation of nature and freedom.

---

<sup>38</sup> See *The Pinckaers Reader*, ed. John Berkman (Washington, D.C.: Catholic University of America Press, 2005), 374-5.

<sup>39</sup> Servais Pinckaers, *The Sources of Christian Ethics*, trans. Sr. Mary Thomas Noble (Washington: Catholic University of America Press, 1995), 400.

Our chief difficulty is caused by our habit of considering nature and freedom as contraries. If we think of freedom as something dependent only on our voluntary decision, and totally indeterminate before we take that decision, then we will be led to think of the natural as something necessarily predetermined. In this view, it is hard to see how we can reconcile the natural and the free. We will see the natural inclinations of both intellect and will as tendencies both blind and coercive.<sup>40</sup>

But clearly, and as Porter also believes,<sup>41</sup> this sort of understanding of nature diverges profoundly from Aquinas's understanding. If we do not see how natural inclinations and human freedom are related, we will mistake Thomas on morality, and likewise on natural law.

For him [Aquinas], natural law was the expression, in the form of precepts, of our natural inclinations, which were guided by our inclinations to goodness and truth. Thus natural law, imposed externally when taught, was in reality written in the human heart—that is, in the very nature of our human faculties of reason and will, at the root of free action. This teaching on natural inclinations was fundamental for St. Thomas. It established natural law and provided the basis for morality. Inclinations developed into virtues, which received their beginnings from them and would provide morality with its main categories.<sup>42</sup>

Pinckaers spends considerable space developing the inclinations in five specific directions, familiar from the *Summa* I-II q. 94. These are the (1) inclination to the good, (2) to self-preservation, (3) to sexual union and the rearing of offspring, (4) to the knowledge of the truth, and (5) to live in society.<sup>43</sup> Pinckaers is prepared, Porter less so, to specify these as precepts which can and should yield specific directives for human behavior. Pinckaers, in my view, has the better part on this point. But what is more crucial to gather from Pinckaers here is how he relates these precepts to virtue. To see this clearly another distinction from Pinckaers is needed: that between the “freedom of indifference” and the “freedom for excellence.”

The former arises in connection to nominalism. Since it does not root the commands of law, God's commands, within any configuration of natural goods, the law does not correspond to anything in us; it is wholly from without. That we are free creatures, capable of choice, has, therefore, no correlation to our natural inclinations. We are made free to choose, but can find no guidance from within our creatureliness

---

<sup>40</sup> Pinckaers, *Sources*, 400-1.

<sup>41</sup> It is somewhat surprising that Porter does not engage Pinckaers's work at any point in her three books on natural law.

<sup>42</sup> Pinckaers, *Sources*, 404-5.

<sup>43</sup> Pinckaers, *Sources*, 407; See also *ST* I-II q. 94, a. 2, whence these derive.

about what to choose. Taken as such, we are creatures who need a law imposed on us if we are to move towards a good end, since our inclinations are of no reliable help.

By contrast, the “freedom for excellence” assumes a correlation. We are naturally inclined to do the good, and, in fact, this is what our freedom is for: so that in what we choose we may move ever further towards our good. To explain, Pinckaers draws out an analogy with hunger, moving further from biological to “spiritual” inclinations.

A biological inclination such as hunger or thirst directs that appetite in a determined and compelling way. Yet we would hesitate to say that it is contrary to freedom, since by eating we are achieving the physical strength needed for action. Spiritual inclinations in no way limit freedom but rather incite and develop it. Anyone drawn to a person, a virtue, a science, or an art [“spiritual inclinations” in Pinckaers’s understanding] realizes that his freedom increases through the love he feels and is not diminished by its determination.<sup>44</sup>

This understanding of freedom assumes a correlation between our natural inclinations and the natural law and so reorients the meaning of law. While law remains in one sense external to us, it is not imposed as if foreign. As Pinckaers says, “natural inclinations form natural law... and they provide the seeds of the excellence that will grow out of the virtues.”

When expressed in precepts, the natural law offers commands that seem to (and in one sense really do) “restrict our freedom with the force of obligation.” Nevertheless,

this law is not the work of a will external and foreign to us. Precisely because it is the expression of our natural inclinations, especially the spiritual ones, this law penetrates to the heart of our freedom and personality to show us the demands of truth and goodness. These guide us in the development of freedom through actions of excellence. Thus natural law is an inner law. It is the direct work of the One who has created us to image him in our spiritual nature and our free, rational will. The exigencies of natural law have their source both in God and in our human nature.<sup>45</sup>

Here Pinckaers may appear to operate with too rosy a picture of human nature. And, to be sure, differences will arise on these points between typically Catholic and typically Protestant accounts of how deeply the

---

<sup>44</sup> Pinckaers, *Sources*, 404.

<sup>45</sup> Pinckaers, *Sources*, 452.

acids of sin have eroded the connection between our created nature and the current state of our inclinations.<sup>46</sup>

While these are important debates, they do not affect the essential points Pinckaers (following Aquinas) has laid out about the form and purpose of the natural law. Natural law speaks to our created nature, not contravening it—even in its force as law—but rather affirming it and drawing it forward to its proper end. This means that natural law has a place within a larger picture that is centrally about our formation. As the Christian story unfolds, we may see that this includes our reformation, indeed, our rescue and redemption. But this does not change the fact that the natural law, and in fact all laws that come from God, are given to draw us towards our rightful and final end.<sup>47</sup>

The clarity with which Pinckaers has laid out this point helps display how law functions in the human movement toward virtue—what morality is all about. “For St. Thomas, virtues are more important than precepts, since they constituted the end and perfection of the inclinations”—which makes law more of a beginning point. Moreover, as the sequence in the *Summa* shows, law also makes way for grace which comes in the form of the New Law given in Christ and so also in the theological virtues (as well as the gifts of the Spirit) that are infused in us as we are transformed by God’s love.<sup>48</sup> As Pinckaers believes, “[t]hrough the New Law our inwardness opens to the mystery of the divine inwardness, under that action of the Holy Spirit.”<sup>49</sup>

Thomas’s reflections on grace in the *Summa* follow appropriately; by the light of grace we are moved beyond our natural end to “participate in the divine nature.”<sup>50</sup> Natural law begins a progression; it is a first call upwards, a call which makes sense as a call only because of what lies beyond it. It cannot be separated off as if it might stand on its own—what amounts to the crucial mistake of “casuistical ethics” which takes as its only task the application of precepts given or allegedly derived from the natural law to particular cases.

---

<sup>46</sup> Pinckaers has responded to this point. The substantial argument he makes, albeit briefly, is that without the scheme he has laid out (following Thomas) it is hard to give an account of sin as fundamentally against God. As sin turns us from our own true end, and often as it does also turns others, it also turns from God “since it seeks to vitiate his crowning work, who is made in his own image.” *Sources*, 465.

<sup>47</sup> Precisely in this context it is worth remembering that the Decalogue of Exodus 20 is given its context and meaning in chapter 19. “Now therefore, if you obey my voice and keep my covenant, you shall be my treasured possession out of all the peoples. Indeed, the whole earth is mine, but you shall be for me a priestly kingdom and a holy nation” (Exod. 19: 5-6).

<sup>48</sup> This is borne out by the sequence of their treatment in the *Summa*. Natural law, treated in question 94, opens not only to the Decalogue, treated in question 98 and following, but also to the law of Christ, treated in question 106 and following.

<sup>49</sup> Pinckaers, *Sources*, 453.

<sup>50</sup> Aquinas, *ST I-II* q. 110, a. 3.

Pinckaers's treatment of natural law is simpler than Porter's, and perhaps more elemental. Given the complicated nature of the human being to which it applies, natural law may need complicating. (What follows from Herbert McCabe functions partly in this way.) Nonetheless Pinckaers has captured with great clarity the movement in natural law toward virtue and so has secured the place of natural law in a morality of virtue, indeed, in a morality of Christian virtue. Genuinely theological treatments of natural law, particularly ones that follow Aquinas, must always keep natural law in this place.

### HERBERT MCCABE ON NATURAL LAW

Herbert McCabe's reflections on natural law, which are sprinkled among his books, some only recently posthumously released, begin with an affirmation of the structure of the position just described in Pinckaers.<sup>51</sup> With Pinckaers (and Porter) he speaks of natural law in terms on the natural inclinations. Borrowing a distinction from D. H. Lawrence between "little needs" and "deeper needs," he affirms that "the deep desires that a man has, the desires he cannot help having, are a manifestation of his human life. His being human consists in having what Aquinas calls 'natural inclinations'. They are the presence to him of the law of his nature, the natural law."<sup>52</sup>

Yet we find in McCabe a stronger contrast between one and the other kind of desire (or inclination) within us: this means the discovery of those which relate to the natural law will be difficult. As he notes, "besides those deep desires that define our humanity, we have also inherited certain deep feelings from our pre-human ancestors which to some extent overlap with our deep human desires but are not identical with them."<sup>53</sup> There is nothing in Aquinas's theory of natural law that denies this. Indeed, as McCabe believes, his theology of natural law predicts conflicts, tragic ones, that will arise as the "deep desires" occasionally clash.

It important to note in this context that Aquinas did not believe the natural law is easily discovered.

He [Aquinas] thought that it was possible for man with much difficulty, after a long time and with the admixture of many errors to discover, without being told, what the natural law commands. The idea that it is easy to know the natural law or that most men may be expected to understand it or that knowledge of it is something innate in us is quite foreign to his thinking.... Since he thought it rather hard to discover he would not have been surprised to find that small primitive

---

<sup>51</sup> Although their lives were parallel in many ways, one does not find in either Pinckaers or McCabe a clear acknowledgement of the other's work.

<sup>52</sup> Herbert McCabe, *Law, Love and Language* (New York: Continuum, 2003), 63.

<sup>53</sup> McCabe, *Law, Love and Language*, 64.

communities were hazy about it and held bizarre views about sexual morals or the ethics of killing.<sup>54</sup>

The notion here of “discovery” of the natural law suggests some sort of historical movement towards knowledge, even if it is difficult. And, indeed, McCabe believes there is something of this progressive element in Aquinas’s theory. However, McCabe adds his own sentiment that, whether Aquinas believed this or not, there also exists the possibility of regress. As he notes, “sophisticated societies” of our time are especially susceptible to an obscuring of the natural law—which is to say an obscuring of the meaning of being human—because of their embrace of capitalism. “A certain distortion of the nature of man is built into the capitalist culture which makes it difficult to recognise ourselves for what we are, to recognise, in fact, what we want.”<sup>55</sup> Capitalism does this as it establishes an “alienated form of social intercourse” whereby each of us is in one sense pitted against the other. We become salesmen of ourselves since, after all, in the capitalist view society is understood essentially as a commercial enterprise.

So for McCabe the natural law is difficult (even if possible) for a society to discover, and it can be easily obscured by other currents that exist or arise within that society or in connection to other animalistic instincts that remain within the human creature. Furthermore, while it surely is something to which we are inclined, McCabe does not imagine the natural law is “in” us in the sense that it invariably arises in a human self, by itself. It is true that the natural law defines us as human beings, but being a human being is not something we come to be on our own. Indeed, as the fifth point on Pinckaers’s (and Aquinas’s) list affirms, our humanity always includes living in society.

In making this point, McCabe means to say more than simply that human beings naturally reach out to one another, and so take up a common human life. Rather, we must see that “our moral perceptions and judgements, like all our other judgements, begin not from our bare experience, but from the society and tradition into which we are brought up.” There is, in this regard, no human morality without formation in society. The point is not novel; it has been with us since Aristotle who assumed morality involved the “training” of the “practical intellect, the appetites and even the perceptions.”<sup>56</sup> Extending Aristotle’s implication, McCabe holds that “we come to recognize, say,

---

<sup>54</sup> McCabe, *Law*, 58-9. When McCabe refers to “being told” the natural law, he is referring to the Decalogue. The Israelites were, in effect, given the natural law at Sinai. This point affirms Thomas’s view that the natural law is not different from the Decalogue—although of course it is expressed differently.

<sup>55</sup> McCabe, *Law*, 60.

<sup>56</sup> Herbert McCabe, *The Good Life* (New York: Continuum, 2005), 8.

a generous act as praiseworthy just as we come to recognize a particular move in football or ice-skating as excellent. None of these recognitions simply come naturally. They are all the result of education.”<sup>57</sup> In this regard, any view of the natural law that diminishes the significance of moral education within community, as if the natural law could simply be discovered intuitively, without any direction from others, will fail.

Ever a critic of the capitalistic mindset, McCabe suggests that moral education in the climate of capitalism, undergirded as it is by an Enlightenment vision, is virtually nonexistent. We live “in a society whose predominant ideology or theory of itself is that there is not, or should not be, any such tradition of moral education.... Society, says the conventional wisdom, exists to protect us from each other, to keep the peace between people with quite divergent views of the good life.... Friendship and love do not come within the purview of society as such. They are too personal and too sacred for the marketplace.”<sup>58</sup> Indeed, McCabe believes that only as this description of society fails is room yet available for the continued existence of “ethics.” There is no ethics unless there exist traditions in which people continue to be educated into the “sort of life that is becoming to a human being.”

The “liberal ideology” behind this modern vision “is unfair to its world”—indeed, very fortunately, its world exceeds it. McCabe believes that “[t]here is, in fact a great deal of shared moral belief and perception handed down in various groups within our society, although, because it is unrecognized or disowned or sentimentalized, it is undoubtedly being eroded.” The handing down of these traditions is not only vital work, but it is complicated and multifaceted. It “is not handed down simply in words. It is handed down in institutions and practices.”<sup>59</sup> As such, we receive it critically; and as we do, as we change its words and ideas and practices, we change the fundamental structures of human living.

This last point is one McCabe accents, far more than Pinckaers. A complicated structure supports his *Law, Love and Language*—a book that purports to introduce ethics, all the while that it challenges its typical categories of analysis. McCabe begins by relating ethics to love, then stretches and complicates his initial points as he proceeds through ethics as law and language—and then returns at the end of the book to love. His treatment of ethics as law, then, is not meant to be final. This comes especially clear as he ends the chapter:

---

<sup>57</sup> McCabe, *Good Life*, 9

<sup>58</sup> McCabe, *Good Life*, 10.

<sup>59</sup> McCabe, *Good Life*, 9-10

The criticism I have to make of this theory of ethics as law will appear in the next chapter [on language]. Its weakness, as I see it, is its too ready assumption that mankind as a unity exists “by nature.” It seems to me that human unity is something towards which we move, a goal of history. We need to take seriously that mankind is in one way self-creative, that since our unity is linguistic as well as biological, it is not simply given to us but also made by us.<sup>60</sup>

It is important to see that, for McCabe, natural law cannot simply be about individual or even societal excellence, but must also move us to live together with all other human beings in community.

The “idea of the natural law depends on being somehow able to see humanity itself on the analogy of a society bound together in friendship.”<sup>61</sup> This is a high demand. McCabe notes that while it is “implicit in the Christian Gospel,” it is “not philosophically perspicuous.”<sup>62</sup> One might note, for instance, that even though Aristotle believed that friendship was the glue that held states together, he did not think that all members of the human species were required to see all other members as friends. Indeed, his claims about friendship applied most explicitly to Athenians—even *some* Athenians. (After all, Aristotle advocated for the infanticide of deformed infants.<sup>63</sup>)

For McCabe, this unity is a new kind, since human beings relate to one another in a new way, not simply biologically as a species (in the sense that we are born from one another or can reproduce with one another), but as language users. All sentient animals communicate; this is because they see things in the world as significant to them—as sheep (rightly) see a wolf as dangerous—and respond to this. However, this reaches a new level for members of the human species: With them, “communication reaches the point of being linguistic, that is to say, man is able to some extent create the media through which he makes his world significant. These media have their roots in the sensuous life of man and their creation is the history of a community leading into biographies, which are themselves the histories of minor communities.”<sup>64</sup>

For McCabe, an animal species is a unity, or community; it is not simply a logical class in the way that all red things belong to the “class” of red things. We manufacture or stipulate the unity of the class of red things with our minds; by contrast, an animal species is “a physical structure extending over time and space, beginning in evolutionary history and spreading throughout some area of the world.” Within the

---

<sup>60</sup> McCabe, *Law*, 67.

<sup>61</sup> McCabe, *Good Life*, 13.

<sup>62</sup> McCabe, *Good Life*, 13.

<sup>63</sup> Aristotle, *Politics*, trans. Ernest Barker (Oxford: Oxford University, 1995), 1335b.

<sup>64</sup> McCabe, *Law*, 90.

species it makes sense to say that individual members have a function vis-à-vis the species: “a particular member of the species exists by being born of that species and its function can be seen as preserving and transmitting the genes that characterize the species.”<sup>65</sup>

Animal species are governed by laws related to the form of their life and its continued existence. As Aquinas would have it, this is none other than God’s eternal law to which all contingent beings are subject. Importantly, there is no correspondence between this law and what sometimes might appear to be a law imposed upon such creatures by human beings.<sup>66</sup> While we may care for, or, often enough, abuse non-human animals, we do not give them laws. “Man cannot impose laws on irrational beings, however much they may be subject to him. But he can impose laws on rational beings subject to him, in so far as by his command or pronouncement of any kind, he imprints on their minds a rule which is a principle of action.”<sup>67</sup> In this last sentence Aquinas is referring to human or positive law which extends the natural law in human governance. And of course, natural law is the means by which God rules us (as opposed to God’s other creatures); it is the eternal law extended to fit the particular kind of creatures human beings are.

This distinction between the sort of species or grouping we human beings are as compared with other created species is important to McCabe. The difference comes with language, which also comes with rationality. “It is characteristic of human animals to deploy symbols, to live in the structure we can broadly call language. What we call ‘mind’ is having the capacity to live in such structures.”<sup>68</sup> But, importantly, language is not static; far from it, since, after all, it is a symbol system we have made up. This, in fact, is a further implication of the distinction between the human species and other animal species we are otherwise familiar with. Animals, such as sheep, *find* things in the world meaningful (e.g., wolves are dangerous and so the smell of

---

<sup>65</sup> McCabe, *Good Life*, 66.

<sup>66</sup> This is an important point particularly when we are called to consider in our own time, much more than in Aquinas’s: What is the right sort of relation between human beings and non-human animals? Its implication is that non-human animals are never our “subjects.” We do not rule them in the manner of law: they receive their laws directly from their maker. Of course we can understand some of the laws by which they live, perhaps better than they can (conceptually better, of course, not experientially) and as such assist their specie’s life. But when we do this, we do not become their lords. This is one reason why the intentional creation of entirely new species, particularly if this is done for human benefit, should give us pause.

<sup>67</sup> *ST I-II* q. 93, a. 5.

<sup>68</sup> McCabe, *Good Life*, 67.

a wolf is frightening). By contrast, “[w]e make meanings; we do not just find the world meaningful in certain ways.”<sup>69</sup>

That we have this distinctive relation with language, and with one another through language, makes the human species different. For one, it makes us free in the sense that we can, through language, represent the world to ourselves in more than one way, and so also choose what we do based on one or the other representation. It also makes us more dependent, since we cannot have this freedom, which gives us each our distinctiveness, without receiving it. “A linguistic community is a special sort of grouping in a very radical sense, for it changes the meaning of the word ‘grouping’.... In the new kind of grouping... what the part receives from the whole—language and rationality, the symbols in which she can represent herself to herself—are precisely what makes possible her specifically human kind of individuality.”<sup>70</sup>

Like Pinckaers, McCabe sees Enlightenment ideas of politics and sociality as looming obstacles to any truthful articulation of who we are and how we are related. Such thinking always mistakenly begins by positing “individuals” who “come together initially for mutual support and protection to form a society.” But “such a view is incoherent because it supposes these individuals to be already in possession of what only society could provide—institutions such as language, contract, agreement, and so on.”<sup>71</sup> By contrast, McCabe’s view—which seems paradoxical at first, but becomes much less so upon reflection—is that we become individuals only by more fully belonging.

It is through belonging to the community that you can make of yourself the kind of person you are—so that you are not just passively made but actually make yourself, determine your life and character. In this way you make yourself the kind of person who can yet more make herself, whose life is more and more her own. This is, to speak generally, the role or task or function that belongs to being human. It is the task of entering more into the life of the community so that you can enter yet more.<sup>72</sup>

McCabe does not believe that individuality separates one off from community life. To the contrary, individuality properly understood always includes the life of virtue, for virtues are precisely those dispositions that one needs to live well as the specific kinds of creatures we are, in our dependency and individuality. Expressed in this context, “virtues are dispositions to enter into community, not to be absorbed in some lifeless way by a collective, but to develop those specifically

---

<sup>69</sup> McCabe, *Good Life*, 68.

<sup>70</sup> McCabe, *Good Life*, 27.

<sup>71</sup> McCabe, *Good Life*, 26.

<sup>72</sup> McCabe, *Good Life*, 28-9.

symbolic, linguistic, rational relationships with others which we can sum up in the word ‘friendship’ and which are characteristic of the grouping of human animals.”<sup>73</sup>

We return here to the notion of friendship which McCabe connects essentially to the natural law: “The idea of natural law depends on being somehow able to see humanity itself on the analogy of a society bound together in friendship.” To “see” this unity, however, is not to claim it already fully exists. Indeed, natural law thinking can be plagued by a “too ready assumption that mankind as a unity exists ‘by nature’.”<sup>74</sup>

Natural law, we must recall, is not static but rather developing; it is always on the way to virtue. So it is that the promise of natural law is both extended and complicated by the features of the linguistic human animal McCabe has worked to display. This is partly because “as communication becomes more intense, it becomes more isolated”—a point that is illustrated by the fact that “the development of communication, the growth of human culture, is not a simple or a single story.”<sup>75</sup> The story of Babel in Genesis 11 marks this point—and the story of Pentecost in Acts 2 acknowledges it, at the same time that it treats it as not the final word.

McCabe refers us at this crucial point to the “biblical view” in which we are presented “with the idea that man is *summoned*, that he is called to a destiny, that, in fact, his history has meaning.” With this comes the idea of autobiography, of having a story, one that each of us has individually, and also which tribes or nations might write. But this story is importantly not at present write-able or tell-able. In fact, “the biblical view of man is that he *will be able* to write a history of mankind.”<sup>76</sup> In the terms of Christian theology, this is an eschatological affirmation. Expressed in McCabe’s language:

Men are called to become mankind, that in Christ we are able to create mankind. “In this way we are all to come to unity in our faith and in our knowledge of the Son of God, until we become the perfect Man, fully mature with the fullness of Christ himself” (Eph. 4:13). However fragmented the human race may be at the moment—and this fragmentation which amounts to a deafness to the summons of God is seen as sin—it is moving towards a unity, a point of view from which its history will be intelligible. Such a moment can only take place through what I have earlier called revolutionary change; not by mere progress

---

<sup>73</sup> McCabe, *Good Life*, 29.

<sup>74</sup> Both of these points are quoted above. They are from, respectively, McCabe, *The Good life*, 13, and *Law, Love and Language*, 67.

<sup>75</sup> McCabe, *Law*, 111.

<sup>76</sup> McCabe, *Law*, 112-13. The translation of Ephesians is from the Jerusalem Bible.

along established lines, but by radical transformation of the lines themselves.<sup>77</sup>

It is perhaps most fitting to see natural law as like a *summons*. This summons does not come to us in opposition to our created natures; indeed, it resonates with the basic needs and desires of the human animal.

In this way, law evidently does not oppose virtue; as Porter repeatedly points out, virtue and natural law are inextricably linked. As Pinckaers makes clearer, however, the summons is the first term in a long series, in the long process of formation that is the moral life. The natural inclinations to which the law speaks are seeds that must develop, in a distinctively human way, which is also for Pinckaers a “spiritual” way. This draws the natural law forward, not only to the Decalogue but to the new law in Christ. As McCabe’s treatment has just illustrated, however, we cannot suppose that this comes simply as a matter of course, following on our human nature, given as a biological species. The unity to which the law ultimately points is not given but rather developing; indeed, it is eschatological. The change it requires of us along the way is not only creative and, as such, free, it is also revolutionary. **M**

---

<sup>77</sup> McCabe does not shy away from the longstanding Christian claim that to ignore the summons is to sin, as St. Paul indicates in Romans 1:19-20.