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PRELIMINARY CONSIDERATIONS

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Excerpt

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QUESTION 91, ARTICLE 4

Whether There Was Any Need For a Divine Law?

TEXT	PARAPHRASE
<i>Whether there was any need for a Divine law?</i>	Is Divine law a distinct kind of law that provides something the other kinds don't?

In the *Prima Secundae*, which is the First Part of the Second Part of the *Summa Theologiae*, Question 91 concerns the *kinds* of law:

- Eternal law, which is the pattern of the wisdom by which God created and governs the universe, as it is in the mind of God Himself;
- Natural law, which is the reflection of eternal law in the created rational mind, as it apprehends and shares in the structure of Creation;
- Divine law, which is the reflection of eternal law in ordinances and teachings explicitly contained in the Holy Scripture;
- Human law, whether statutory or customary, which is man's creaturely collaboration in God's providence;
- And the so-called law of sin, which is not a law in the strict sense because it is not an ordinance – “Do this” – but a natural penalty for violation of Divine law – “This will happen.”

For context, the question preceding 91 is about the essence of law, and the questions immediately following 91 are about eternal, natural, and human law in themselves. We do not reach a detailed discussion of Divine law in itself until we come to Questions 98–108, from which most of the selections in the present book are taken. Although I have dealt with Questions 90–97 in a previous book, *Commentary on Thomas Aquinas's Treatise on Law*, the present book cannot be self-contained unless these two articles of Question 91 are repeated and amplified as well. However, it cannot be said too often that St. Thomas's discussion here in Question 91 is preliminary. Many of the matters it broaches – about natural law, and Divine law, and about Divine law in relation to natural – are fully clarified only much later.

As to the present article: In the Prologue to Question 91, St. Thomas indicated that the *utrum*, or “whether,” for Article 4 would be whether there

is a Divine law. But doesn't Revelation say there is? Yes, and St. Thomas has no intention of second guessing Revelation; he is asking something different. Even conceding the authenticity of Revelation, one might still wonder whether the Divine law of which it speaks is a distinct *kind* of law, alongside the eternal, natural, and human laws – or merely a rehashing or recapitulation of one of the other kinds of law. For just this reason, the question of whether there is a Divine law boils down to whether a Divine law was *needed* – whether it provides anything that the other kinds don't.

Objection 1. [1] *It would seem that there was no need for a Divine law. Because, as stated above (2), the natural law is a participation in us of the eternal law. But the eternal law is a Divine law, as stated above (1).* [2] *Therefore there was no need for a Divine law in addition to the natural law, and human laws derived therefrom.*

Objection 1. Apparently, what the Sacred Tradition calls Divine law is superfluous. Considering its origin in God, the eternal law is already, so to speak, a Divine law. True, there must be some way for us to participate in the eternal law, but we have that in the natural law. True, more detailed dispositions of affairs need to be derived from the natural law, but we already have those in human law. Since nothing is left for a supposed Divine law to do, it is not a distinct *kind* of law at all.

[1] In its special sense, the expression “Divine law” actually refers to the law – or what seems to be a law (that is what is in question) – contained in Revelation, in the Old and New Testaments of the Bible. But the Objector is taking the expression “Divine law” in a much broader sense, as though it meant “any law the authority of which is rooted in God” (many first-time readers, and even some second- and third-time readers, make the same mistake). But the authority of all true law is rooted in God, so using the term in that sense, all law would count as Divine. The eternal law would count as Divine because it is in the mind of God, the natural law would count as Divine at one remove because it is our participation in eternal law, and the human law would count as Divine at two removes because it is a more detailed articulation of natural law as applied to local circumstances.

[2] The hypothetical Objector has fallen into something of a rut. In Question 91, Article 2, Objection 1, he had said that there was no need for a natural law because man is governed sufficiently by the eternal law; in Article 3, Objection 1, he said that there was no need for a human law because man is governed sufficiently by the eternal law *through* the natural law; now he says there is no need for a *Divine* law because man is governed sufficiently by the eternal law through the natural law.

Objection 2. [1] *Further, it is written (Sirach 15:14) that “God left man in the hand of his own counsel.”* [2] *Now counsel is an act of reason, as stated above (14, 1).* [3] *Therefore man was left to the direction of his reason. But*

Objection 2. Moreover, Scripture teaches that “God left man in the hand of his own counsel.” What this means is that God allows man to reason out for himself

a dictate of human reason is a human law as stated above (3). Therefore there is no need for man to be governed also by a Divine law.

what to do. This is done through human law, so any so-called Divine law would be superfluous.

[1] St. Thomas cites Sirach 15:14 no less than seven times in the *Summa*.¹ Two of the citations occur in *sed contra*s, which are restatements of the traditional view, one of them affirming free will, the other defending it against the claim that we act by necessity. Another citation occurs in a Reply to an Objection, arguing that because the first man had free will, he could have resisted temptation. Interestingly, the other four citations occur in objections. In one way or another, these four objectors keep missing what St. Thomas views as the passage's point – they deny that everything is subject to Divine providence, deny the need for a Divine law, deny the need to coercively restrain wrongdoers, or deny that any man must ever obey another. It would seem that St. Thomas is not only taken by Sirach's teaching but concerned to make sure that we get it right.

[2] In I, Question 14, Article 1, St. Thomas remarks that “man has different kinds of knowledge, according to the different objects of his knowledge. He has ‘intelligence’ as regards the knowledge of principles; he has ‘science’ as regards knowledge of conclusions; he has ‘wisdom,’ according as he knows the highest cause; he has ‘counsel’ or ‘prudence,’ according as he knows what is to be done.” Counsel, then, means the conclusions of *practical* reasoning.

[3] At first the Objector seems to be arguing that since God allows man to reason out for himself what to do, *no* law but human law is needed. That would be radical indeed. But in that case, one would have expected the objection we meet here to have turned up much earlier, in Article 1. It doesn't. Probably, then, the Objector is conceding here the need for eternal and natural law, and merely arguing that human reason does not need any help from *yet another* kind of law to work out more detailed conclusions.

Objection 3. [1] *Further, human nature is more self-sufficing than irrational creatures.* [2] *But irrational creatures have no Divine law besides the natural inclination impressed on them.* [3] *Much less, therefore, should the rational creature have a Divine law in addition to the natural law.*

Objection 3. Still further, human beings are by nature more fully equipped to direct themselves than such creatures as plants and animals are. We have the help of reason and the guidance of natural law; they have neither. Considering that even they can get by without a Divine law, surely we can. There is simply no need for such a thing.

¹ I, Q. 22, Art. 2, Obj. 4; I, Q. 83, Art. 1, *sed contra*; I-II, Q. 10, Art. 4, *sed contra*; I-II, Q. 91, Art. 4, Obj. 2; II-II, Q. 65, Art. 3, Obj. 2; II-II, Q. 104, Art. 1, Obj. 1; and II-II, Q. 165, Art. 1, ad 2.

[1] What the Objector means is that humans are better equipped than lower creatures for the practical needs of life. He does not mean they are better equipped in *all* respects. Wolves, for example, have fur, so they are better equipped to stay warm; they have fangs and claws, so they are better equipped to hunt and defend themselves; and they have four legs, so they are better equipped to run swiftly. Yet even in these respects, we are not altogether deficient. We do find ways to stay warm, hunt, defend ourselves, and run swiftly. Moreover we have something that wolves do not have at all: the power to reason.

[2] The Objector is not claiming that their natural inclinations are the only *law* irrational creatures possess because law is an ordinance of reason. He is saying that their natural inclinations are the only *guide* they possess. Animals are not subject to either natural *or* Divine law, and they don't need to be. No crow was ever told not to steal, no cat not to kill mice, nor was any shark ever commanded to honor its father and mother.

[3] The argument runs like this:

1. If creatures less well equipped to direct themselves than we are can get along without a Divine law, then certainly we can get along without it.
2. But such creatures *can* get along without it.
3. Therefore so can we.

On the contrary, David prayed God to set His law before him, saying (Psalm 118:33):² “Set before me for a law the way of Thy justifications, O Lord.”

On the other hand, we see the Old Testament hero, David, imploring God in prayer to teach him His decrees. If the Divine law were unnecessary, why would David beg for it?

In the course of answering one question, the *sed contra* may seem to raise another, for in some sense David already knew the Divine law: Torah had already been revealed. Why then would he ask God to instruct him in it? Because to “know” the law may be taken in two ways. As we read in the prophet Jeremiah,

I will make a new covenant with the house of Israel, and with the house of Juda: Not according to the covenant which I made with their fathers, in the day that I took them by the hand to bring them out of the land of Egypt . . . I will give my law in their bowels, and I will write it in their heart: and I will be their God, and they shall be my people.³

In one sense, to know the law is merely to have intellectual knowledge of it, if not a present awareness, at least in the tendency to be aware of it. David had that already. In another sense, to know the law is to have the power to fulfill it,

² Contemporary translations number the psalm as 119.

³ Jeremiah 31:31–33 (returning to DRA).

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to have it inscribed on the heart. In that sense, David did not yet have it, but begged for it. If he was right to beg for it then he needed it; so there is a need for Divine law.

I answer that, [1] Besides the natural and the human law it was necessary for the directing of human conduct to have a Divine law. And this for four reasons. First, because it is by law that man is directed how to perform his proper acts in view of his last end. [2] And indeed if man were ordained to no other end than that which is proportionate to his natural faculty, there would be no need for man to have any further direction of the part of his reason, besides the natural law and human law which is derived from it. [3] But since man is ordained to an end of eternal happiness which is inproportionate to man's natural faculty, as stated above (5,5), therefore it was necessary that, besides the natural and the human law, man should be directed to his end by a law given by God.

Here is my response. To complete the guidance of human life – to complete man's engagement with the eternal law – Divine law is needed because it accomplishes four things that natural and human law cannot do by themselves. The first has to do with the fact that man was created for *two* ends: not just the happiness of this life, but the happiness of the life to come. We are naturally equipped to direct ourselves to temporal happiness because our power of reasoning suffices both to grasp the natural law and by its light to work out suitable human laws. But our power of reason is utterly inadequate to steer us toward eternal happiness or beatitude, which exceeds all our natural experience. In order for us to reach that second, higher end, we need God to tell us directly what to do, through Revelation. His revealed commands are Divine law.

[1] St. Thomas shows in I-II, Question 91, Article 2 that even in a limited and natural sense our happiness requires good will toward God. However, now he is about to make an even greater claim: that we were made for a yet higher end that *transcends* our natural experience, one that exceeds what our natural powers can achieve or imagine. For the happiness of the life to come is not simply a longer-lasting version of the happiness of this life but an infinitely higher happiness, the complete joy and friendship of *union* with God, of knowing Him as we are known.⁴

[2] At first it seems puzzling that two different things, one lower and one higher, could both be called “ends” or goals. One is tempted to say that only the higher thing is truly an end – that the lower thing is not an end at all but only a stage on the way to our end. This is not correct. In St. Thomas's view, temporal happiness is a real end in the sense that it is desirable in itself, not just

⁴ St. Paul writes “For our knowledge is imperfect and our prophecy is imperfect; but when the perfect comes, the imperfect will pass away. When I was a child, I spoke like a child, I thought like a child, I reasoned like a child; when I became a man, I gave up childish ways. For now we see in a mirror dimly, but then face to face. Now I know in part; then I shall understand fully, even as I have been fully understood.” 1 Corinthians 13:9–12 (RSV-CE).

as a means to something else. But it cannot be our *final* end because for that it would have to be completely satisfying, leaving nothing further to be desired. Eternal happiness, or beatitude, has both of these properties. It is the “sweetness” of “the ultimate and most complete participation in [God’s] goodness,” which lies in “the vision of His essence, so that we live together in His company, as His friends.”⁵

Even if we do have two ends, why do we need two laws? Couldn’t the same law direct us to *both* our natural and our supernatural ends, to both temporal and eternal happiness? This question may be taken in several ways.

1. Do natural and Divine law agree with each other? Yes. It would be impossible for them to contradict each other, for they have the same author, God, whose perfect wisdom is wholly self-consistent.
2. Do natural and Divine law overlap? Yes. Many of the precepts of Divine law are included in natural law too, for example the prohibition of murder, and many of the teachings of Divine law promote temporal happiness, such as commandment “Do not commit adultery” and the advice in the book of Proverbs, “Go to the ant, O sluggard; consider her ways, and be wise.”⁶
3. Could God then have guided us without natural law, employing only Divine law to direct us to both our natural and supernatural ends? No. The question supposes that we might have been just as we are, naturally endowed with a power to deliberate, yet without knowing any of its first principles. This supposition is inconsistent. Divine law presupposes natural law.
4. Could He have guided us without *Divine* law, employing only *natural* law to guide us to both our natural and supernatural ends? No. This time the question supposes that we might have been able to use our natural powers to grasp things that are beyond natural experience. Again the supposition is inconsistent. Natural law is exceeded by Divine law.

It follows that to direct true human beings to both their natural and supernatural ends requires both natural and Divine law. We can think of this in terms of a ship: Not only does it need to be preserved in good condition, which requires the knowledge of the ship’s carpenter, but it also needs to be guided to its destination, which requires the knowledge of its pilot.⁷

⁵ *Ultima autem et completissima participatio suae bonitatis consistit in visione essentiae ipsius, secundum quam ei convivimus socialiter, quasi amici, cum in ea suavitate beatitudo consistat.* Thomas Aquinas, *Commentary on the Sentences of Peter Lombard*, III, dist. 19, q. 1, art. 5, qc. 1.

⁶ Proverbs 6:6 (RSV-CE).

⁷ St. Thomas develops this analogy in *On Kingship*, especially chapter 15, sections 102–107. Thomas Aquinas, *De Regno: On Kingship, to the King of Cyprus*, translated by Gerald B. Phelan, revised by Thomas Eschmann, reedited by Joseph Kenny (Toronto: Pontifical Institute of Mediaeval Studies, 1949).

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One more thing: Although human law does not concern itself with man's supernatural end per se, it does not follow that supernatural matters have no bearing whatever on his natural end. Several of St. Thomas's remarks in the *Treatise on Law* shed light on what human law *does* and *does not* do concerning God. What he says in Question 99, Article 2 is much like what he says here: "[J]ust as the principal intention of human law is to create friendship between man and man; so the chief intention of the Divine law is to establish man in friendship with God." But in Article 3 he goes further: "Hence human laws have not concerned themselves with the institution of anything relating to Divine worship *except as affecting the common good of mankind*: and for this reason they have devised many institutions relating to Divine matters, according as it seemed expedient for the formation of human morals, as may be seen in the rites of the Gentiles."⁸ In our day an analogy might be found in the fact that although human law sets aside a day of Thanksgiving to acknowledge Divine blessing and protection, it does not set forth instructions about baptism, holy communion, or the worship of God as the Trinity. To put it another way, the public expression of gratitude to God encourages good moral character on earth, but it does not carry us to heaven. The sort of goodness that makes us fit to live in the community, which we can achieve by our natural powers, falls far short of the purity of heart that makes us fit to see God, whom we cannot even approach without His help.

[3] How do we know that man *is* ordained to a supernatural end? From Revelation, of course, but not only from Revelation. This is the also conclusion of a long and complex but brilliantly illuminating philosophical argument, most of which is contained in the *Treatise on Happiness and Ultimate Purpose*, which is placed right at the beginning of the same major subdivision of the *Summa* which contains the *Treatise on Law*. Here we may only touch on a few high points.

Everything we do is for the sake of an end. The end we seek is final and perfect happiness that leaves nothing else to be desired. Since we desire such happiness, and since God and nature do nothing in vain, it is impossible that such happiness *not* be possible. After knocking down a series of other hypotheses – that final and perfect happiness lies in wealth, fame, power, pleasure, and so on – St. Thomas concludes that it does not lie in any created good whatsoever, so it must lie in union with God. Now man cannot be united with God through his body or his senses, so he must be united to God through his mind (though he remarks that the body and the senses do receive a certain completing "overflow").⁹ But since the mind could not be satisfied by anything less than

⁸ Emphasis added.

⁹ I-II, Q. 3, Art. 3.

seeing God as He is, that is how it beholds Him. Final and perfect happiness consists in nothing else than this vision of God in His essence.

But how do we know that the attainment of this end lies beyond our natural powers? The gist of the answer is given in the First Part of the *Summa*, Question 12, Article 4. It begins with the observation that our natural knowledge begins from sense experience. This being the case, our natural knowledge cannot go further than what we can learn from sensible things. Now although God is the cause of such things, He is infinitely greater than all of them taken together. Therefore, even if we knew everything that could be known from them – even if we worked out His existence and goodness and so on – we would still fall short of knowing *Him*. It follows that the vision of God cannot be attained by our natural powers, but requires supernatural grace.

[4] *Secondly, because, on account of the uncertainty of human judgment, especially on contingent and particular matters, different people form different judgments on human acts; whence also different and contrary laws result. [5] In order, therefore, that man may know without any doubt what he ought to do and what he ought to avoid, it was necessary for man to be directed in his proper acts by a law given by God, for it is certain that such a law cannot err.*

The second thing Divine law provides is practical certainty. A moment ago, we said above that human reason suffices to direct man to temporal happiness. In one respect, that is an overstatement. For it is one thing for human reason to grasp the general principles of natural law, but it is quite another for it to apply them to matters of detail, where the fallibility of human judgment is all too evident. The further we descend into details, the more likely it is that different people will reach different judgments about what to do and not do. Worse yet, the same is true of lawmakers; consequently, the laws are filled with confusion and contradiction. Divine law replaces the fallibility of human judgment with the certainty of instructions given directly by God.

[4] St. Thomas puts this uncertainty in historical context in remarks he offers later in the *Summa* about the condition of human beings after the Fall but before the coming of Christ: “[A]s time went on sin gained a greater hold on man, so much so that it clouded man’s reason, the consequence being that the precepts of the natural law were insufficient to make man live aright, and it became necessary to have a written code of fixed laws, and together with these certain sacraments of faith.”¹⁰

His remarks in this Article about the uncertainty of human judgment are easy to misunderstand. Perhaps because our culture has been so deeply influenced by moral skepticism, many first-time readers leap to the conclusion that St. Thomas thinks people reach different judgments about *general principles*.

¹⁰ III, Q. 61, Art. 3.