The Political Common Good according to St. Thomas Aquinas and John Finnis

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This dissertation concerns John Finnis’s interpretation of St. Thomas Aquinas’s understanding of the political common good. Finnis is the most influential natural law theorist in the English speaking world today. His natural law theory has sought to respond to modern critics of natural law theory and be identifiably Thomistic at the same time. In order to ground his theory in the thought of Aquinas, Finnis produced an interpretive work on Aquinas’s political thought, reconciling Aquinas’s understanding of the common good with his own views. Nevertheless, his interpretation of Aquinas’s political thought has been controversial, especially his interpretation of Aquinas’s understanding of the political common good. Finnis’s interpretation of Aquinas is shaped by his method of approaching politics through practical reason. He almost completely excludes consideration of the role that metaphysics and theology play in Aquinas’s political thought until his final chapter. As a result, the relationships between practical philosophy, metaphysics, and theology in Aquinas’s political thought are not fully articulated. Finnis claims that Aquinas believed that the political common good is limited and instrumental to fostering the justice and peace that individuals and families need in order to pursue what he calls the basic goods. But Aquinas believed that the political common good is to make men virtuous, which is conducive to happiness, and disposes them to contemplation. Finnis argues that positive law promotes virtue only to the extent that it is necessary to secure
justice and peace. But Aquinas believed that law promotes natural virtue, which disposes man to receive supernatural virtue. Human beings have a natural inclination to live in society, but not to life in specifically political community, according to Finnis. He says that for Aquinas, man is more naturally a familial or social animal than a political animal. But Aquinas says that man is a political animal, probably because the fullest range of virtues are available to man in political community. The political common good is therefore basic and good in itself.
This dissertation by Patrick B. Bersnak fulfills the dissertation requirement for the doctoral degree in Political Theory approved by David J. Walsh, Ph.D., as Director, and by Claes G. Ryn, Ph.D., and V. Bradley Lewis, Ph.D., as Readers.

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Abbreviations, Conventions, and Translations

Abbreviations

a. article
ad response (to an objection)
co. corpus
chap. chapter
d. distinction
lect. lectio
lib. liber
n. paragraph number (in a commentary)
obj. objection
prol. prologue
q. quaestio

Works of Aquinas

DR De Regno ad regem Cypri (On Kingship to the King of Cyprus). English translation: Phelan (1949).
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<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
<th>English Translation</th>
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<tr>
<td>Rom.</td>
<td><em>Commentarium super Epistolam ad Romanos</em> (Commentary on St. Paul’s Letter to the Romans).</td>
<td></td>
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<tr>
<td>Sent.</td>
<td><em>Scriptum super Libros Sententiarum Petri Lombardiensis</em> (Commentary on the Sentences of Peter Lombard). References are by book, distinction, question, and article.</td>
<td></td>
</tr>
<tr>
<td>ST</td>
<td><em>Summa Theologiae</em> (Summary of Theology). References are by the parts, question, article, corpus, reply, and to numbered objections.</td>
<td>English Dominican Fathers (1948).</td>
</tr>
<tr>
<td>Supp.</td>
<td><em>Supplementum</em> (A Supplement to ST, posthumously constructed from IV Sent.)</td>
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**Conventions**

For the sake of clarity, when referring to a chapter of my own work, I use Arabic numerals, but when referring to a chapter of Finnis’s *Aquinas*, I use Roman numerals.

**Translations**

Unless otherwise noted, translations have been drawn from the translations cited above. When I have used another translation, it is indicated in the footnotes. When I have modified a translation, this is indicated in the footnotes.
Acknowledgements

I should first thank my adviser, Dr. David Walsh, for suggesting this topic as a way of learning as much as possible about St. Thomas Aquinas while keeping my work focused as narrowly as possible and speaking to the contemporary relevance of his thought in the work of John Finnis. Gratitude is also due to my two readers, Drs. Claes Ryn and V. Bradley Lewis. Dr. Lewis’s familiarity with the material kept me from many mistakes and helped me better appreciate the subtlety of Finnis’s thought. Brian Fox, Steven Brust, and John Cuddeback all read chapters and offered valuable comments. Brendan McGuire helped me with Latin translations. Naturally, responsibility for the faults of this work are entirely my own.

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Introduction

The meaning of the political common good in St. Thomas Aquinas has been the subject of the most enduring, vigorous debate in Thomistic political thought in the last hundred years. The debate has taken place in two distinct stages. First, in the 1940s the nature of the political common according to Aquinas was debated by Charles De Koninck, Ignatius T. Eschmann, O.P., Jacques Maritain, and Yves Simon. The second major debate has been over the interpretation of the political common good that is at the heart of John Finnis’s book *Aquinas: Moral, Political, and Legal Theory*. Though the participants in the 1940s debate actually had a broad consensus about the nature of the common good, the points on which they agreed were obscured by the vitriol with which the debate was conducted. Devotees of Aquinas are notorious for their fights over the letter of their master’s teachings, especially between those who attempt to update Aquinas’s thought and those who are Thomists “of the strict observance.” A.S. McGrade observes that scholars of Aquinas make up “a community in which charity does not preclude zeal in correction.”¹ Denis Bradley likewise notes that “These questions can stir up partisan loyalties which risk being silly as well as mean-spirited.”² But then again, Bradley also said of Finnis’s book on Aquinas, among other things, that “It is not, however, just the occasional slip or

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throw-away remark that is puzzling or troublesome. Finnis’s exegesis can be self-confidently
tendentious.”3 We will strive to avoid the exasperated tone of many of Finnis’s critics.

The reason Finnis’s critics often seem exasperated is that his work is simultaneously a
reconstruction of Aquinas’s political theory and a revision of it. The book was the first in a
series on the “Founders of Modern Political and Social Thought.” Aquinas might be called a
founder of modern political and social thought because his writings helped establish a theoretical
foundation for constitutional government in the West. His thought has also been the basis of
contemporary systems of social and political thought that call themselves Thomistic, including
that of Finnis. The very first thing Finnis says in his book is that “There are some serious flaws
in Aquinas’ thoughts about human society. A sound critique of them can rest on premises he
himself understood and articulated.”4 Finnis tells his readers that his “exposition quite often
goes beyond what Aquinas says,” and promises to signal such developments.5 But he either
signals these developments far too infrequently or makes interpretations of Aquinas that can only
be called highly innovative, if not, as Bradley said, positively tendentious. That is why Finnis’s
interpretation of Aquinas’s understanding of the political common good has been so
controversial.

As we shall see, Finnis frequently takes expressions out of their context in passages of
Aquinas or takes passages out of context within the works in which they appear. When it suits
him, he will alternately dismiss a work as unimportant or cite it authoritatively, as he does with
Aquinas’s De Regno. Sometimes he characterizes a line of argument as philosophical, only to

3 Ibid., 17.
5 Ibid., viii.
concede later that the argument is in fact theological. Finnis attributes undue weight to a particular passage that Aquinas actually cut from his finished work. Frequently, an examination of passages that Finnis cites to support his interpretations shows that they directly contradict his assertions or at least point in the opposite direction. As he acknowledges, Finnis gives no consideration to the political or intellectual environment in which Aquinas lived and wrote. It is no wonder that the most scathing review of his book was written by a historian of medieval political thought. The cumulative effect of these interpretive liberties is to make many of Finnis’s assertions about Aquinas seem arbitrary and forced.

In order to better understand the current controversy over the political common good according to Aquinas, we begin with an examination the debate over it in the 1940s (Chapter 1). By comparing the debate from the 1940s with the contemporary debate, we will have a better sense of how approaches to Aquinas’s political theory have changed over time. We will also obtain a better sense of just how innovative Finnis’s interpretation is. After considering the debate from the 1940s, we will examine Finnis’s method for interpreting Aquinas and how he organizes his work (Chapter 2). His method shapes Finnis’s interpretation of Aquinas in such a way that any treatment of metaphysics or theology tends to be excluded until the very last chapter. Finnis’s method in Aquinas has for the most part gone unremarked by his critics, who tend to focus on his chapter on the common good to the neglect of its place within his whole book. Finnis uses his method to redefine many of Aquinas’s concepts in ways that evacuate

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6 Cary J. Nederman says “In opting to construct a systematic synthesis accessible to contemporary readers, Finnis filters out inconvenient elements of his subject matter…Historical judgments—this time ours, not St. Thomas’s—are thus reintroduced through the back door. There is a certain disingenuous quality to such an assiduously ahistorical mode of interpretation.” See Nederman, Review of John Finnis’s Aquinas, American Political Science Review 93, no. 3 (September 1999), 700.
them of any reference to their teleology. If we grant Finnis his methodological assumptions,
some of his claims become more plausible. But he still evades important questions about the
relationship between political theory, metaphysics, and theology. It is questionable whether it is
possible to give a coherent account of Aquinas’s political theory without reference to his
metaphysics and theology. Therefore, we will try to give some indication of how these things
are interrelated in Aquinas’s thought, and how they pertain to his understanding of the political
common good. Then we will consider what the political common good actually is according to
Aquinas and Finnis (Chapter 3). Finnis claims that it is limited and instrumental to the justice
and peace of the political community, while his Thomistic critics claim it is virtue, which helps
dispose man to perfect happiness. Finnis’s interpretation of Aquinas’s understanding of the
political common good is central to his whole study of Aquinas’s social and political theory. It
shapes his explanation of the purpose of law in Aquinas and his revision of elements of
Aquinas’s understanding of justice (Chapter 4). Finally, Finnis’s interpretation of the political
common good in Aquinas leads him to deny that man is a “political animal” and that the political
common good is good in itself. We indicate the problems with these assertions and suggest ways
in which Aquinas believed that life in political community helps perfect man and is in fact good
in itself (Chapter 5). What we find as the result of our investigation into Finnis’s interpretation
of Aquinas’s understanding of the political common good is that it is deeply flawed.
Chapter 1

Thomistic Debates about the Common Good from De Koninck to Finnis

Introduction

The nature of the political common good has been the most contested issue in Thomistic political thought in the last hundred years. When reasoning about any kind of action, Thomists believe in beginning with the end or goal of that action, and the common good is the end of our life in political community. Therefore, the political common good is the ground on which rival accounts of Thomistic political thought do battle. This is as true today as it was in the past.

The distinctiveness of Finnis’s interpretation of Aquinas on the political common good becomes clearer when it is compared with the interpretations of earlier and contemporary Thomists. In this chapter, we will examine the debate over Aquinas’s understanding of the common good that took place in the 1940s between Charles De Koninck, Ignatius T. Eschmann, O.P., Yves Simon, and Jacques Maritain.¹ We will briefly compare their interpretations of the political common good in Aquinas with that of Finnis in his book Natural Law and Natural Rights. These comparisons will help show how the debate about the common good has evolved over time, and place Finnis’s interpretation of Aquinas in the broader context of Thomistic debates over how to interpret Aquinas on the common good.

De Koninck on the Primacy of the Common Good

During the 1940s, Thomists were keen to distinguish Thomistic political thought from liberal individualism on one hand and totalitarian collectivism on the other. Both philosophies were rejected because of their theoretical unsoundness and their practical consequences. The Thomistic debate over the common good in the 1940s began with the publication of Charles De Koninck’s *The Primacy of the Common Good against the Personalists*. De Koninck was the dean of the school of philosophy at the University of Laval. The tone for De Koninck’s work was set in the preface by Jean-Marie-Rodrigue Cardinal Villeneuve, the Archbishop of Quebec. Villeneuve warned that grave errors could creep into Catholic thought as a result of a misguided desire to use the philosophy of personalism to engage modern thought and social developments.²

De Koninck likewise believed that speculative errors about the divine common good would lead to practical errors about the political common good. De Koninck said that human dignity comes from rationally participating in the divinely established order of the universe, which is a common good.³ The common good of the universe is ordered to something beyond itself, namely, God, who is the divine common good. As the divine common good, God is the object of those who enjoy the beatific vision. So the object of beatitude is one, but many

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² J.-M.-R. Cardinal Villeneuve, “Préface,” in Charles De Koninck, *De la primauté du bien commun contre les personnalistes* (Quebec et Montreal: Editions de l’université Laval et Fides, 1943), ix-xxiii. Henceforth cited as “The Primacy of the Common Good against the Personalists.” We will used the translation from Ralph McInerny, ed. and trans., *The Writings of Charles De Koninck*, Vol. 2 (Notre Dame: University of Notre Dame Press, 2009). This volume helpfully brings together contributions made to the debate by De Koninck, Eschmann, and Simon. But it leaves references that the authors made to one another’s essays as they were in their original form, and not cross-referenced within the collection. Therefore, we cite page numbers from the original texts but use the McInerny translation. Another translation by Sean Collins of De Koninck’s *On the Primacy of the Common Good against the Personalists and Principle of the New Order*, along with Eschmann’s attack and De Koninck’s rejoinder were also published together in *The Aquinas Review* 4 (1997). This volume, however, does not include Simon’s insightful review of De Koninck.

³ De Koninck, “The Primacy of the Common Good against the Personalists,” 37-42; McInerny trans., 87-88.
participate in beatitude because it is essentially communicable. This would be true even if only one person actually participated in it. Nevertheless, participation in the divine common good is the basis of communication between individuals who share it:

And this is even more evident in the common good which is beatitude, where the very universality of the good is the principle of beatitude for the singular person. In fact, it is by reason of its universality that it can beatify the singular person. And this communication with the common good grounds the communication of singular persons among themselves extra verbum: the common good insofar as it is common is the root of the communication which is only possible if the divine good was already loved in its communicability to others…

Thus the divine good is possessed by individuals in common rather than singularly. Instead of being a singular good in its own right, De Koninck said that the common good is a proper good of each individual that is commensurate with the good of the individual. Nevertheless, the subjective beatitude human beings enjoy cannot be equal to the cause of that beatitude, because human beings are incommensurable with God. Therefore, the divine common good cannot be possessed, but only to conserved and diffused. Otherwise, we would have to say that the divine common good is ordered to the individual good, when in fact the individual good is ordered to the divine common good. This is the most important difference between De Koninck and those he defines as personalists.

De Koninck defined personalism as a philosophy that holds “the single person and his singular good to be the first root, as the intrinsic ultimate end, and, consequently, as the measure of every good intrinsic to the universe.”

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4 De Koninck, “The Primacy of the Common Good against the Personalists,” 26-27; McInerny trans., 83.
5 De Koninck, “The Primacy of the Common Good against the Personalists,” 17; McInerny trans., 79.
good to participation in a common good higher than themselves. Instead of understanding the common good as the proper good of the individual, they define the singular good of the individual in opposition to the common good. But this either leads man to reject the divine common good or make himself the measure of it. De Koninck believed that personalists formulated the relationship between the individual and God in such a way as to make themselves possessors of God, the equal of God, or simply to make themselves God.8

A further result of preferring one’s singular good to the common good is that the political common good is conceived as an alien good over and above the good of the particular individual. This, De Koninck pointed out, is characteristic of totalitarianism. Therefore, he claimed that personalism of any kind inclines toward a totalitarian conception of the state.9

De Koninck elaborated a genealogy of personalism running from Lucifer, through Marsilio Ficino, Hegel, Feuerbach, and finally to Marx. De Koninck pointed out that Feuerbach specifically reinterpreted Aquinas to argue that “the individual is a single supernatural entity, immortal, self-sufficient, absolute, a divine being.”10 The implication was that contemporary personalists were likewise misinterpreting Aquinas for their own purposes, which might lead them—wittingly or unwittingly—to adopt the substance of Feuerbach’s thought, thereby corrupting Catholic thought and promoting totalitarianism. As De Koninck put it, this “is what Marx following Feuerbach says; Feuerbach issued from Hegel; Hegel issued from Fichte and Kant; Kant issued from…Non Serviam!”11

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8 De Koninck, “The Primacy of the Common Good against the Personalists,” 41-42; McInerny trans., 90.
9 De Koninck, “The Primacy of the Common Good against the Personalists,” 73-79; McInerny trans., 105-108.
10 Quoted in De Koninck, “The Primacy of the Common Good against the Personalists,” 139; McInerny trans., 133. The passages Feuerbach misinterpreted were ST I, q. 60, a. 5 and I-II, q. 4, a. 8.
11 De Koninck, “The Primacy of the Common Good against the Personalists,” 115-16; McInerny trans., 123.
Among contemporaries, De Koninck specifically named Mortimer Adler, Walter Farrell, O.P., and Herbert Doms as committing at least some errors of personalism. He dismissed Adler and Farrell as naïve and unworthy of refutation for arguing that men love justice and the common good as a self-interested means to their proper good, and denigrating the value of self-sacrifice. He censured Doms for his “profoundly perverse” conception of the sacrament of marriage. It was a polemical, sometimes rambling attack, and De Koninck painted his portrait of the personalists with a very broad brush. But for precisely those reasons, it aroused a strong reaction in others. Yves Simon pointed out that most people believed that, although De Koninck never mentioned him by name, Jacques Maritain was the true target of his attack on personalism. Jules Baisnée seems to have agreed.

Ignatius T. Eschmann, O.P. of the University of Toronto’s Pontifical Institute for Medieval Studies responded by attacking De Koninck’s argument with even greater vehemence than De Koninck had attacked personalists. Eschmann claimed that De Koninck was really attacking Maritain, and that there was no point denying it. But he denied that Maritain was a personalist as De Koninck defined the term. Eschmann denied that the beatific vision is a common good, and that it was appropriate to characterize God as the divine common good rather

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than the personal good of each individual.\textsuperscript{18} He said the primacy of the common good was only valid within the practical order.\textsuperscript{19} Finally, Eschmann denied that Catholic personalism, particularly the personalism of Maritain, had any relation to secular forms of personalism.\textsuperscript{20} Instead, he claimed it was a legitimate development of a theme present in Aquinas but left undeveloped by him.\textsuperscript{21} De Koninck issued a rejoinder in which he showed that not only were Eschmann’s interpretations of several Thomistic texts tendentious, but that Eschmann misunderstood several of the concepts that he invoked against De Koninck, especially causality. He pointed out that Eschmann’s position on whether the beatific vision must be shared with others even imitated that of Feuerbach, and took him to task accordingly.\textsuperscript{22}

Every commentator agrees that De Koninck got the better of Eschmann in their debate.\textsuperscript{23} But their respective intentions have long been unclear. Did De Koninck originally intend his readers to assume that he was indirectly accusing Maritain of being guilty of personalism as he defined it? Did Eschmann really attack De Koninck in order to defend Maritain, or to indirectly attack someone else? Eschmann cited Baisnée’s attack on personalism as the reason he felt compelled to rise to Maritain’s defense.\textsuperscript{24} But De Koninck suggested that the vehemence of Eschmann’s attack was prompted by less by the arguments of De Koninck or Baisnée than those

\textsuperscript{22} De Koninck, “In Defense of St. Thomas,” 53-69; McInerny trans., 272-88. See note 10 above.
\textsuperscript{24} Eschmann, “In Defense of Jacques Maritain,” 187, n. 9; McInerny ed., 201-202, n. 9.
of Cardinal Villeneuve, though he did not indicate why.\textsuperscript{25} Perhaps there was some personal or ecclesiastical political conflict between the two men. As for De Koninck, his student Ralph McInerny, who was also an admirer of Maritain, thought that De Koninck sincerely meant to attack personalism itself rather than Maritain.\textsuperscript{26}

\textit{Maritain on the Person and the Common Good}

In order to clear up any confusion about his own views, Maritain wrote \textit{The Person and the Common Good}. Maritain seemed to advert to De Koninck when he referred to those who “are engaged in polemics and find it expedient to fabricate monsters which for the lack of anything better, in particular for the lack of references, are indiscriminately attributed to a host of anonymous adversaries.”\textsuperscript{27} He graciously thanked Eschmann for rising to his defense, but did so somewhat awkwardly, since Eschmann had misunderstood his thought and embarrassed the cause of personalism.\textsuperscript{28} Eschmann’s bumbling intervention confused the real issues at stake instead of clarifying them. If there was a genuine disagreement between De Koninck and Maritain, what exactly was it?

Maritain wanted to articulate a personalist political philosophy that was “rooted in the doctrine of St. Thomas,” which would avoid the errors of both individualism and

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totalitarianism. He claimed that Aquinas believed that the concept of part is opposed to that of a person, so that society is a whole composed of wholes. But Mary Keys asserts that in doing so, Maritain tacitly acknowledged that he was taking Aquinas’s point out of context and using it for his own purpose of updating Aquinas. Maritain agreed with Eschmann that it was important to emphasize the direct and personal ordination of the individual to God in order to prevent the universe from standing in between God and man. He said that in the beatific vision the individual beholds God without comprehending him. Thus Maritain did not commit what De Koninck considered the defining error of personalism, namely, making man the measure of God.

The disagreement between De Koninck and Maritain centered around two distinct but related issues, namely, the relationship between the individual person and the divine common good and the relationship between the individual person and the political common good. De Koninck and Maritain both thought that the relationship between the person and the divine common good was the foundation of the relation between the person and the political common good, because they believed the former had implications for the latter.

While De Koninck stressed that the individual’s participation in the divine common good is mediated by the political common good, Maritain stressed the direct ordination of the individual person to God. De Koninck stressed objective happiness, i.e., God or the divine

29 Maritain, 13.
30 Maritain, 56-57. He cited Sent. III, d. 5, q. 3, a. 2.
31 Keys, “Personal Dignity and the Common Good,” 177: “Maritain seems surprisingly undaunted by the scarcity and problematic nature of the textual support for his personalist position, despite the fact that most of his other citations from Thomas seem clearly to point the way to full agreement with De Koninck.”
33 Maritain, 87.
common good itself. But Maritain, in his attempt to articulate a Thomistic account of human subjectivity, stressed the subject’s enjoyment of happiness. Whereas De Koninck emphasized the communicable, and therefore common, aspects of man’s ultimate end, Maritain emphasized the incommunicable. More than De Koninck, he emphasized the human person’s participation in the intimacy of the love communicated between the persons of the Trinity.

De Koninck believed that the individual cannot be entirely subordinate to the common good of the family or the political community because he is subordinate to a still higher, more universal common good, not because the individual’s singular good is to be preferred to these lower common goods or has rights against them. He thought that appealing to the ordination of the political community to the divine good better limits the political community and protects man against injustice than appealing to the personal ordination of the individual to God. The political common good is commensurate with the singular good of the individual; it is not independent of the individual good and alien to it. The problem with formulating the issue in terms of the relationship between the person and society rather than the personal good and the common good, according to De Koninck, is that it lends itself to thinking of the person and society as being opposed to one another.

Maritain’s emphasis on the direct ordination of the person to God led him to draw a distinction between the individual and the person. According to this distinction, the individual

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35 Keys, “Personal Dignity and the Common Good,” 182-183. Keys believes that Maritain’s approach is valid because it follows a distinction made by Aquinas between the thing we desire to attain and the possession or enjoyment of the thing desired. Maritain sought to highlight “the unique path by which each individual human may attain our common final end or common good.” See the “treatise on happiness” at STI-II, q. 1, a. 8, co.; q. 2, a. 7, co.; q. 3, a. 1, co.
37 De Koninck, “The Primacy of the Common Good against the Personalists,” 73-79; McInerny trans., 105-108.
38 De Koninck, “In Defense of St. Thomas,” 94-95; McInerny ed., 326.
represents the material pole of human existence, while the person represents the spiritual pole. The individual is ordered to the political community and its common good, but the person transcends political community in his relationship with God. Maritain’s person thus transcends the totalitarian political community through his direct ordination to God. But he also transcends the selfish materialism of the bourgeois individual. The person is supposed to fully explore his subjectivity, but order his wholly developed personality back to God. The problem is that it is easy for the reader to lose sight of this because of Maritain’s strong emphasis on the individual person’s freedom and transcendence. Maritain’s ordering of the material individual to the political community is in tension with his own assertion of the dignity of the political common good, which he says is a bonum honestum, greater than the sum of its parts, and includes the spiritual welfare of its members. The distinction between the person and the individual further tends to become a bifurcation, and creates more problems than it solves.

For De Koninck, and Aquinas, the more universal, the more abstract a common good is, the more fitting it is to call it a common good. The primacy of the common good applies to objects of the practical intellect, but especially to objects of the speculative intellect. But for Maritain, a “common good in the strict sense” is only a social good. This is the important theoretical disagreement between them. But regardless of this disagreement or the merits of

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39 Maritain, 31-46.
40 Keys, “Personal Dignity and the Common Good,” 182.
41 Maritain, 52-53, 63.
44 Maritain, 82-83.
45 Keys, “Personal Dignity and the Common Good,” 184-86.
Maritain’s theory of the person and his relation to the common good, it is clear that he was not guilty of the errors of personalism as De Koninck defined it.

*Simon on De Koninck, Maritain, and the Common Good*

In comparing the thought of the participants in this debate, we should distinguish between differences of emphasis and differences of substance. De Koninck and Eschmann agreed neither in emphasis nor in substance. But the difference between De Koninck and Maritain may not have been as great as many supposed. Simon noted in a letter to Maritain that the two of them agreed with De Koninck on five important points. First, that any good of a higher order is greater than any good of a lower order. Second, within a given order, there is absolute primacy of the common good. Third, when a person is an “absolute” or divine person, there is an absolute coincidence of common and personal good. Fourth, to the degree that a created person is a person there is a tendency toward a coincidence of personal and common good. Fifth, there is no restriction on the primacy of the common good in its order; when the primacy disappears (as in the third and fourth points), this is not because the primacy then belongs to a private good, but because the problem of primacy disappears.  

The polemical nature of the debate thus obscured a deeper consensus on important points.

De Koninck, Eschmann, and Maritain actually said little about the practical aspects of the common good, instead of focusing on the relationship between different genera of common goods. But in subsequent writings, Simon explored the practical aspects of the common good more thoroughly. His exploration of the practical aspects of the common good focused on three

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main themes. First, Simon distinguished between formal intention of the political common good and material responsibility for it. Though private citizens should always formally intend that their actions be commensurate with the common good, they make their material contribution to the common good chiefly by attending to the particular goods for which they are materially responsible; in fact, it is necessary for the common good that they do so. Only public officials are both formally and materially responsible for the common good.47 Second, in the course of distinguishing between communities, which seek a common good, and partnerships, which do not seek a common good but are purely instrumental, Simon did more than any other writer before or since to explain how the common good actually affects the members of a community. Maritain repeatedly said that the common good would “flow back” or be “redistributed” to persons, but he never described the way it affected them more concretely.48 Simon, however, suggested that this happens through communities intentionally seeking common goods through collective action, communing with one another in knowing and desiring the end of the community, and communicating with one another through forms internal to the community that produce and reinforce that communion.49 Third, he showed that the common good can only be obtained through the operation of authority, because of the plurality of means for achieving it and because agreement in practical affairs cannot be achieved by demonstration.50 Since Simon’s writings, Thomistic discussions have focused more on practical aspects of the common good rather than theological or metaphysical aspects.

48 See Maritain, 49-50, n. 28, 51, 59, 60, 70, 87.
50 Simon, General Theory of Authority, 31-32, 47-50.
The Common Good in Finnis’s Natural Law and Natural Rights

John Finnis is arguably the most influential philosopher working in the Thomistic tradition since Simon. His major work, *Natural Law and Natural Rights*, was concerned to articulate an overarching theory of natural law, not to give an account of the thought of Aquinas. Nevertheless, it is worth reviewing Finnis’s *Natural Law and Natural Rights* to examine the relationship between its account of the common good and the account of the political common good presented in *Aquinas*. The common good does not play nearly as important a role in this work as it does in Finnis’s *Aquinas*. Finnis presents the former account of the common good as broadly, but not strictly Thomistic; it is his personal understanding of the common good. Nevertheless, there are several distinct aspects of the account of the political common good in *Natural Law and Natural Rights* that bear on his account of the political common good in *Aquinas*.

In his broadest statement on the nature of common goods, Finnis distinguishes between three senses of the term:

For there is a “common good” for human beings, inasmuch as life, knowledge, play, aesthetic experience, friendship, religion, and freedom in practical reasonableness are good for any and every person. And each of these human values is itself a “common good” inasmuch as it can be participated in by an inexhaustible number of persons in an inexhaustible variety of ways on an inexhaustible variety of occasions. These two senses of “common good” are to be distinguished from a third, from which, however, they are not radically separate. This third sense of “common good” is the one commonly intended throughout this book, and it is: a set of conditions which enables the members of a community to attain for themselves reasonable objectives, or to realize reasonably for themselves the value(s), for the sake of which they have reason to collaborate with each other (positively and/or negatively) in a community. The community referred to in this definition may be specialized, partial, or complete; when I
speak simply of “the common good” hereafter, I normally mean the all-round or complete community, the political community subject to my caveat about the incompleteness of the nation state in the modern world…

In this passage, what Finnis calls basic human goods are common goods insofar as they are objects of practical reason and human action. They are also common goods insofar as they are participated in by many people. This mirrors the distinction between objective beatitude and subjective beatitude in De Koninck and Aquinas. The third sense of the term common good is that which is common to any social group, not simply the political community. The political sense of the common good is not the focal meaning of common good, according to Finnis. It is, rather, one type of common good in between the common good of social groups on the one hand, and the international community on the other. As we shall see, in Finnis’s Aquinas, he similarly numbers the political common good as just one more common good along with those of social groups and the international community.

The political common good facilitates collaboration with others in the pursuit of personal development. Finnis neither defines it as instrumental, nor says that it is good in itself. But his characterization of facilitative function of the political common good is compatible with his later assertion that it is purely instrumental for Aquinas. Finnis warns against assuming that the political common good is something that can be achieved in the same way that a ship can reach its destination. Instead, he says it is a series of conditions that make the pursuit of personal goals possible, whose content he spells out in his account of justice, authority, and law. Thus Finnis emphasizes that the political common good coordinates our pursuit of our individual good in a

53 Ibid., 154-56.
way that is commensurate with the good of our fellow men. Even when we speak of benefitting the community, he says what we really mean is benefitting the members of the community—not, implicitly, the community in itself.\(^{54}\) The common good requires that sanctions, or punishments, be meted out when criminals unfairly take more of the benefits of collective action than they are due.\(^{55}\) Finnis emphasizes that we need political authority to coordinate our pursuit of shared goals when there are multiple ways and means to obtain them.\(^{56}\) Punishment is not central to Finnis’s own account of why human beings need political authority here, but he places less emphasis on it here than he does in *Aquinas*.

Finnis’s account of justice is also significant for his subsequent interpretation of Aquinas. In *Natural Law and Natural Rights*, Finnis breaks down the classical distinctions between legal (or general), distributive, and commutative justice. For Aquinas, legal justice is the justice of the individual (or the part) toward the common good of the whole political community.\(^ {57}\) But Finnis summarily dismisses the term legal justice on the grounds that it is confusing.\(^ {58}\) In *Natural Law and Natural Rights*, he says that “all problems of justice, and all the specific requirements generated by the requirement of ‘general justice’, are intended to find a place in one or the other or (under different aspects) both of these two classes of ‘particular justice’,” that is, of distributive or commutative justice.\(^ {59}\) This implies what is explicit in Finnis’s account of Aquinas, namely, that general or legal justice does not specifically refer to the political common good. Indeed, he places duties of what Aquinas would call legal justice in the category of

\(^{54}\) Ibid., 168.

\(^{55}\) Ibid., 264.

\(^{56}\) Ibid., 231-33. Here he closely follows Simon, *General Theory of Authority*, 47-50

\(^{57}\) ST II-II, q. 58, a. 5.

\(^{58}\) Finnis, *NLNR*, 165.

\(^{59}\) Ibid., 166; this is reiterated at 169, n. 10.
commutative justice.\textsuperscript{60} For Aquinas, distributive justice is the justice of the whole political community toward the individual or the part, while commutative justice is justice between individuals or parts of the community. But Finnis says that the “distinction between distributive and commutative justice is no more than an analytical convenience” because many actions fall under both categories, as indeed they do.\textsuperscript{61}

Finnis’s personal account of natural law is famous for rejecting any reliance on metaphysics or theology. “Despite the irrelevance of teleology to my argument,” he asserts that:

It is true that the natural law theory of, say, Aristotle and Aquinas goes along with a teleological conception of nature and, in the case of Aquinas, with a theory of divine providence and eternal law. But what needs to be shown is that the conception of human good entertained by these theorists is dependent upon this wider framework.\textsuperscript{62}

Here Finnis points to what will become one of the major goals of his interpretation of Aquinas, namely, to show that Aquinas’s natural law theory and political theory more generally do not depend on his metaphysics and theology. One of our central contentions will be that his attempt to make this argument fails.

In \textit{Natural Law and Natural Rights}, Finnis does not define the political common good as fully as he does in \textit{Aquinas}. Nor are the relationships between the political common good and things pertaining to it—like the basic goods or the theory of justice—worked out in exactly the same way in the two works. But nothing in the account of the political common good in Finnis’s interpretation of Aquinas contradicts the account of the political common good in his personal

\textsuperscript{60} Ibid., 184.
\textsuperscript{61} Ibid., 179. Compare Finnis, \textit{Aquinas}, 188.
\textsuperscript{62} Finnis, \textit{NLNR}, 52, n.
writings. Indeed, if anything, the account of the common good is developed considerably in the latter work in ways that bring it into sharper tension with the classical interpretation of Aquinas.

Conclusion

There are several things about the debate between De Koninck, Eschmann, and Maritain that are relevant for understanding the contemporary debate about the political common good in Aquinas. The first is the attitude of the participants in the debate toward modernity and updating Thomism to apply it to modern thought and politics. De Koninck’s Thomism was unabashedly classical and anti-modern. De Koninck was not interested in articulating a Thomistic political philosophy that would be compatible with liberal democracy. Maritain, however, hoped to appropriate what he thought was good in modern philosophy and reconcile it with classical Thomism. Like De Koninck, Finnis is often rhetorically anti-modern, but like Maritain, he clearly wants to articulate an updated Thomism that is acceptable to moderns. The second thing to note about this debate is that, with the exception of Eschmann, each of the participants in the debate believed that the political common good was good in itself, a bonum honestum. Like Eschmann, Finnis denies this. The third thing that is significant about this debate is that both De Koninck and Maritain were comfortable using metaphysical and theological arguments in arguing for their respective interpretations of Aquinas and the common good. That is what is most striking when one compares their accounts of Aquinas on the common good with that of Finnis: De Koninck and Maritain move effortlessly between practical, metaphysical, and theological argument, while the Finnis focuses on what can be established though practical

63 See Eschmann, “In Defense of Jacques Maritain,” 202; McInerny ed., 194-95. Maritain disagreed with Eschmann’s assertion that the political common good is only a useful good. See Maritain, 53.
reason alone. Indeed, the gap separating De Koninck and Maritain in this regard is far narrower than the gap separating Maritain and Finnis. Maritain believed it was important for his reconciliation of Thomism and liberal democratic modernity to have a metaphysical foundation.\textsuperscript{64} This was in spite of the fact that his contemporaries were “hardly accustomed” to metaphysical reflection.\textsuperscript{65} As we shall see in the next chapter, it is equally important for Finnis that his own effort to articulate a Thomism compatible with contemporary liberal democracy have no metaphysical foundation whatsoever.

\textsuperscript{64} Maritain, 29-30, 63.
\textsuperscript{65} Ibid., 11.
Chapter 2
The Good and Goods

Introduction

In contrast with the highly metaphysical terms of the debate about the common good between De Koninck, Eschmann, and Maritain, Finnis’s treatment of the common good remains almost wholly within the realm of practical reason. Finnis abstracts Aquinas’s political theory from its theological context so that he can consider it in purely philosophical (though non-metaphysical) terms. He probably does this because he believes it is necessary to develop a Thomistic political theory that is adapted to the demands of modern philosophy and politics. Only after this purely practical political theory is distilled does he think it is possible to return to the theological and metaphysical underpinnings of Aquinas’s political thought. But by placing his consideration of Aquinas’s theology and metaphysics at the end of his book, Finnis risks losing this context and making Aquinas’s most central concerns seem like an afterthought. What is worse for his purposes, he risks seriously misinterpreting Aquinas’s political thought.

Aquinas was a theologian whose most important writings about politics appeared in works of theology. In order to fully understand his political thought, therefore, it is necessary to understand its context within his theology and metaphysics. In fact, any study of Aquinas’s conception of the political common good should begin with his theology and metaphysics as it pertains to the good. Therefore, after a brief discussion the ways in which Aquinas uses the term “common good” in general, we review the topic of the last chapter of Finnis’s book, which treats Aquinas’s metaphysics and theology. We then give a fuller treatment of Aquinas on the good as a metaphysical concept before proceeding to examine Finnis’s method and his account of
practical reasoning, and from thence to the basic goods, and how practical reason’s understanding of basic goods changes when it accepts certain metaphysical and theological truths. Finally, we consider whether Aquinas drew analogies between divine rule and human rule.

Common Goods in Aquinas

There are three types of common good in Aquinas’s thought: goods common by causality, goods common by predication, and goods common by utility. In addition to the political common good, Finnis adverts to the other types of common good in Aquinas, but he does not explain the basis of the difference between them.¹

A good common by causality \( (bonum commune in causando) \) is numerically one, but extends to many effects. It is the end or goal of many.² God can be spoken of as the divine common good because He is a good common to all things by causality. Goods common by causality also include the order of the universe, the order of an army, and children.³ Aquinas distinguishes between the extrinsic common good that is the end of a whole, and the intrinsic common good that is the ordering of parts to each other and the whole. In addition to being the good of the whole, the extrinsic and intrinsic common goods are the cause of good for each part of the whole. For example, God is the extrinsic common good of the universe, and the intrinsic common good of the universe is the order of the universe itself.⁴ Before we proceed further to

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¹ For example, he refers to the political common good in Aquinas, Chapter VII and to the common good of the universe in Chapter X, 308, 313. Gregory Froelich has noted Finnis’s attention to distinctions between types of common good in NLR, 155-56. See Froelich, 56, n. 46. I am indebted to Froelich for what follows in this section.
² Ver., q. 7, a. 6, ad 7. Froelich, 47-53.
³ On the order of the universe as a common good, see Sub., c. 12; Spir. Creat., a. 8; ScG II, chaps. 42, 44. On the order of an army, see ST I-II, q. 9, a. 1; Meta. XII, lect. 12, nn. 2630, 2631. On children, see Sent. IV, d. 31, q. 1, a. 2; d. 19, q. 2, a. 3, ad 4.
⁴ ST I, q. 103, a. 2, ad 3. Finnis refers to God as the common good of the universe in Aquinas, 312-13 and 314-15.
discussion of God and goodness, we should explain the other two ways in which a good can be common, namely, by predication and utility.

A good common by predication \{bonum commune in praedicando\} is one that exists logically, by way of abstraction, in the intellect.\(^5\) The definition of the nature of a species, for example, is distributed to its members, and each member possesses the whole definition. But the species cannot be predicated of the individual member. Socrates is wholly a man, but he is only part of mankind. No individual man could contain mankind and its goodness within him.\(^6\)

Goods common by predication include abstract goods like knowledge, happiness, and health. But they have an existence that is only logical, and not real.\(^7\)

We can distinguish a third type of common goods that are not ends in themselves, but means to ends. Aquinas refers to goods pertaining to distributive justice simply as common goods \{bona communia\}. They are goods that may belong to the whole community, but are parceled out for the use of particular individuals, at which point they become private possessions.\(^8\) Examples of this type of good include external goods like honor and money, among others.\(^9\)

Aquinas speaks of common goods analogically and equivocally. He compares common goods to one another, but he uses the term common good to refer to a wide range of different things, including ontological and moral goods. This has contributed to the diversity of

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\(^5\) Goods common by predication and causality are distinguished by Aquinas at \textit{Ver.}, q. 7, a. 6, ad 7.
\(^6\) For the example of Socrates, see \textit{Meta.} VII, lect. 13, no. 6; see also \textit{ST} I, q. 39, a. 4 ad 3; and \textit{Pot.}, q. 7, a. 4, ad 1. The clearest definition is in Stephen L. Brock, “The Primacy of the Common Good and the Foundations of Natural Law in St. Thomas,” in \textit{Ressourcement Thomism: Sacred Doctrine, the Sacraments, and the Moral Life: Essays in Honor of Romanus Cessario, O.P.}, ed. Reinhard Hütter and Matthew Levering (Washington, DC: Catholic University of America Press, 2010), 239. But the most thorough discussion is in Froelich, 43-47.
\(^7\) Froelich, 45-46.
\(^8\) \textit{ST} II-II, a. 61, aa. 1-2. Froelich, 53-55.
\(^9\) \textit{Eth.} V, lect. 4, no. 927.
interpretations of Aquinas’s understanding of the political common good.\(^{10}\) We will return to these different kinds of common good when we examine Aquinas and Finnis’s understandings of the political common good. Now that we have defined the types of common good in Aquinas’s thought, let us turn to Aquinas’s theology and metaphysics of the good and Finnis’s treatment of them.

*The Metaphysics and Theology of the Good*

As we noted above, Finnis reserves his treatment of Aquinas’s metaphysics and theology until his last chapter. Early in that chapter he says that “practical knowledge of human goods and excellences makes possible a much fuller knowledge of human nature.”\(^{11}\) It may be that Finnis’s intention is to lead his readers, many if not most of whom will not be Thomists, from a practical knowledge of human goods to a deeper, more speculative knowledge of their source in God. His account seems intended to earn the modern, secular reader’s respect for Aquinas’s political theory and then persuade them of the plausibility of his most deeply held religious convictions. But in order to do this, Finnis may feel constrained to leave them less than fully articulated.

Only in his last chapter does Finnis finally introduce speculative reasoning to his account of Aquinas’s thought (section X.1). Then he gives an overview of Aquinas’s five ways of demonstrating the existence of God (section X.2). Finnis calls God the intelligence that orders everything in the world, and then introduces the idea that human beings can cooperate with that intelligence in their own actions (section X.3). The point of human existence and action can now

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\(^{10}\) M. S. Kempshall, *The Common Good in Late Medieval Political Thought* (Oxford: Oxford University Press, 1999), 78.

\(^{11}\) Finnis, *Aquinas*, 295.
be understood as complete human fulfillment in friendship with God and contemplation of Him (section X.4). This is possible because of God’s communication with man through a public revelation accessible to all men. Revelation has great significance for the way those who accept it should live their lives, both in public and private (section X.5). Those who achieve complete human fulfillment in heaven through their cooperation with God’s liberality have an intimate friendship with God that is “radically social” because shared with others (section X.6). Only the last two sections of this last chapter concern theology, as distinct from metaphysics or natural theology.

Finnis twice refers to the God as the universal common good in this chapter. He rightly says that for Aquinas “the point, the common good, of the universe must be the expressing, representing, and communicating (somehow sharing) of the divine perfection of actuality by bringing into being a universe of creatures which are each like {similis} God in having actuality, perfections, intelligibility, and so forth.” God is the cause of all good, and complete human fulfillment in Him is more important than any of the basic human goods.

But Finnis’s brief treatment of the metaphysics and theology of Aquinas risks giving short shrift to the subjects that Aquinas considered the most important and of greatest concern to himself. Moreover, Finnis’s treatment of Aquinas’s metaphysics and theology is detached from his treatment of Aquinas’s political theory, when much of what Aquinas said about politics he said in the context of specifically theological writings. That is not to say that philosophical arguments for positions that Aquinas and Finnis hold cannot be distinguished from theological arguments, but it does affect how one interprets Aquinas’s understanding of the political

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12 Finnis, Aquinas, 327.
13 Ibid., 312-13; see also 308-309.
14 Ibid., 314, 324.
common good. Therefore, it is important to give a fuller treatment of the metaphysics and theology of the good in Aquinas.

Aquinas said that God is the highest good {summum bonum}. God shares His goodness by diffusion and communication.\(^\text{15}\) God’s diffusion of His goodness is the final cause of beings, because He is the reason they were created; He is their end, and He created them so that they could participate in His goodness.\(^\text{16}\) The efficient causality of His goodness is by way of communication, through which He transfuses {transfundens} His goodness into created beings.\(^\text{17}\) Created beings proceed {exitus} from God and return {reditus} to Him by way of inclinations inherent in the form or nature he gives them.\(^\text{18}\) Since His goodness is infinite, while that of creatures is necessarily finite, it was fitting for God to create a diverse array of beings to reflect His goodness. In the created universe that proceeds {exitus} from God, there is a hierarchy based on the degree to which created things participate in the divine likeness, some resembling Him more than others. Since no one creature could contain or equal God’s goodness, this hierarchy manifests His goodness in the diversity of His creatures. Inanimate things, plants, irrational animals, man, and intellectual substances all participate in ascending order in the divine likeness.\(^\text{19}\)

Each being has goods distinctly proper to it. There are four ways Aquinas speaks of something as a proper good: first, that which is proper to an individual itself; second, that which

\(^{15}\) ScG I, q. 96, no. 3  
\(^{17}\) ST I, q. 5, a. 1, co.; Malo, q. 2, a. 5, ad 2. Fran O’Rourke, *Pseudo-Dionysius and the Metaphysics of Aquinas* (Notre Dame: University of Notre Dame Press, 2005), 231-47.  
\(^{18}\) O’Rourke, 234-39. O’Rourke, 237, says that for Aquinas, the principle of procession and reversion is “the architectonic principle of his own magnificent vision.” He argues that it is also the principle of organization for the *Summa Theologiae*.  
belongs to the individual by reason of its species; third, that which pertains to it by reason of its genus; and, fourth, by similitude of analogy.\(^{20}\)

What matters about this understanding of proper goods for our purposes is that an individual creature, such as an individual human being, may have a proper good as an individual and as a member of his species. This further means that the individual can have more than one proper good. Though proper goods may occasionally be in tension with one another, e.g. the individual good and the common good, Aquinas believed that those tensions could always be resolved because God made the order of the universe intelligible and harmonious.

The graded nature of the hierarchy of being facilitates the return of creatures to God, because like God, creatures can communicate their own good to other beings. Creatures are called more divine or more perfect insofar as they direct other, lower beings to God.\(^{21}\) They are the cause of good in others by causing them to be or by leading them to the perfection of their nature. This is true at every level of creation. Man, for example, makes use of inanimate things, plants, and animals to achieve his proper good, and in doing so, helps them achieve their end.\(^{22}\) Man ranks higher than such creatures because he has a rational soul that makes it possible for him to be united with God in a more profound way than they can be. Just as there are hierarchies within creation, so too there are hierarchies within human society: “So in every city, a threefold order of men is to be seen, some of whom are supreme, as the nobles; others are the last, as the


\(^{22}\) ST I, q. 65, a.2. For the best description of the metaphysical hierarchy of creation, see O’Rourke, 263-70. See also Kempshall, 95-96.
commoners \{vilis\}; while others hold a place between these, as the respectable \{honorabilis\}."

This is also the case within parts of the political community, such as the military or the family. Each of these hierarchies within human society helps order man to his proper good, his perfection, and ultimately, God. These hierarchies are natural and would exist even if there had been no fall. Even within angelic society, there are perfective hierarchies analogous to those in human society.

Each creature in the great hierarchy of being is ordered back to God by a natural inclination to desire the good. Man is specifically drawn by his rational appetite, or will, to desire the good. But all beings desire the good because they are effects of the Good, and effects seek their cause as their proper good, according to Aquinas. In each proximate good that we desire, we desire more ultimate goods, implicitly including the ultimate good, God.

That is what it means to say something possesses the formality of the good \{ratio boni\} within it.

Though Finnis makes no mention of it, the metaphysics and theology of the good is relevant to the understanding of the political common good in Aquinas. Kempshall finds four metaphysical principles of the good underpinning Aquinas’s concept of the political common good. First, that all beings participate analogously in God by likeness and causality. The next

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23 ST I, q. 108, a. 2, co: “Unde et in civitatibus triplex ordo hominum inventitur, quidam enim sunt supremi, et optimates; quidam autem sunt infimi, ut vilis populus; quidam autem sunt medii, ut populus honorabilis.” The translation by the Dominican fathers softens the meaning of “vilis” and “honorabilis.” See also ST II-II, q. 104, a.1, co.; ScG III, chap. 64.
24 DR I, chap. 15; Pol. I, chap. 10, n. 7.
25 ST I, q. 96, aa. 2-4.
26 ST I, q. 108.
27 ST I-II, q. 26, a. 1, co.
28 ST I, q. 5; I-II, q. 1.
29 Eth. I, lect. 7, no. 2.
31 ST I, q. 6, a. 4, co.; q. 26, a. 3, co.; I-II, q. 34, a. 3, co..
principle, which is connected to the first, is that all goods communicate their goodness to other beings.\textsuperscript{32} Third is the principle that the hierarchical arrangement of good in the universe is such that individual goods are ordered toward their ultimate good in God.\textsuperscript{33} The final principle is that the common good is the natural object of the human intellect and will, because the good is what all things desire.\textsuperscript{34} These principles enabled Aquinas to integrate his account of the beneficent hierarchy of being with his psychology and theory of knowledge.\textsuperscript{35} Finnis advertes to the first principle in his treatment of Aquinas’s theology, and obliquely refers to the third principle when he refers to the “stratification” of goods in Aquinas.\textsuperscript{36} It suffices for our purposes here to point out that Aquinas used these principles in his political theory frequently. They permeate Aquinas’s political thought. Therefore, anyone failing to fully understand these principles and recognize the ways in which Aquinas used them runs the risk of having an inadequate or faulty understanding of his political theory.

The point of all this is that, for Aquinas, human beings and their societies, including the family, the Church and the political community, are parts of the hierarchy of being and contribute to the return of man to God. The political community can facilitate that return to God, or frustrate it, depending on whether it is a good political community or a bad one. Indeed, if rulers frustrate their subjects’ pursuit of God, their authority may become illegitimate, according to Aquinas.\textsuperscript{37} But Finnis’s brief treatment of Aquinas’s metaphysics and theology makes little mention of this broader context of Aquinas’s understanding of the good, which is in turn related his understanding of the political common good.

\textsuperscript{32} \textit{ScG} I, chap. 37; II, chap. 4; \textit{ST} I-II, q. 1, ad 1; \textit{Comp.} I, chap. 124.
\textsuperscript{33} \textit{ScG} III, chap. 97; \textit{Comp.} I, chap. 124; \textit{Sub.} XII.
\textsuperscript{34} \textit{ST} I, q. 59, a. 1, co.; \textit{Ver.} XXVI, a. 1; \textit{Eth.} I, lect. 1.
\textsuperscript{35} Kempshall, 81-84.
\textsuperscript{36} Finnis, \textit{Aquinas}, 81-82, 314.
\textsuperscript{37} \textit{ST} II-II, q. 10, a. 10, co.; q. 12, a. 2, co.; q. 42, a. 2; \textit{DR} I, chap. 4. Kempshall, 127.
**Ontological Good and Moral Good**

Though being and goodness are convertible, and co-extensive, they are not strictly speaking interchangeable, because they do not have the same *ratio*. We can therefore distinguish between ontological goodness and moral goodness. Ontological goodness means that “every being insofar as it is a being, is good.” Moral goodness is a species of ontological goodness that inheres in human acts. It can only exist in intellectual beings capable of willing and choosing. The difference between ontological good and moral good is further clarified when we compare ontological evil with moral evil. Ontological evil is privation from being, while moral evil is choosing a good contrary to the one required by right reason, though it too is a form of privation of being. Nevertheless, morally evil actions have being, and therefore ontological goodness. Aquinas said, e.g., that adulterous sex is morally evil, but because the reproduction of the species is the good object of a natural inclination, any offspring issuing from adultery have ontological goodness, and even the act itself has a degree of ontological goodness. Aquinas believed that, like any kind of goodness, ontological goodness and moral goodness are analogous, which is one reason why his ethics cannot be simply extricated from his metaphysics.

Any being is ontologically good and can be perfected. Aquinas said that there is a threefold perfection in beings. First, a being has the completeness that its substantial form gives

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38 *ST* I, q. 5, a. 3.
40 Malo, q. 1, a. 1, ad 4; q. 2, a. 5, ad 3; *ST I-II*, q. 18, a. 1; *Virt.*, q. 1, a. 1, ad 5. Bradley, *Aquinas on the Twofold Human Goodness*, 277.
42 Bradley, *Aquinas on the Twofold Human Goodness*, 263; Gallagher, 56. Gallagher, 39, says that the only term Aquinas used analogously more than good is being.
its matter. Second, it has what is required for the being to act according to its nature, e.g., the power to procreate, learn, or acquire virtue. Third, it becomes perfect in the attainment of an extrinsic final end: “The ultimate perfection of each and every thing is in the attainment of an end.” 43 Human acts, for example, achieve perfection and fullness of being when they attain their end. 44 This is why the beatitude or happiness that human beings can have in heaven is called perfect happiness, while by contrast the happiness they can achieve in this world is called imperfect. 45 Aquinas likewise contrasted the perfect and imperfect in this way when he called the political community a “perfect community” while calling the family an “imperfect community.” The contemporary ear may incline toward thinking of something flawless or utopian when it hears the term “perfect community,” which may explain why Finnis equates the concept of “perfection” with “completeness.” He likewise refers to the “imperfect” in Aquinas as the “incomplete.” 46

We now turn to Finnis’s method of interpreting Aquinas’s political theory.

Knowing the Good: Practical and Speculative Reason in Finnis and Aquinas

In laying out the subject matter and method of his treatment of Aquinas’s political theory, Finnis observes that Aquinas made broad statements about the theory of human action and society at the beginning of the Prima Secundae of the Summa Theologiae, and in the introductions to his commentaries on Aristotle’s Nicomachean Ethics and Politics. He uses Aquinas’s introduction to his commentary on the Ethics as the primary lens through which he

43 ST I, q. 6, a. 2, co.; q. 103, a. 1, co.; II-II, q. 186, a. 2, co.; III, q. 27, a. 5, ad 2; ScG III, chap. 26. See Blanchette, 70-71 and his broader discussion in 33-73.
44 ST I, q. 5, a. 1, co. Gallagher, 42-43.
45 Blanchette, 70-71.
interprets Aquinas’s moral and political thought. Aquinas’s description of the four ways in which order pertains to reason is worth quoting in full, because Finnis refers to it frequently:

Now order is related to reason in a fourfold way. There is one order that reason does not establish but only beholds, such is the order of things in nature. There is a second order that reason establishes in its own act of consideration, for example, when it arranges its concepts among themselves and the signs of concepts as well, because words express the meanings of the concepts. There is a third order that reason in deliberating establishes in the operations of the will. There is a fourth order that reason in planning establishes in the external things that it causes, such as a chest and a house.

Because the operation of reason is perfected by habit, according to the different modes of order that reason considers in particular, a differentiation of sciences arises. The function of natural philosophy is to consider the order of things that human reason considers but does not establish—understand that with natural philosophy here we also include metaphysics. The order that reason in its own act of consideration pertains to rational philosophy (logic), which properly considers the order of the parts of verbal expression with one another and the order of principles to one another and to their conclusions. The order of voluntary actions pertains to the consideration of moral philosophy. The order that reason in planning establishes in external things arranged by human reason pertains to the mechanical arts.

Accordingly it is proper to moral philosophy, to which our attention is at present directed, to consider human operations in so far as they are ordered to one another and to an end.

Aquinas did not specify in the prologue to his Commentary on Aristotle’s Nicomachean Ethics whether, or how, these four orders of reason might be related to and interact with one another.

Finnis says that they are “irreducibly distinct,” meaning that no one order can be absorbed into or

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47 Finnis, Aquinas, 20-23.
48 Eth. I, lect. 1, nn. 1-2: “Ordo autem quadrupliciter ad rationem comparatur. Est enim quidam ordo quem ratio non facit, sed solum considerat, sicut est ordo rerum naturalium. Alius autem est ordo, quem ratio considerando facit in proprio actu, puta cum ordinat conceptus suos ad invicem, et signa conceptuum, quae sunt voces significativae; tertium autem est ordo quem considerando facit in operationibus voluntatis. Quartus autem est ordo quem ratio considerando facit in exterioribus rebus, quarum ipsa est causa, sicut in arca et domo. Et quia consideratio rationis per habitum scientiae perfectitur, secundum hos diversos ordines quos proprius ratio considerat, sunt diversae scientiae. Nam ad philosophiam naturalem pertinet considerare ordinem rerum quem ratio humana considerat sed non facit; ita quod sub naturali philosophia comprehendamus et mathematicam et metaphysicam. Ordo autem quem ratio considerando facit in proprio actu, pertinet ad rationalem philosophiam, cuius est considerare ordinem partium operationis ad invicem, et ordinem principiorum in conclusionibus; ordo autem actionum voluntarium pertinet ad considerationem moralis philosophiae. Ordo autem quem ratio considerando facit in rebus exterioribus constitutis per rationem humanam, pertinet at artes mechanicas. Sic igitur Morales philosophiae, circaquam versatur praesens intentio, proprium est considerare operationes humanas, secundum quod sunt ordinatae ad invicem et ad finem.” See Finnis, Aquinas, 21.
conflated with another. The significance of this for his purpose is that the “third order,” which pertains to moral, social, and political theory, cannot be reduced to, or modeled on a “first order” discipline like the natural sciences.\textsuperscript{49} The first order science of metaphysics is for the most part excluded from his consideration of Aquinas’s social and political theory.\textsuperscript{50} Theology is not included in the four orders, nor, as we will see, is it included in Finnis’s study of Aquinas’s political theory until the penultimate section of his whole book. Finnis’s method commits him to considering ontological goods only insofar as they are moral goods; if they are purely ontological goods, then it would seem that he cannot consider them without explanation. He only adverts to the existence of the speculative first order in his treatment of Aquinas’s political theory, and then only under certain circumstances. On the other hand, he never denies that Aquinas did mix speculative and practical approaches. But the last chapter the reader may be surprised to see Finnis casually assert that “everyone is aware how close is the fit between first-order and third-order positions.”\textsuperscript{51}

If, as Finnis asserts, the prologues of Aquinas’s commentaries on the \textit{Ethics} and \textit{Politics} are connected to one another, then it is also worth considering what Aquinas said in the latter. Perhaps they will give some indication of whether the four orders of reason might be related, and if so, how. The opening sentence of his commentary on the \textit{Politics} quoted Aristotle’s \textit{Physics} in

\textsuperscript{49} Finnis, \textit{Aquinas}, 22. Compare with the discussion in Finnis, \textit{NLNR}, 136-38. In \textit{NLNR}, Finnis admits the first order into his consideration, but exclusively identifies it with the natural sciences. The third order of \textit{Aquinas} is there presented as the fourth order. But the schema of the four orders is not as central to \textit{NLNR} as it is to \textit{Aquinas}. Finnis credits Germain Grisez, \textit{Beyond the New Theism: A Philosophy of Religion} (Notre Dame and London: University of Notre Dame Press, 1975), 230-40, 353-56 for recovering the schema of the four orders. See Finnis, \textit{NLNR}, 157, n.
\textsuperscript{51} Finnis, \textit{Aquinas}, 296.
saying that “art imitates nature.” Aquinas went on to say that “third order” reasoning imitates in some respect “first order” reasoning: “the source of things produced by skills is the human intellect, which is similarly derived from the divine intellect, and the divine intellect is the source of natural things. And so skillful actions necessarily imitate natural actions, and artifacts imitate things in nature.” Moreover, Aquinas said that

Human sciences, which concern natural things, are necessarily speculative, while human sciences about things produced by human beings are necessarily practical, or active, by imitating nature.

And nature in its activity goes from simple things to composite things, so that what is most composite in the things produced by natural activity is complete and whole and the end of other things, as is evident in every whole in relation to its parts. And so also the practical reason of human beings goes from simple things to composite things, from imperfect things to perfect things, as it were.

In the prologue to his commentary on the *Politics*, Aquinas thus introduced the principle that practical reason imitates nature in considering and constituting human societies. Aquinas repeatedly invoked the principle of the imitation of nature in the moral parts of the *Summa Theologiae*. If third order sciences imitate first order sciences in this manner, then they must be distinct, but not radically different. Practical reason must consider its objects in at least some of the same ways that speculative reason considers its objects. We can imagine that practical

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52 *Physics* II, chaps. 4 (194a21-23) and 13 (199a15-16).
53 *Pol.*, prol., n. 1: “Principium autem eorum quae secundum artem fiunt est intellectus humanus, qui secundum similitudinem quandam derivatur ab intellectu divino, qui est principium rerum naturalium. Unde necesse est, quod est operationes artis imitentur operationes naturae; et ea quae sunt secundum artem, iminentur ea quae sunt in natura.”
54 *Pol.*, prol., nn. 3-4: “scientiae humane, quae sunt de rebus naturalibus, sint speculativae; quae vero sunt de rebus ab homine factis, sint practicae, sive operativae secundum imitationem naturae. Procedit autem natura in sua operacione ex simplicibus ad composita; ita quod in eis quae per operationem naturae fiunt, quod est maxime compositum est perfectum et totum et finis aliorum, sicut appareat in omnibus totis respectu suarum partium. Unde et ratio hominis operativa ex simplicibus ad composita procedit tamquam ex imperfectis ad perfecta.” Richard J. Regan translates “speculativae” as “theoretical.” He also translates “imperfectis” as “incomplete,” and “perfecta” as “complete.”
56 *ST* I-II, q. 74, a. 7; II-II, q. 130, a. 1; II-II, q. 50, a. 4; *ScG* III, chap. 81, n. 1. See Brock, 242.
science might imitate what Aquinas would call speculative science without being completely absorbed into, reduced to, or modeled upon that science.

Aquinas said that, although speculative (first order) and practical (third order) reasoning have different objects, “the speculative and practical intellects are not distinct powers. The reason of which is that…what is accidental to the nature of the object of a power does not differentiate that power.”\(^57\) Moreover, as to their objects:

Truth and good include one another; for truth is something good, otherwise it would not be desirable; and good is something true, otherwise it would not be intelligible. Therefore as the object of the appetite may be something true, as having the aspect of good, for example, when someone desires to know the truth; so the object of the practical intellect is good directed to the operation, and under the aspect of truth. For the practical intellect knows truth, just as the speculative, but it directs the known truth to operation.\(^58\)

So practical reason and speculative reason are not distinct powers, but have distinct ends.\(^59\)

This helps explain why Aquinas frequently drew analogies between speculative reason and practical reason, their objects, and the manner in which they operate. He noted that the good is what all things desire at the beginning of the *Summa* and in his treatment of the natural law, each time suggesting a connection between ontological good and moral good.\(^60\) It is one of the most important organizing principles of his whole theory of human action. The best of these examples for our purposes is the analogy present in Aquinas’s discussion of the natural law:

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\(^{57}\) *ST* I, q. 79, a. 11, co.: “*intellectus practicus et speculativus non sunt diversae potentiae. Cuius ratio est quia, ut supra dictum est, id quod accidentaliter se habet ad obiecti rationem quam respicit aliqua potentia, non diversificat potentiæ.*”

\(^{58}\) *ST* I, q. 79, a. 11, ad 2: “*verum et bonum se invicem includunt, nam verum est quoddam bonum, alioquin non esset appetibile; et bonum est quoddam verum, alioquin non esset intelligibile. Sicut igitur objectum appetitus potest esse verum, inquantum habet ratio boni, sicut cum aliquid appetit veritatem cognoscere; ita objectum intellectus practici est bonum ordinabile ad opus, sub ratione veri. Intellectus enim practicus veritatem cognoscit, sicut et speculativus; sed veritatem cognitam ordinat ad opus.*” The significance of this is noted by Amorose, p. 113.

\(^{59}\) On the “real identity” of the objects of practical and speculative reason, see Mark C. Murphy, *Natural Law and Practical Rationality* (Cambridge: Cambridge University Press, 2001), 41-45, and Chapter 1 more broadly.

\(^{60}\) *ST* I, q. 5 and I-II, q. 94, a. 2, co. Brock, 243.
Now a certain order is to be found in those things that are apprehended universally. For that which, before aught else, falls under apprehension is ‘being,’” the notion of which is included in all things whatsoever a man apprehends. Wherefore the first indemonstrable principle is that “the same thing cannot be affirmed and denied at the same time,” which is based on the notion of “being” and “not-being”: and on this principle all others are based, as is stated in *Metaphys.* IV. Now as being is the first thing that falls under the apprehension simply, so good is the first thing to fall under the apprehension of practical reason, which is directed to action: since every agent acts for an end under the aspect of good. Consequently the first principle of practical reason is one founded on the notion of good, viz. that “good is that which all things seek after.” Hence this is the first precept of law, that “good is to be done and pursued, and evil is to be avoided.” All other precepts of the natural law are founded upon this: so that whatever the practical reason naturally apprehends as man’s good (or evil) belongs to the precepts of the natural law as something to be done or avoided.\(^{61}\)

Finnis says that for Aquinas the principles of the natural law are derived from the principles of practical reason, especially the first principle, that good is to be done and pursued, and evil avoided. Citing the passage we have just quoted from, Finnis says that “In this context the terms ‘natural law’ or (synonymously) ‘law of nature’ refer, of course, to the third order (of deliberation and morally significant choice), not to the first order (of the natural sciences and metaphysics).”\(^{62}\) But we have shown that cannot be the whole truth of the matter, since the first principle of practical reason is founded on the broader metaphysical principle that the good is what all things desire. Moreover, Finnis omits to mention in this context that the focal meaning of natural law for Aquinas was the rational creature’s participation in the eternal law, i.e., the...

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\(^{61}\) *ST* I-II, q. 94, a. 2, co.: “In his autem quae in apprehensione omnium cadunt, quidam ordo invenitur. Nam illud quod primo cadit in apprehensione, est ens, cuius intellectus includitur in omnibus quaecumque quis apprehendit. Et ideo primum principium indemonstrabile est quod non est simul affirmare et negare, quod fundatur supra rationem entis et non entis, et super hoc principio omnia alia fundantur, ut dicitur in IV *Metaphys.* Sicut autem ens est primum quod cadit in apprehensione simpliciter, ita bonum est primum quod cadit in apprehensione practicæ rationis, quæ ordinatur ad opus, omne enim agens agit propter finem, qui habem rationem boni. Et ideo primum principium in ratione practica est quod fundatur supra rationem boni, quæ est, bonum est quod omnia appetunt. Hoc est ergo primum praeceptum legis, quod bonum est faciendum et prosequendum, et malum vitandum. Et super hoc fundatur omnia alia præcepta legis naturae, ut scilicet omnia illa facienda vel vitanda pertineant ad præcepta legis naturae, quæ ratio practica naturaliter apprehendit esse bona humana.” The English Dominican translation uses “based” for “fundatur,” after translating “fundatur” as “founded,” probably for stylistic reasons.

participation of the human intellect in the providential order of the divine intellect. Later, however, he claims that if Aquinas had more modern concerns, he would have used a third order perspective in his approach to the natural law, but concedes that a change in perspective “would not, however, have eliminated all reference to the ‘theoretical’ (non-practical) knowledge which is presupposed by practical understanding.” So he acknowledges that speculative reason is bound up with practical reason in Aquinas’s treatment of the natural law, but does not specify how. In some instances, Finnis is willing to introduce of first order reasoning into his account, such as when he discusses the ultimate basis of human rights, the natural inclinations, and changes in the perspective of practical reason in the light of natural and revealed theology. But he never formulates a general principle explaining when it is valid to introduce “first order” reasons into an argument and when not.

When Aquinas thought about ethics and politics, he exercised speculative and practical reason simultaneously. It is not as though he wore a special “speculative thinking cap,” would take it off, and put on a separate “practical thinking cap” to consider ethics and politics. Speculative reasoning and practical reasoning, to mix a metaphor, are two sides of the same thinking cap. In leaving speculative reason out of his account of practical reason in Aquinas, Finnis commits himself to many subsequent interpretative misjudgments in his account of basic goods in Aquinas and his treatment of Aquinas’s use of analogies, as we will see below.

63 ST I-II, q. 91, a. 2, co.
64 Finnis, Aquinas, 94. Finnis only tells his reader that Aquinas understood the natural law as the rational creature’s participation in the natural law in his last chapter. See 308, n. 64 and 309, n. 68.
65 On the first order, speculative foundation of human dignity, see Finnis, Aquinas, 176.
Before we discuss the political common good, we should consider whether Finnis’s account of what he calls basic goods in Aquinas is accurate. Finnis’s method of interpreting Aquinas through third order practical reasoning shapes his account of the basic goods in ways that are often at variance with the way that Aquinas actually described them.

Finnis says that basic goods are the basic premises for action, ends and goods that are not means to other goods or derived from them. He further says that the human attraction to basic goods inheres in practical reason. 66 This is how he explains people being attracted to the goods without recourse to the metaphysical principle that the good is what all things desire. The complete list of basic goods that Finnis finds in Aquinas includes life, marriage, knowledge in general, knowledge about God specifically, practical reasonableness and *virtus, societas*, and harmony with the transcendent source of the universe. Happiness, or fulfillment, Finnis says, is “not so much an item to be added to the list of basic human goods, as rather a kind of synthesis of them.” 67 Finnis’s personal list of basic goods, as distinct from that of Aquinas, includes knowledge, skillful performance, bodily life, friendship, marriage, practical reasonableness, and harmony with the ultimate source of reality. 68 He does not attribute the basic goods of play and aesthetic experience to Aquinas. Furthermore, Finnis is straightforward about his disagreement with Aquinas about capital punishment. If it is wrong to act directly against any of the basic goods, as Finnis says it is, then obviously it would be wrong to kill anyone intentionally. 69

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66 Finnis, *Aquinas*, 79. Jean Porter, “Reason, Nature, and the End of Human Life: A Consideration of John Finnis’s ‘Aquinas,’” *Journal of Religion* 80, no. 3 (July 2000), 477-78. Murphy says this makes Finnis an “inclinationist” who believes that knowledge of goods is immediate and underived, as distinct from a “derivationist” who believes that practical judgments about good must be derived from speculative knowledge about human nature. See Murphy, 6-15.
67 Finnis, *Aquinas*, 83-85. We will return to this definition of happiness in Chapter 2.
68 Finnis, *NLNR*, 448.
Since, as Finnis concedes, Aquinas explicitly stated that someone exercising public authority may justly form the intention to kill another human being, he feels constrained to acknowledge their disagreement.\(^70\) This is one of the few places where Finnis explicitly says that it is possible to improve upon Aquinas’s thought by appealing to other principles within it.

Finnis believes that the basic goods are incommensurable, but he does not attribute this position to Aquinas. Nor does he impute to Aquinas his own position that the basic goods cannot be ranked in any objective hierarchy.\(^71\) He rightly says that the basic goods are ranked by Aquinas in a “metaphysical stratification,” though he does not expound upon this observation.\(^72\) So Finnis does not simply read his own list of basic goods into Aquinas. But he does ground some of them in Aquinas’s account of the natural inclinations, which Finnis had elsewhere characterized as an “irrelevant schematization” in *Natural Law and Natural Rights*. There he faulted Aquinas’s account of the natural inclinations precisely for allowing speculative considerations to intrude into principles that should be self-evident to our practical reason.\(^73\) In the relevant passage, Aquinas said that there are three natural inclinations to goods in man:

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\text{Wherefore according to the order of natural inclinations, is the order of the precepts of the natural law. Because in man there is first of all an inclination to good in accordance with the nature which he has in common with all substances: inasmuch as every substance seeks the preservation of its own being, according to its nature: and by reason of this inclination, whatever is a means of preserving human life, and of warding off its obstacles, belongs to the natural law. Secondly, there is in man an inclination to things that pertain to him more specially, according to that nature which he has in common with other animals: and in virtue of this inclination, those things are said to belong to the natural law, “which nature has taught to all animals,” such as sexual intercourse, education of offspring, and so forth. Thirdly, there is in man an inclination to good, according}
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\(^{70}\) Finnis, *Aquinas*, 278. See *Sent. IV*, d. 37, q. 2, a. 1, ad 2; *Pot.*, q. 1, a. 6, ad 4; *ST II-II*, q. 64, a. 6, ad 3; q. 67, a. 7, co.


\(^{72}\) Finnis, *Aquinas*, 81-82.

\(^{73}\) For Finnis’s personal view of the theory of natural inclinations, see *NLNR*, 94-95. For his account of Aquinas on the natural inclinations, see *Aquinas*, 81-85.
to the nature of his reason, which nature is proper to him: thus man has a natural inclination to know the truth about God, and to live in society: and in this respect, whatever pertains to this inclination belongs to the natural law; for instance, to shun ignorance, to avoid offending those among whom one has to live, and other such things regarding the above inclination.\textsuperscript{74}

Finnis finds several of the basic goods that he lists as necessary for human fulfillment according to Aquinas in this passage. He finds the basic good of life in the first natural inclination, and the basic good of marriage in the second natural inclination. In the third natural inclination he finds both the basic good of knowledge specifically about God and what he calls the basic good \textit{societas}. We should note, however, that Aquinas’s schema of natural inclinations need not be considered an exhaustive list, so that other basic goods that Finnis lists could be considered objects of natural inclinations according to Aquinas too.

Though Finnis identifies the second inclination with the basic human good of marriage, we should note that it pertains to both man and animals.\textsuperscript{75} He notes its connection with reproduction, but neglects the fact that reproduction also pertains to the common good of one’s species. Dewan argues that this second natural inclination should be interpreted through the lens of \textit{ST} I, q. 60, a. 5, ad 3, in which Aquinas said that things are naturally inclined to preserve not only themselves as individuals, but also to preserve their species: “Nature’s operation is self-\textsuperscript{76}...

\textsuperscript{74} \textit{ST} I-II, q. 94, a. 2, co. “Secundum igitur ordinem inclinationum naturalium, est ordo praeceptorum legis naturae. Inest enim primo inclination homini ad bonum secundum naturam in qua communicat cum omnibus substantiis, prout scilicet quaelibet substantia appetit conservationem sui esse secundum suam naturam. Et secundum hanc inclinationem, pertinet ad legem naturalem ea per quae vita hominis conservatur, et contrarium impeditur. Secundo inest homini inclination ad aliquam magis specialia, secondum naturam in qua communicat cum ceteris animalibus. Et secundum hoc, dicuntur ea esse de lege naturali quae natura omnia animalia docuit, ut est coniunctio maris et feminae, et educatio liberorum, et similia. Tertio modo inest homini inclination ad bonum secundum naturam rationis, quae sibi propria, sicut homo habet naturalem inclinationem ad hoc quod cognoscat de Deo, et ad hoc quod in societate vivat. Et secundum hoc, ad legem naturalem pertinent ea quae ad huiusmodi inclinationem spectant, utpote quod homo ignorantium vitet, quod alios non offendat cum quibus debet conversari, et cetera huiusmodi quae ad hoc spectant.” This is one of the most debated passages in one of the most debated articles of the entire \textit{Summa Theologiae}. The best exposition is Lawrence Dewan, O.P., “St. Thomas, Our Natural Lights, and the Moral Order,” in his \textit{Wisdom, Law, and Virtue: Essays in Thomistic Ethics} (New York: Fordham University Press, 2008), 199-212.

\textsuperscript{75} Finnis, \textit{Aquinas}, 82.
centered not merely as to certain particular details, but much more as to what is common; for everything is inclined to preserve, not merely its individuality, but likewise its species. And much more has everything a natural inclination towards what is the absolutely universal good.”

The good of reproduction is therefore not just common to particular families, but is also a good common to the whole human race. Brock takes this argument a step further to point out that, speaking of angels, Aquinas said that “each individual naturally loves the good of the species more than its own individual good.” This means that the good of a thing’s species actually has priority for the thing over its proper good as an individual. The fact that Finnis omits to mention this aspect of the second natural inclination is significant, because man’s natural love for the good of his species may express itself in love for the political common good too. But we will return to the second part of the third natural inclination, and the question of whether any of the natural inclinations pertain to the political common good, in Chapter 4. For now, let us examine Finnis’s interpretation of the first part of the third natural inclination, the desire to seek knowledge about God. This will bring out the shortcomings of his method.

Practical Reason and the Basic Good of Religion

Finnis identifies the first part of the third natural inclination with the basic good of religion in Aquinas, which he defines as “the natural desire, not just to know random facts, but to

76 ST I, q. 60, a. 5, ad 3: “natura reflectitur in seipsam non solum quantum ad id quod est ei singular, sed multo magis quantum ad commune inclinatur enim unumquodque ad conservandum non solum suum individuum, sed etiam suam speciem. Et multo magis habet naturalem inclinationem unumquodque in id quod est bonum universale simpliciter.” Dewan, “St. Thomas, John Finnis, and the Political Common Good,” 366-68.
77 Malo, q. 15, a. 2, ad 12.
78 ST I, q. 60, a. 5, ad 1: “quodlibet singulare naturaliter diligit plus bonum speciei, quam bonum suum singulare.” See also ST II-II, q. 26, a. 3.
79 Brock, 238-39.
investigate, discover, and make oneself at home with things’ deepest explanations.”

This is a somewhat plausible interpretation of the first part of the third natural inclination, since Aquinas said that the existence of God is not self-evident. It is also compatible with Aquinas’s account of the natural moral virtue of religion, which manifests itself in both internal and external acts.

But it is not clear how the basic good of religion in Chapter III relates to Finnis’s treatment of natural and revealed theology in his tenth and final chapter. Though he refers to the basic good of religion in Chapter III, he never specifically refers to religion as a basic good in Chapter X. He does, however, now say in Chapter X that “some kind of interpersonal cooperation with the divine is possible and, since possible, an important good and something supremely to be hoped for.” But Finnis does not say in either place whether he thinks this knowledge requires the exercise of speculative reason (“first order” reasoning) or is, in this instance, an exercise of practical reason. The first section of Chapter X is called “Beyond Practical Reasoning,” but he never specifically refers to speculative or theoretical reason in the chapter (though he does refer to “theoretical truth” once).

The effect of this silence is to obscure Finnis’s move from the exercise of practical reasoning to speculative reasoning as he shifts from considering moral goods to ontological goods. This would seem to entail moving from first order reasoning to third order reasoning, but now Finnis asserts that “everyone is aware how close is the fit between first-order and third-order positions.” Finnis never justifies this move from the third order to the first. Instead, he goes about redefining many of the concepts he has used throughout his interpretation of

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80 Finnis, Aquinas, 83. It is also compatible with his personal account of the basic good of religion. See Finnis, NLNR, 89-90, 448.
81 ST I, q. 2, a. 1, co.
82 ST II-II, q. 81, aa. 2, 7.
83 Finnis, Aquinas, 315.
84 Ibid., 297.
85 Ibid., 296.
Aquinas’s political theory. These new definitions are more true to the letter of Aquinas’s writings. But they are the basis for several assertions that appear to flatly contradict assertions made earlier in the book.

It turns out that, for example, after he has made a philosophical argument for belief in God’s providential government of the universe, Finnis revises his earlier definition of practical reasonableness:

The principles of practical reasonableness are now understandable as having the force and depth of a kind of sharing in God’s creative purpose and providence. The good of practical reasonableness (bonum rationis) is now understandable as good not only intrinsically and for its own sake but also as a constituent in the good of assimilatio and adhaesio to the omnipotent creator’s practical wisdom and choice.⁸⁶

Even though Finnis’s argument is “strictly philosophical,” the fact that he separates it from his discussion of the basic good of religion suggests that he wants to win some readers’ assent to the general notion of a basic good of religion without scaring them off by revealing at the same time what he thinks it contains in its fullness.⁸⁷ The question is whether the basic good that is the object of our natural desire for knowledge about “to know and make oneself at home with things’ deepest explanations” can be truly fulfilled without the benefit of divine revelation. If it cannot, then for Aquinas, possessing merely generic knowledge about God or living in harmony with a false god would seem to be radically inadequate, and in fact, perilous for the soul of the individual. Thus the basic goods as Finnis defines them would not provide one who possessed them all with complete human fulfillment.

Finnis admits that the perspective of practical reason changes once we take human participation in divine providence into consideration philosophically: “The truth of the practical

⁸⁶ Ibid., 308-309.
⁸⁷ Finnis, Aquinas, 311.
principles is now understandable not only as the anticipation of the human fulfillment to which they direct us, but also as their conformity to the most real of all realities, the divine creative mind, the mind which is nothing other than the very reality of that pure and simple act, God.”

The natural law is now defined by Finnis as Aquinas himself defined it, namely, as “the rational creature’s participation in the eternal law,” which is the order of providence in the mind of God. According to Finnis, we now have an “unfettered openness to human goods” that was lacking before. Indeed, the first precepts of the natural moral law “can now be more adequately stated” to be the love of one’s neighbor as oneself by virtue of the fact that every human being is an image of God and participates in the divine goodness.

But Finnis says that the perspective of practical reason changes yet again when we take divine revelation into consideration theologically, as he does in the final pages of his book. Now it transpires that “for everyone, complete fulfillment in eternal life is more important than any other set of goods.” Furthermore, “One’s social and political theory is bound to be affected markedly by one’s rejection or, like Aquinas, acceptance of Christ’s teachings,” especially those pertaining to rewards and punishments in the afterlife. He says that after the advent of Christ and the establishment of the Church, “human associations are henceforth of two fundamentally distinct types,” temporal (the political community) and spiritual (the Church). He claims that those who profess belief in the teachings of the Catholic Church are morally bound by them in

88 Ibid., 309.
89 ST I-II, q. 91, a. 2, co. Finnis, Aquinas, 308, n. 64 and 309, n. 68.
90 Finnis, Aquinas, 314.
91 Ibid., 324. Compare Finnis, Fundamentals of Ethics, 151. There Finnis says that, if we grant that God revealed Himself as the cause of all goods, then we would know how our participation in basic goods relates to the common good of the whole universe.
92 Finnis, Aquinas, 327.
93 Ibid., 322.
their public acts.⁹⁴ But what are the implications of this for political theory, both before and after revelation? It would make sense to give Aquinas’s political thought fresh reconsideration in light of what practical reason has learned from speculative philosophy and divine revelation, given these two changes in the perspective of practical reason. But Finnis never works through what the full implications of revelation are for Aquinas’s social and political theory beyond distinguishing between temporal and spiritual communities and saying that members of spiritual communities should consider themselves bound by their teachings in their public acts. Thus Finnis’s Aquinas is one whose political theory does not have the benefit of being informed by metaphysics and theology. Since he declines to explore these issues, Finnis makes many statements throughout his book that appear to be contradicted by statements in his last chapter.

Finnis repeatedly says in his final chapter that the theological and metaphysical principles underpinning Aquinas’s political thought “are now understandable” or “can now be more adequately stated.”⁹⁵ He explains this by saying that “in a philosophical education, reflections about God come last, as in this book.”⁹⁶ Is his book to be understood as a work of philosophical education rather than an exposition of the thought of Aquinas? His approach may make valid points about what can be known about politics through purely natural reason, what can be known solely in light of revelation, and what truths of revelation can also be known by unaided reason. But if his purpose is to describe the thought of Aquinas, then after explaining what revelation adds to political philosophy, it would be necessary for Finnis to return to a fresh examination of Aquinas’s political thought.

Like Aquinas, Finnis believes that forms of the good are analogical. But the

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⁹⁴ Ibid., 324-25.
⁹⁵ Finnis, Aquinas, 303, 308 (three times), 314 (twice).
⁹⁶ Ibid., 296.
discrepancies between Finnis’s account of the basic goods and what Aquinas said about goods stem from his attempt to give an account of goods that depends primarily on third order, practical reasoning, almost to the exclusion of first order, theoretical reasoning. When he gives an account of that practical order that is informed by metaphysics and theology he either contradicts earlier statements or, at best, fails to show a connection between truths of the first order and third order. This also affects his discussion on relationship between man and the universe and the analogy between God’s governance of the universe and human rule.

*Analogy in Aquinas’s Political Thought*

In spite of the differences between them, Aquinas treats all goods as analogous. These analogies, and Aquinas’s frequent use of them, are possible because all beings are good and participate in the highest good, God. We can call things morally good by analogy, as when we say someone is a morally good person, or that the virtues are moral goods. We can also draw analogies between parts and wholes, or between particular goods and common goods, and between different types of common goods. 97 Finnis distinguishes two kinds of analogy in Aquinas’s social thought: analogy of proportion and analogy of focal meaning. 98 Analogy of proportionality is the “geometrical equality” applicable to distributive justice. 99 Analogy of focal meaning refers to what is reasonable and generally the case with a given concept, in contrast with what is “deviant, corrupt, secondary, rationally ‘posterior.’” 100 Finnis cites the example of what it means to be a citizen. Aquinas followed Aristotle in saying that a citizen is generally defined as one who takes part in the deliberative and judicial functions of the political

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97 Brock, 250-51.
98 Finnis, Aquinas, 43-44.
100 Finnis, Aquinas, 45-46.
community. But citizenship may be defined differently in some political communities, because there are different forms of government, and because political communities can be good or bad. The analogy of focal meaning is fruitful, then, because it allows comparisons between sound and corrupt social realities. Nevertheless, as Finnis himself notes, Aquinas uses the terms “prior,” “primarily,” and “maximally” instead of focal meaning. This is an example of how Finnis updates Aquinas’s terminology, at the same time evacuating it of its metaphysical connotations.

*Parts and Wholes: Man and the Universe*

God is good in Himself, but as the end of every being in the universe, He is a common good. The universe has a twofold order (duplex ordo), i.e., the order of the universe as a whole toward its end, and the order of the parts of the universe to the whole universe. As the end of the whole universe and its parts, God is its extrinsic common good. The intrinsic common good of the universe is the order of the universe to God. The metaphysical principle of the twofold ordering of a whole to its end and the ordering of parts to the whole is important to Aquinas’s political thought because, as we shall see, he also applies it to the political community and particular groups within it.

In general, the more universal, the more common a good is, the more perfect and godlike it is for Aquinas. This would seem to imply that the universe as a whole ranks higher in the metaphysical hierarchy than mankind. But on the other hand, the universe neither has substantial

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101 *Pol.* III, chap. 1.
102 Finnis, *Aquinas,* 47.
103 Ibid., 44, n. 81.
104 *The duplex ordo* comes from *Meta.* XII, lect. 12, n. 2627. See also *ST I,* q. 103, a. 2, ad 3. Kempshall, 92, 100. See also De Koninck, “In Defense of Saint Thomas,” 214-19.
unity, nor possesses an intellect of its own. Nor, for that matter, did Christ die for the sake of it.

Which is more godlike, the universe or man? Aquinas resolved this problem in a number of different ways. First, he said that man is a part ordered to the whole universe, but that he is also a whole in his own right.\textsuperscript{105} Man is an individual substance with a rational nature whose personal identity cannot be subsumed within some larger whole and obliterated. Therefore, Aquinas said that the universe as a whole is ordered to God along with its individual parts instead of simply saying it is ordered to God as a whole.\textsuperscript{106} The ordering of an individual person as a part to the universe as a whole does not diminish the wholeness or the distinct personality of the individual.

Aquinas further said the likeness of created things to God is by degrees. As effects of God, all things have some similitude to their cause. Since it encompasses more than one man or even mankind, the universe would seem to contain more goodness. But only man is in the image of God. We can only say the universe is in the image of God insofar as it contains men, not because of any of its other parts. Therefore, Aquinas said that the universe contains more goodness by way of extent and diffusion, but that goodness is found more intensively and collectively in man.\textsuperscript{107}

\textit{Divine Rule, Human Rule}

We have seen that Finnis recognizes that analogies play a role in Aquinas’s political thought. But did Aquinas draw an analogy between the rule of God over the universe and the rule of kings over their political communities? Finnis cites an extended passage by Aquinas to

\textsuperscript{105} \textit{Sent.} III, d. 5, q. 3, a. 2. See Maritain, 56-57.
\textsuperscript{106} \textit{ST} I, q. 65, a. 2; Kempshall, 96.
\textsuperscript{107} \textit{ST} I, 93, a. 2, ad 3. Kempshall, 96.
reinforce his argument that the end of human law and the end of the divine law are separate.

Because he frequently cites this passage, it is worth reproducing in full here:

*God’s law does not require merely that one behave well in relation to other people* (*sit bene ordinates ad alios*), *as the laws of just kings do.* It is not merely that divine rule is dissimilar to the rule of tyrants who for their own advantage exploit those subject to them. Rather, divine rule also differs greatly from the rule of kings *who intend their subjects’ advantage.* For kings are constituted to serve *interpersonal social life* (*ad socialem vitam inter hominess conservandam*); that is why they are called “public persons,” as if to say promoters or guardians of public good. And for that reason, the laws they make direct people in their relationship with other people (*secundum quod ad alios ordinatur*). Those things, therefore, which neither advance nor damage the *common good* are neither prohibited nor commanded by human laws.

God, however, is concerned not only with ruling the human multitude, but also with what is in itself good for *each person individually.* For he is the creator and governor of nature, and the good of nature is realized not simply in the multitude, but also in persons in themselves—each one. And so God commands and prohibits not only those *things by which one human being is related* (*ordinatur*) *to another,* but also those things according to which human persons are, in themselves (*secundum se*) disposed well or badly. Here what St. Paul says is relevant: “The will of God is that you be made holy (*sanctificatio*).”

In this way we exclude the error of those who say that only what *harms or corrupts one’s neighbor* (*quibus proximus aut offenditur aut scandalizatur*) is sinful.  

For our immediate purposes, what matters is that Finnis concludes on the basis of this passage that there is a “disanalogy” between the rule of God over the universe and the rule of kings over their countries. Finnis cites this passage five times in his chapter on the common good in

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108 First version of *ScG* III, chap. 121; “*Quod lege Dei non requiritur ab homine solum ut sit bene ordinatus ad alios, sicut legibus regum iustorum.* Non solum autem divinum regimé tyrannorum régimini dissimile est, qui propriam utilitatem a subditis expetunt, sed etiam multum differt a régimine régum qui subditorií utilitatem intendunt. Reges enim ad socialém vitam inter homines conservandam constituiuntur: unde publicae personae dicuntur, quasi publicum bonum procurantes. Propter quod leges ab eis postiae homines dirigunt secundum quod ad alios ordinantur. Ea igitur quibus commune bonum non promovetur nec derogatur, humanis legibus neque prohibentur neque praecipiantur. Deus autem non solum regendae multitudinis curam habet, sed etiam de unoquoque curat secundum id quod ei secundum se bonum est: est enim naturae conditor et gubernator, cuius bonum non solum in multitudine, sed etiam in unoquoque secundum seipsum salvatur. Praecipit ergo et prohibit non solum illa quibus homo ad alium ordinatur, sed etiam ea quibus secundum se bene vel male disponatur. Hinc est quod Apostolus dicit, I Thess. [4:3]: ‘Haec est voluntas Dei, sanctificatio vestra.’” Finnis, *Aquinas,* 223, n. 23; emphases in Finnis.
Aquinas for varying purposes. The problem is that this passage did not make it into the final, published version of the *Summa contra Gentiles*; it was cut by Aquinas along with nine other chapters, as Finnis acknowledges. He suggests that it was cut because including it would have diminished the focus of the *Summa contra Gentiles*. But because this passage did not make it into the final version of the work, it does not warrant the weight that Finnis attributes to it.

Aquinas drew analogies between God’s rule of the universe, the celestial hierarchy, and human government frequently and flexibly. As he did in other situations, Aquinas shifted the emphases within these analogies in order to address the specific question under consideration. He often speaks of God ruling like a king does through intermediaries, but also personally intervening when circumstances call for it. His analogies between the celestial hierarchy and human government were less strict, and less forced, than those of many of his contemporaries. But his frequent use of them shows he thought the analogy between God’s rule of the universe and the celestial hierarchy on the one hand, and human government on the other, to be fruitful and basically apt. For example, Aquinas said of Aristotle that:

> [H]e shows that political science is the most important science from the very nature of its special end. It is evident that insofar as a cause is prior and more powerful it extends to more effects. Hence, insofar as the good, which has the nature of a final cause, is more powerful, it extends to more effects. So even though the good be the same objective for one man and for the whole state, it seems much better and more perfect to attain, that is, to procure and preserve the good of the whole state than the good of any one man. Certainly it is a part of that love which should exist among men that a man preserve the good even of a single human being. But it is much better and more divine that this be done for a whole people and for states. It is even sometimes desirable that this be done for a whole people that includes many states. This is said to be more divine because it shows

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109 Finnis, *Aquinas*, 223, n. 23; 224, n. 26; 233, n. 62; 241, n. 103; 252, endnote c. His point might be made more effectively by recourse to *ST* I-II, q. 91, a. 5, co. 110 Finnis, *Aquinas*, 253, n. a. 111 See *Sent.*, II, d. 10, q. 1, a. 1; IV, d. 24, q. 2, a.1; SeG III, chaps. 76-77; *ST* I, q. 22, a. 3; q. 103, a. 6; q. 105, a. 4, co.; q. 110, a. 1; 112, a. 3; II-II, q. 184, a. 6; *Quodl.* III, q. 6, a. 3; *Ver.* q. 27, a. 3. 112 Luscombe, 273-77. 113 Kempshall, 88-90.
greater likeness to God who is the ultimate cause of all good. But this good common to one or to several states is the object of our inquiry, that is, of the particular skill called political science. Hence to it, as to the most important science, belongs in a most special way the consideration of the ultimate end of human life.\footnote{Eth. I, lect. 2, nn. 29-30: “ostendit quod politica sit principalissima, ex ipsa ratione proprii finis. Manifestum est enim quod unaquaeque causa tanto potior est quanto ad plura effectus eius se extendit. Unde et bonum, quod habet rationem causae finalis, tanto potius est quanto ad plura se extendit. Et ideo, si idem est bonum uni homini et toti civitati: multo videtur maius et perfectius suscipere, id est procurare, et salvare, id est conservare, illud quod est bonum totius civitatis, quam id quod est bonum uni hominis. Pertinet quidem enim ad amorem qui debet esse inter homines quod homo quaerat et conservet bonum etiam uni soli homini, sed multo melius est et divinius quod hoc exhibeat toti genti et civitatibus. Vel aliter: amabile quidem est quod hoc exhibeat uni soli civitati, sed multo divinius est quod hoc exhibeat toti genti, in qua multae civitates continentur. Dicit autem hoc esse divinius, eo quod magis pertinet et ad Dei similitudinem, qui est universalis causa omnium bonorum. Hoc autem bonum, scilicet quod est commune uni vel civitatibus pluribus, intendit methodus quaedam, id est ars, quae vocatur civilis. Unde et ipsam maxime pertinent considerare ultimum finem humanae vitae: tamquam ad principalissimam.” See Finnis’s translation, Aquinas, 114-15. Aquinas’s agreement with Aristotle on this point can also be seen in Ver. q. 5, a, 3. Dewan, “St. Thomas and the Divinity of the Common Good,” 219.}

Thus for Aquinas the political common good is a cause that extends to good effects in the members of the political community. But what Finnis concludes from this passage is that it “appeals first to the universality of human good, realizable in the lives of one or many—of you all as well as me. It appeals secondly to a love which is unrestrictedly ‘amongst people’ {inter homines}.’\footnote{Finnis, Aquinas, 115.} He does not, however, note the analogy between God’s rule over the universe and human rule. Aquinas calls the political common good and the deeds of those who have charge of it “more godlike” or “more divine” than the individual good because Aristotle does in the work he is commenting on. But Aquinas thinks the analogy between divine rule and human rule holds. Elsewhere he calls the common goods of other species “more divine” than individual goods in those species.\footnote{ST II-II, q. 31, a, 3. Dewan, “St. Thomas and the Divinity of the Common Good,” 226.} We will explore this in greater depth in Chapter 4.

Though Aquinas said the political common good is more divine than the individual good, he shrank from calling it “more perfect” than the individual good. In general, the more universal something is, the more perfect it is. The political common good is by definition more universal
than the individual good. But as Kempshall notes, “perfection” can refer to degrees of good or it can refer to proximity to God. The political community is a “perfect community,” but if Aquinas characterized the political common good as “more perfect” than the individual good, it would suggest that the individual would have to be more profoundly integrated into it on his path to heaven. Though the individual is inextricably part of the universe, it is not absolutely necessary for him to be a member of a political community in order to secure eternal happiness. Commenting on Aristotle’s statement in the Politics that a man living outside a political community must either be a beast or a god, Aquinas cited the example of Ss. John the Baptist and Anthony of the Desert as godlike men who had no need to live in community, the latter being a hermit in the Egyptian desert. Such godlike men could achieve salvation without the mediation of a political community, though they had been members of one earlier. This is another example of what Kempshall characterizes as Aquinas’s willingness to adjust his metaphysical hierarchy in order to avoid the absorption of the individual into a greater whole lacking substantial unity and an intellect: “wherever the immediacy of God’s relation to humankind is challenged by an intermediary level in the hierarchy of the universe, his response is to modify the logic of the structure.”

Conclusion

Aquinas’s political and ethical thought is shot through with these analogies between ontological goods and moral goods, the ontological structure of the universe and the nature of political community. One cannot really understand his political thought in abstraction from

117 Kempshall, 85-86. See also Blanchette.
118 Pol. I, chap. 1, n. 20. This is notable because it is a rare example of Aquinas using the lives of the Christian saints to elucidate a text of Aristotle.
119 Kempshall, 96-97.
them. Nor can one fully understand it abstracted from the place of the political community in the *reditus* of the universe back to God. Therefore, first order speculative reasoning and third order practical reasoning cannot be distinguished as sharply as Finnis distinguishes them in his account of Aquinas. Now let us turn to the political common good itself.
Chapter 3
The Political Common Good

Introduction

In the last chapter, we examined the metaphysics of the good, the different kinds of goods, how they relate to one another, and how Aquinas and Finnis say we know them. We distinguished between the extrinsic and intrinsic common goods of the universe. In this chapter, we consider the intrinsic common good and the extrinsic common good of the political community. The intrinsic common good is the order of the whole political community and its parts. The extrinsic common good is what the political community is ordered to, its goal or end. But does the common good of the whole political community come at the expense of its parts? Is the extrinsic common good simply justice and peace, is it virtue, happiness, contemplation, or some combination of these things? Where is the political common good to be found? The answers to these questions are important, because the end helps determine the very nature of politics and the means that we use to achieve the end. We will begin with a consideration of Finnis’s account of the political common good in Aquinas, which he defines as the public goods of justice and peace. Once we have shown the inadequacy of Finnis’s account, we will consider what the political common good actually was for Aquinas.

Public and Private Good

Finnis distinguishes between what he calls the common good of the political community and the specifically political common good in Aquinas. The former is the non-political good of
individuals and families, while the latter is strictly limited to the functioning of law.\textsuperscript{1} According to Finnis, Aquinas believed that the political common good was limited and instrumental. Rather than being concerned with the complete virtue of citizens, the political common good only secures the justice and peace necessary for life in community.\textsuperscript{2} In contrast, the common good of the political community, the non-political good distinct from the operation of political institutions, is secured by individuals, families, and other associations in their private pursuits. The political community is a \textit{communitas perfecta}, or “complete community” in Finnis’s rendering, whose completeness comes from its ability to provide for law and punishment.\textsuperscript{3} Individuals and families are imperfect or incomplete insofar as they cannot adequately impose impartial sentences and enforce them on their own. Without this, no common life would be possible, which leads Finnis to reluctantly admit that this is “perhaps” a necessary qualification to his contention that the political common good is purely instrumental.\textsuperscript{4}

Finnis says the “clearest” term Aquinas used for the specifically political common good is “public good.”\textsuperscript{5} By terming the specifically political common good the “public good” and the common good of the political community “private good” he turns the distinction between the two into a contrast, so that a firm boundary exists between public good and private good. But a closer examination of Aquinas’s works shows that, while he used the term common good some

\textsuperscript{1} Finnis, \textit{Aquinas}, 235, 238. Kempshall, 124, n. 122 finds this distinction in \textit{ST} I-II, q. 92, a. 1, ad 3. But it is worth noting that Wright shows that Finnis does not demonstrate that the separate realm required for the common good of the political community could exist independently of law and the political common good. See Matthew D. Wright, “The Aim of Law and the Nature of Political Community: An Assessment of Finnis on Aquinas,” \textit{American Journal of Jurisprudence} 54 (2009), 156,160.
\textsuperscript{2} Finnis, 233.
\textsuperscript{3} Finnis, 244-45.
\textsuperscript{4} Finnis, 245.
\textsuperscript{5} Finnis, 226-27.
370 times in various ways, he only used the term public good a dozen times.\textsuperscript{6} Aquinas referred to the political common good simply as the common good far more often than he referred to it as the public good. Moreover, when he did use the terms public good and private good, he rarely contrasted them. When there is a tension between the political common good and private good, Aquinas usually resolves it in favor of the former. In fact, as Finnis admits, Aquinas says that “among human goods, the public good prevails over private good,” and private good should be “ordered to public good as to an end.”\textsuperscript{7}

Finnis contrasts the limited public good with the wide range of basic goods he says are private and not the concern of political institutions or the law. He finds the contrast between public and private good in Aquinas’s statement that:

The species of virtue are distinguished by their objects, as explained above. Now all the objects of virtues can be referred either to the private good of an individual, or to the common good of the multitude: thus matters of fortitude may be achieved either for the safety of the political community, or for upholding the rights of a friend, and in like manner with the other virtues. But law, as stated above, is ordained to the common good. Wherefore there is no virtue whose acts cannot be prescribed by the law. Nevertheless, human law does not prescribe concerning all the acts of every virtue, but only in regard to those that are ordainable to the common good—either immediately, as when certain things are done directly for the common good—or mediately, as when a lawmaker prescribes certain things pertaining to good order, whereby the citizens are directed in the upholding of the common good of justice and peace.\textsuperscript{8}

\textsuperscript{6}Sent. IV, d. 19, q. 2, a. 1, ad 6; ST I-II, q. 105, a. 3, co.; II-II, q. 26, a. 6, ad 2; q. 66, a. 7, co.; q. 117, a. 6, co.; III, q. 18, a. 6, co.; Quodl. III, q. 6, a. 3, arg. 4; DR, I, chap. 16; Eth. IV, lect. 7, n. 2; Pol. I, lect. 4, n. 6; Rom., chap. 13, lect. 1. Public good is used thirteen times if you count the passage quoted in Chapter 2 above that Aquinas cut from the ScG but is cited by Finnis.

\textsuperscript{7}ST II-II, q. 117, a. 6, co.: “in bonis humanis bonum publicum praeeminet bono privato.” Sent. IV, d. 19, q. 2, a. 1, ad 6: “bonum privatum debet ad bonum publicum ordinari sicut ad finem.” Noted by Finnis, p. 251.

\textsuperscript{8}ST I-II, q. 96, a. 3, co.: “species virtutum distinguuntur secundum obiecta, ut ex supradictis patet. Omnia autem obiecta virtutum referi possunt vel ad bonum privatum aliiuis personae, vel ad bonum commune multitudinis, sicut quae sunt fortitudinis potest aliius exequi vel propter conservationem civitatis, vel ad conservandum ius amici sui; et simile est in alius. Lex autem, ut dictum est, ordinatur ad bonum commune. Et ideo nulla virtus est de cuius actibus lex praecepit non possit. Non tamen de omnibus actibus omnium virtutum lex humana praecepit, sed solum de illis qui sunt ordinabiles ad bonum commune, vel immediate, sicut cum aliqua directe propter bonum commune fiunt; vel mediate, sicut cum aliqua ordinans ad legislatore pertinentia ad bonam disciplinam, per quam cives
Finnis claims this establishes that Aquinas believed that there are private goods, such as those of individuals and small associations, that are simply not part of the political common good.¹⁰ Moreover, according to Finnis “there are private goods which prevail over public or other common good; the state’s rulers cannot rightly intervene in private relationships and transactions to secure purposes other than justice and peace.”¹¹ He claims that Aquinas was “insistent” on the separation of the public and private spheres.¹² Aquinas did distinguish between public and private forms of human societies, and therefore implicitly between the public and private nature of their particular goods.¹³

But Matthew Wright correctly argues that Finnis’s account of the relationship between public and private good in Aquinas is flawed. Wright locates the distinction between public and private in the objects of human acts, and whether the objects of those acts are referable to the common good immediately, mediately, or not at all.¹⁴ This distinction captures what Aquinas thought practically speaking. But Aquinas may not have articulated a clear principle for distinguishing between private and public because the way they relate to one another can change; it may be impossible to delineate a precise, permanent boundary between public and private.

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¹⁰ Finnis, Aquinas, 225-26. Expressly private goods in Aquinas include temperance (ST I-II, q. 94, a. 3); consecrated virginity (ST II-II, q. 152, a. 4, ad 3); family (Contra Imp., Part II, chap. 2, ad 3.); the selfish good of the individual, especially that of a tyrant (ST I-II, q. 109, a. 3, resp.; II-II, q. 42, a. 2, resp.); the proper good of the individual (ST II-II, q. 47, a. 10, resp.).


¹² Contra Imp., Part 2, chap. 2, co., ad 3.

¹³ Wright, 141.
Consider the cases of what Finnis calls the private goods of family, religious faith, and worship. The good of the family is a common good that Aquinas called private. Finnis repeatedly asserts that the family, along with individuals, forms the political community, that the political common good is instrumental to the good of families, and that marriage is a basic good. But when he claims that “there are ‘private goods’ (of individuals and small groups, e.g. of friends) whose good (e.g. whose right) is not part of the common good specific to the state,” Finnis shrewdly refrains from listing the family among them. That is because Aquinas called the private good of the family a part ordered to the whole political community: “A private society is part of a public society, as a house is part of a city. The fact that a man forms part of a family causes him to form part of a city, which is composed of many families.” He went so far as to follow Aristotle in saying that the private familial good of reproduction is subject to the political common good because it pertains to the perpetuation of the species:

The reproductive act is ordained for the good of the species, which is the common good. And law can ordain to the common good, but private good is subject to the ordination of each person. And so individuals regarding acts of the nutritive power, which is ordained for the preservation of individuals, can determine for themselves the food suitable for themselves. But it belongs to the lawmaker, to whom it belongs to make ordinances regarding the procreation of children, and not to individuals, to determine under which conditions the reproductive acts should take place, as the Philosopher in the Politics also says.

14 ST III, q. 18, a. 6, resp.
16 Contra Imp., Part II, chap. 2, ad 3: “collegium autem privatum est pars publici collegii, sicut domus est pars civitatis: unde per hoc quod aliquis est de collegio alicuius familiae, hoc ipso est de collegio civitatis, quae ex diversis familiis constituetur.”
17 Malo, q. 15, a. 2, ad 12.: “actus generationis ordinatur ad bonum specie, quod est bonum commune. Bonum autem commune est ordinabile lege; sed bonum privatum subiacet ordinatione uniuscuiusque. Et ideo quamvis in actu nutritivae virtutis, quae ordinatur ad conservationem individui, unusquisque possit sibi determinare cibum convenientem sibi; tamen determinare qualis debet esse generationis actus non pertinet ad unumque, sed ad legislorem, cuius est ordinare de propagane filiorum, ut etiam philosophus dicit in II. Polit.” See also ScG IV, chap. 78, no. 2; ST II-II, q. 154, a. 9, ad 3. Nevertheless, Wright is correct to note that Aquinas had a stronger sense of the private nature of the family’s particular good than Aristotle. See Wright, 142.
Even the private good of reproduction in the family is not immune from the concern of the political community because it pertains to the political common good, though we may be wary of interpreting this statement too broadly when we consider that Aristotle approved of abortion and infanticide. In this sense, the common good of the species is limited by what Finnis calls the basic good of life. The common good of the species is also limited by marriage, which can only be contracted by the free consent of the parties to it. Aquinas held that the common good of perpetuating the species through marriage is not superior to the private good of consecrated virginity. He did not say that was because the individual has a natural right to determine their vocation, but because the private good of the consecrated virgin’s soul, which is ordered directly to the contemplation of God, is of a higher genus than the good pursued by the family. Therefore, when Aquinas resolved tensions between a common good and a private good in favor of the latter, it was not because the political common good facilitates private good, but rather because the private good in question is of a higher genus than the political common good.

We might add that private nature of the family’s common good vis-à-vis that of the political community is ambiguous. The family also has a public character for Aquinas because when two people form a family, they take on responsibilities toward their fellow citizens and the political common good that they did not have before. The family is a particular good that must be rightly disposed toward the common good. If we can assume that Aquinas agreed with Aristotle, then it is responsible for educating children, because they are part of the city and will

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19 *ST* II-II, q. 152, a. 4, ad 3. Finnis includes this among “other such matters” limiting the competence of external authorities over the individual in 240-41, n. 98.
grow up to be citizens.\textsuperscript{21} Finnis mentions that the government has responsibilities toward families, but not that the family has responsibilities to the government.

Is religious faith and worship a private good too? Finnis says that Aquinas held that “the common good of the political community does not include important human goods which essentially pertain to individuals in themselves, such as the good of religious faith and worship,” which are distinct from the basic good of religion.\textsuperscript{22} He quotes a passage from \textit{Summa contra Gentiles} III, chap. 80, nn. 14-15 to argue his point:

\begin{quote}
…in human affairs there is a certain [type of] common good, the good of the \textit{civitas} or people…There is also a [type of] human good which—[though it] benefits not merely one person alone but many people—does not consist in community but pertains to one [as an individual] in oneself, e.g. the things which everyone ought to believe and practice, such as matters of faith and divine worship, and other things of that sort.\textsuperscript{23}
\end{quote}

But Lawrence Dewan, O.P. points out that Finnis’s interpretation of the text that he cites to support this assertion is misleading. The private good of faith and divine worship that Aquinas compares to the common good in this context is not the good of any given believer, but the specific good of the archangels who herald the works of God, as when the archangel Gabriel announced the incarnation to the Virgin Mary. The text does not support Finnis’s claim that Aquinas held religious faith and worship to be private goods for all human beings. Dewan

\textsuperscript{21} Pol. I chap. 11; Eth. X, chap. 9, lect. 15, nn. 2155-57.
\textsuperscript{22} Finnis, \textit{Aquinas}, 226, citing ScG III, chap. 80, nn. 14-15. Wright, 141 appears to agree with Finnis’s general claim about the private nature of religious faith and worship, though he grounds his claim in \textit{DR}.
\textsuperscript{23} The translation is from Finnis, \textit{Aquinas}, 226, quoting ScG III, chap. 80, nn. 14, 15. The full two paragraphs read: “Inter hos etiam quidam ordo existet. Nam in rebus humanis est aliquod bonum commune, quod quidem est bonus civitatis vel gentis, quod videtur ad principatum ordinem pertinere. Unde Dionysius eodem capitolo dicit quod nomen principatum designat quiddam ductivum cum ordine sacro. Propter quod et Dan. 10, fit mentio de Michaelae principi Judeorum, et principi Persarum, et Graecorum. Et sic disposition regnorum, et mutatio dominationis a gente in gentem, ad ministerium huius ordinis pertinere oportet. Instructio etiam eorum qui inter homines existunt principes, de his quae ad administrationem sui regiminis pertinent, ad hunc ordinem spectare videtur. Est etiam aliquod humanum bonum quod non in communitate consistit sed ad unum aliquem pertinet secundum seipsum, non tamen uni soli utile, sed multis: sicut quae sunt ab omnibus et singulis credenda et observanda, sicut ea sunt fidei, et cultus divinus, et alia huiusmodi. Et hoc ad Archangelos pertinet, de quibus Gregorius dicit quod summa nuntiant: sicut Gabrielem Archangelum nominamus, qui virgini verbi incarnationem nunciavit ab omnibus credendem.”
argues, correctly, that Aquinas believed that because it is natural for religious faith and worship to have public manifestations that the political community should enact laws pertaining to them.24 Aquinas said that the “the offering of sacrifice belongs generically to the natural law, and consequently all are agreed on this point, but the determination of sacrifices is determined by God or by man.”25 He also noted that political communities devise laws and institutions pertaining to divine worship because it is important for moral formation and the political common good.26 Finnis allows for this public manifestation of religious faith and worship in his tenth chapter, but this appears difficult to reconcile with his earlier statement.

The religious faith and worship that Aquinas considered in all of his writings was that of the Catholic Church. In his concluding chapter, Finnis acknowledges that the Church is established by a public revelation and gives public reasons for her teachings on faith and morals.27 He also says that the Church is a perfect society.28 Like the communitas perfecta that is the political community, the Church has a constitution and a public law with coercive power, i.e., canon law.29 In Aquinas’s time it availed itself not just of spiritual penalties, but also ecclesiastical jails. Finnis even says that public officials who belong to the Church should obey her teachings in areas that are within her competence.30 He asserts that if a Catholic political

25 ST II-II, q. 85, a. 1, ad 1: “oblatio sacrificii in communi est de lege naturae, et ideo in hoc omnes convenient. Sed determinatio sacrificiorum est ex institutione human vel divina, et ideo in hoc differunt.”
26 ST I-II, q. 99, a. 3.
27 Finnis, Aquinas, 327.
28 Ibid., 226. A.S. McGrade correctly points out that Aquinas never applied the term “perfect society” to the Church himself, though he exaggerates the degree to which it is a “leap” for Finnis to attribute that position to Aquinas. See McGrade, “What Aquinas Should Have Said? Finnis’s Reconstruction of Social and Political Thomism,” American Journal of Jurisprudence 44 (1999), 128.
29 Finnis, Aquinas, 322.
30 Ibid., 324.
leader is excommunicated for committing a sufficiently grave moral evil, and “If, under and by virtue of the constitution of the ruler’s political community, the ecclesiastical act of excommunication had the effect of invalidating the ruler’s civil authority, that would be a proper effect and would involve no violation of the distinction between Church and state.”31 These statements from his final chapter plainly contradict Finnis’s own assertions in Chapter VII, which, as we have seen, is a consequence of the perspective that practical reason has of the basic good of religion changing once reason accepts the truth of divine revelation.

Finnis says that the political common good does not “include” the common good of the Church, which is true; the Church is not a part ordered to the whole that is the political community.32 But the political common good does not exactly exclude the religious faith and worship of the Church either. Though personal religious faith and vocations may be private goods, worship and the Church are at least partially public goods for Aquinas. Moreover the political community itself seems to require some kind of public morality and openness to natural religion, as we will see in Chapter 4.

The examples of the family, consecrated virginity, and religious faith and worship, show that Finnis vastly overstates the significance and the severity of the distinction between public and private good in Aquinas. His treatment of the relation between public and private is more nuanced and complex than Finnis acknowledges. A private good trumps a common good only when it ranks higher in the metaphysical hierarchy of goods. Higher goods are by definition more common. Therefore, a private good trumps a common good because it is in fact directly ordered to a still more common good. Private goods do not limit the common good on the basis of...
of privacy itself. Therefore, the term public good is of limited use in understanding Aquinas’ conception of the political common good, because it does not exhaust the meaning of the political common good.

Much more frequently does Aquinas distinguish particular goods from the common good. Therefore, an exploration of the nature of particular goods in relation to the common good of the whole is more fruitful for understanding Aquinas’s political thought than the imprecise distinction between public and private goods.

*The Intrinsic Political Common Good: Parts and the Whole*

The relationship between parts of the political community and the whole political community is much more important for understanding Aquinas’s political theory than any distinction between public and private. Just as there is a *duplex ordo* of order and end in the universe, so too there is a *duplex ordo* in the political community. The political community has an intrinsic and extrinsic common good. The intrinsic common good is the order of parts to the whole, parts to other parts, and the whole to the parts. The political community is a unity of order that pursues an end.\(^{33}\) That end is the extrinsic common good. In what remains of this chapter, we will first examine the intrinsic political common good. Then we will examine Finnis’s interpretation of the extrinsic common good of the political community in Aquinas.

Man’s relationship to the intrinsic political common good is similar to his relationship to the intrinsic common good of the universe. Like the rest of creation, the political community is ordered in some way to God and makes some contribution to ordering individuals to God. Its unity is a unity of order. Like the universe, the political common good is not a substance and

\(^{33}\) *Eth.* I, chap. 1, lect. 1, no. 5.
does not have an intellect. Man participates in the hierarchy of being in community with his fellow man and is ordered to the common good of the political community as a part is to a whole. But as we saw in the case of the whole universe in relation to man as a part, there is a danger that the political community and its common good might be construed as subsuming the individual human being and obliterating his individual personality.

Aquinas spoke to this problem in a couple of ways. On the one hand, he said that parts are ordered to wholes, recognize the superiority of the common good of the whole to their particular good, and therefore readily sacrifice themselves for the sake of the whole. He notes that an arm rises up to protect the head, and that men lay down their lives for the good of their communities. But what if a man lays down his life for his community? Has the common good not required the sacrifice of his individual good? Aquinas resolved this difficulty by saying that in sacrificing his life for the common good, the individual achieves virtue, which is his individual good.  

Personal virtue is more important than mortal life. Therefore, the common good’s requirement of the ultimate sacrifice is compatible with the good of the individual who sacrifices himself.

Aquinas did not wish the political common good to frustrate the immediacy of the individual’s union with God any more than he wished the universe to do so. Therefore, he said that “Man is not ordained to the body politic according to all that he is and has.” So there is an analogy between the way Aquinas resolved the tension between the individual and the universe and the individual and the political common good in his system.

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34 Perf., chap. 16; ST II-II, q. 26, a. 4, ad 2; a. 5, co. This is noted by Kempshall, 105; Jean Porter, “Reason, Nature, and the End of Human Life: A Consideration of John Finnis’s ‘Aquinas,’” Journal of Religion 80, no. 3 (July 2000), 480; Brock, 239-40.
35 ST I-II, q. 21, a. 4, ad 3.
Particular Goods

There are two kinds of particular good in Aquinas: the particular good of function and particular good of a subject.36 The particular good of the subject refers to the good of a part of the political community. The part must have the autonomy necessary to achieve its particular common good within the political community. In addition to calling the family a private good, Aquinas also called it a particular good.37 Thinking of the family as a particular good helps understand the ambiguities of its “private” nature. Other examples of particular goods in Aquinas include the goods of other societies, of the individual, the good of one’s neighbor, the goods of the soul, body, and externalities.38

Aquinas held that “a particular good is ordered to the common good as to an end; indeed, the being of a part depends on the being of the whole. So also the good of the nation is more godlike than the good of one man.”39 Finnis seems concerned that characterizing particular goods as being ordered or subordinate to the political common good threatens their legitimate autonomy. He says the political common good “provides an indispensable context and support for those parts or aspects of the common good which are private (especially individual and familial good). It thus supplements, subserves, and supervises those private aspects, but without superseding them, and without taking overall charge of, or responsibility for, them.”40 He acknowledges that the language of parts and whole is central to Aquinas’s political thought, but

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37 ST II-II, q. 50, a. 3, c.
38 On the good of an individual, see ScG III, chap. 17, nn. 6-7. On the good of one’s neighbor, see Malo, q. 3, a. 1, ad 17. On the goods of the soul, the body, and exterior goods, see Quodl. V, q. 3, a. 2, co.
39 ScG III, chap. 17, n. 6: “Bonum particulare ordinatur in bonum commune sicut in finem: esse enim partis est propter esse totius; unde et bonum gentis est divinius quam bonum unius hominis.”
is concerned that it sounds “harsh to modern ears,” and so he emphasizes that it is simply a reality that men are parts of a household and political community and have to coordinate their actions with other members of the community. It should be noted that in his fourth chapter Finnis says that this “should not be understood as promoting any kind of totalitarianism.”41 But as we shall see, he sometimes speaks as though this threat should be taken seriously.

Thus the political common good fundamentally facilitates the pursuit of private or particular goods in Finnis’s account. But there is no reason to shrink from saying that private or particular goods are ordered or directed to the common good in Aquinas. The ordering of particular goods to the common good does not necessitate their absorption or obliteration. For example, Aquinas believed that one who materially desires the particular good of their family when it is in tension with the material requirements of the political common good is blameless as long as one formally desires the common good. He compared the perspective of the wife of a criminal who faces a just sentence of death to that of judge who passes the sentence and sees it executed.42 The judge is materially responsible for the political common good, which in this case diminishes the good of this particular family. The wife, however, is materially responsible for the particular good of her family and intends the common good in a formal way. She is blameless in desiring that her husband not be executed, because her main contribution to the political common good comes through her care for the particular good of her family. Unless she is able to find a second husband who is better than the first, her ability to secure the good of her

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41 Ibid., 121. He may be thinking of objections to Aquinas’s political thought like those of Shadia Drury, who claims that “The power Aquinas demands for the church is so extensive that it surpasses all secular tyrannies…For totalitarianism is the invention, not of modernity, but of the Catholic Church.” See Drury, Aquinas and Modernity: The Lost Promise of Natural Law (Lanham, MD: Rowman & Littlefield, 2008), 52. This anachronistic application of the term “totalitarianism” to medieval Christendom is not supported by reference to any historical scholarship on medieval history or totalitarianism.  
42 ST I-II, q. 19, a. 10, co.
family will become more difficult. So as long as her solicitude for her familial good does not become formally opposed to the common good, e.g., by trying to break her justly condemned husband out of prison, her desire that he not be executed is blameless. The ordering of particular goods to the common good, then, does not come at the expense of care for the particular goods themselves; on the contrary, the common good requires that particular goods be looked after by those responsible for them.43

The second kind of particular good, that of a particular function, refers to a public part of the body politic that is concerned with a specific task of the political community.44 An example of this kind of particular common good mentioned by Aquinas would be the common good of the military, which is a part subordinate to the whole common good.45 Its material responsibility for part of the common good could become a material responsibility for the whole common good under certain circumstances, e.g., if the government collapsed. But if the particular good of the military was not subordinated to the common good, and was conflated with it, as in the case of permanent military dictatorships, then it would harm the political common good and particular goods within the community, including the good of the military itself.

Goods particular to individuals, families, and other associations are ordered to the common good chiefly by pursuing their own particular good, for which they are materially responsible. When they fail to care for their proper good, the common good suffers. Conversely, when the political community unduly assumes material responsibility for particular goods, both the particular good and the common good suffer. But the political common good cannot facilitate the pursuit of particular goods without ordering them to one another and to the

44 *ST* I-II, q. 1, a. 2, ad 3.
45 *ST* II-II, q. 50, a. 4.
political common good itself. This need not come at the expense of particular goods or be contrary to their desires, for as we have seen, Aquinas said that individuals and parts desire the common good more than they desire their own good. This inclination is diminished by original sin, but ever present.\textsuperscript{46} Simply by ordering social cooperation, political community and law help people become better than they otherwise would be by making them overcome their proneness to being selfish. They therefore make people more rational by helping perfect their inclination to the common good.

Now that we have considered the intrinsic political common good in Aquinas, let us turn to the extrinsic common good, the end that the political community, as a whole and in its parts, is organized to pursue.

\textit{The Specifically Political Common Good and the Common Good of the Political Community}

Finnis’s interpretation of Aquinas on the common good hinges on a distinction between the specifically political common good and the common good of the political community, i.e., between the public realm of the functioning of government and law, and the private realm of individuals, families and other associations that are governed by the law, but which are not its instruments.\textsuperscript{47}

Finnis says that Aquinas gave the complete community a “purely formal description: a community so organized that its government and law give all the direction that properly can be given by human government and coercive law to promote and protect the common good.”\textsuperscript{48}

Characterizing Aquinas’s description of the complete community as “purely formal” allows

\begin{itemize}
  \item \textsuperscript{46} Leo Elders, S.V.D., “The Actuality of St. Thomas Aquinas’s Teaching on the Common Good,” \textit{Doctor Communis} 49 (1996), 49.
  \item \textsuperscript{47} Finnis, \textit{Aquinas}, 235, 248.
  \item \textsuperscript{48} Ibid., 221-22.
\end{itemize}
Finnis to reduce the political common good to the plain functioning of government and law. Wright argues that “by deriving the common good of the state (by which he means the whole political community) from the operation of government and law, Finnis has substantively subsumed consideration of what political community is into a description of legal regulation.”

Finnis does this to reinforce his distinction between the public nature of the specifically political common good and the private nature of the common good of the political community. Even so, he has difficulty preserving these distinctions throughout his work.

Finnis says that the specifically political common good is instrumental to the good of the private realm and limited to the justice and peace necessary for people to live in community. The only qualification Finnis adds to this is to say that the political common good may be necessary for the impartial punishment of wrongdoers, but that this simply makes it the most elevated of public instruments.

The common good of the political community is where Finnis locates the private good, i.e., the pursuit of the basic goods of human life. Though happiness comes from the possession of the basic goods and the practice of virtue, the government and law are only concerned with virtue insofar as it is necessary for the preservation of justice and peace. By attending to the maintenance of justice and peace, the government and law merely facilitate this private good.

Since Finnis says the political common good is limited to justice and peace and instrumental to the pursuit of private good, we should consider whether his description of the content of justice and peace is accurate as an interpretation of Aquinas. Then we may consider whether the end of the political community might be something else.

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49 Wright, 138.
51 Ibid., 226-27.
52 Wright, p. 145.
Let us consider Finnis’s brief treatment of peace in Aquinas before turning to his more lengthy account of justice. Though he acknowledges that peace can have a more robust meaning, Finnis says that:

[1]n the context of the passages about public good, it is clear that “peace” refers, directly, only to (1) absence of words and deeds immorally opposed to peace, such as disorderly contentiousness, quarrelsome fighting, sedition, or war, (2) concord, i.e. the “tranquility of order” between persons and groups which includes amongst its necessary but not sufficient conditions a love of neighbor as oneself, along with the avoidance of collisions (e.g. in road traffic) and dissensions such as occur without personal fault, and perhaps also (3) a sufficiency of at least the necessities of life.\footnote{Finnis, Aquinas, 227.} This political peace allows us to secure the benefits of living in society and avoid strife with fellow citizens, but falls short of the peace that comes from perfect justice. Finnis says Aquinas’s conception of peace should not be understood “thinly,” but says that it can even be had under the rule of a tyrant.\footnote{Finnis, Aquinas, 227-28.} In practical terms, peace is promoted by the rule of law and the differentiation of public offices so that many people may participate in them.\footnote{Ibid., 262.}

But there is reason to question whether Finnis gives an extensive enough explanation of Aquinas’s use of the term peace. We may also question whether he blurs distinctions between the meanings the term had. Pakaluk points out that peace for Aquinas means a range of things, from mere absence of strife in external actions to profound inner harmony of affections. He lists four different meanings of peace: “(i) the mere absence of strife; (ii) agreements of citizens on important matters; (iii) civic friendship; or (iv) the complete harmony of persons, of their

\footnote{Finnis, Aquinas, 227.}
\footnote{Finnis, Aquinas, 227-28.}
\footnote{Ibid., 262.}
affections and impulses within and their wishes and choices without.” Pakaluk’s list downplays social coordination as an aspect of peace, while Finnis’s list tends to conflate it with complete harmony. Pakaluk stresses that these four levels of peace are ordered to an increasing level of positive unity among the people of a political community. Finnis, on the other hand, defines two aspects of peace in his account negatively, as the absence of conflict, and excludes unity of individual desires from his list of things concerned with political peace. Love of neighbor as oneself is defined by Finnis as a precept of practical reason that tells us to make our pursuit of our own good commensurate with that of others and is conducive to peace. Rather than emphasize that love of neighbor fosters unity of desire for the good, however, he stresses that failure to follow it results in “disintegration and ruin” of the political community.

Pakaluk contends that peace in the sense of mere absence of strife was not true concord for Aquinas, citing this passage:

For if one man concord with another, not of his own accord, but through being forced, as it were, by the fear of some evil that besets him, such concord is not really peace, because the order of each concordant is not observed, but is disturbed by some fear-inspiring cause. For this reason [Augustine] premises that “peace is tranquility of order,” which tranquility consists in all the appetitive movements in one man being set at rest together.

Pakaluk argues that the peace that Aquinas rejects as a false peace here is compatible with the kind that Finnis argues for, and indeed, Finnis does say that political peace as he defines it could even be secured under a tyrant. But surely one characteristic of life under a tyrant is that

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56 Pakaluk, 69. Wright, 151, n. 63 likewise notes that “there is a great deal of conceptual space between mere non-contentiousness and the full unity of virtue and desire that Aquinas attributes to the ‘thickest’ form of peace.”

57 Finnis, Aquinas, 271. See also 127, 132.

58 ST II-II, q. 29, a. 1, ad 1: “Sin enim homo concordet cum alio non spontanea voluntate, sed quasi coactus timore alciuius mali imminentis, talis concordia non est vere pax, quia non servatur ordo utriusque concordantis, sed perturbatur ab aliquo timorem inferente. Et propter hoc praemittit quod pax est tranquilitas ordinis. Quae quidem tranquilitas consistit in hoc quod omnes motus appetitive in uno homine conquiescunt.” Pakaluk, p. 71.

59 Finnis, Aquinas, 227, n. 48.
citizens live in fear, which Aquinas here said is not true peace or concord. If they do not fear being personally harmed by the tyrant, people may tolerate a tyrant because they fear that his removal may bring still worse things in its wake. Aquinas told the story of how the tyrant Dionysius of Syracuse, knowing himself to be a tyrant, was surprised to learn that an old woman prayed for his health and life. When he asked her why she did this, the old woman replied that as a young girl she wished for the death of the tyrant under whom Syracuse suffered, and her prayer was answered, but the new ruler was even harsher. When she prayed for his death, he was succeeded by a still worse tyrant, Dionysius. “So if you should be taken away, a worse should succeed in your place.”60 Finnis cites this passage to support his assertion that peace in Aquinas is compatible with tyranny, but the passage makes no mention of peace; it simply says that it is preferable to suffer a lesser tyranny than a greater one. Elsewhere Aquinas observed that: “the government of a tyrant is maintained by fear alone and consequently they strive with all their might to be feared by their subjects.”61 So the peace that is compatible with life under tyranny, peace based on fear, can neither be true peace, nor true political peace for Aquinas.

In Pakaluk’s view, nothing in Aquinas’s statements about the peace secured by the political common good prevent that peace from being ordered to virtue. On the contrary, he says that “the legislator should aim at as much peace, and therefore at as much virtue in his citizens, as is practically possible.”62 Certainly, if the tranquility of order requires that men’s appetites be stilled and subordinate to reason, the law’s concern must go beyond external actions. But Finnis’s definition of tranquility of order seems to exclude this deeper harmony of desire. He

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60 DR I, chap. 7, no. 44: “Itaque si tu fueris absumptus, deterior in locum tuum succedet.” Nevertheless, as the passage suggests, removing a tyrant or disobeying may be imprudent if it further weakens the rule of law. Disobedience to unjust laws must be measured by the same consideration. See ST I-II, q. 96, a. 4, co.
61 DR I, chap. 11, no. 81: “ut solo timore tyranni regimen sustentetur, unde et timeri se a subditis tota intentione procurant.”
62 Pakaluk, 71-72. Wright, 139, concurs.
says that practical reasonableness requires the love of neighbor, which might seem to suggest harmony of desires, but Finnis defines love of neighbor as desiring the good of another for his own sake and in a manner that is commensurate with our own good.\textsuperscript{63} It does not necessarily entail the desire of the same end. So Finnis’s interpretation of the requirements of political peace is thinner and less differentiated than that of Aquinas.

\textit{Justice}

Now let us turn to Finnis’s interpretation of Aquinas on justice. Finnis argues that although Aquinas believed that the law promotes the virtue of justice, it can only concern itself with the acts of the other virtues insofar as they pertain to justice.\textsuperscript{64} That raises the question of whether justice between men in external acts can be secured without men possessing justice in their souls, which we will address when we consider the relationship between law and virtue in the next chapter. In this chapter, we are concerned with how he defines the justice that is the end of the political community.

Finnis notes that Aquinas distinguished between general or legal justice and particular justice. He says that Aquinas defines general justice thus:

\begin{quote}
Whether one’s virtue-in-action bears on oneself or on other individuals \{alias personas singulares\}, it can be for the sake of \textit{common good} \{est referibile ad bonum commune\}. This willingness to treat common good—in particular the common good of a relevant group or community—as the point of one’s actions as they bear on individuals (including oneself) is called ‘general justice’.
\end{quote}

Finnis claims that the virtue of general justice is practiced in relation to social groups in general

\textsuperscript{63} Finnis, \textit{Aquinas}, 132.
\textsuperscript{64} Ibid, 224-25.
\textsuperscript{65} Ibid, 118.
rather than being specifically ordered to the political community. In this view, it pertains equally to social groups, the political community, or even the community of mankind. It is true that general justice need not be ordered exclusively toward the political community, but can be ordered to the common good of social groups. But for Finnis, general justice seems ordered the good of all mankind rather than the good of any particular community:

For: the direction the first practical principles give one’s deliberation is towards goods one can share in along with others, and it has no rational stopping-place short of a universal *common good*: the fulfillment of all human persons. The rational, normative content of that directiveness is adequately articulated in the principle of *love of neighbor as oneself*. Those who, guided by that principle, are positively open to that integral or universal common good in all their deliberations have the good and fully reasonable disposition (virtue) which Aquinas calls *general justice*.

There is a tendency in this passage for Finnis to dissolve the political community into the universal community of mankind that was observed in a different context by Wright. Mary Keys agrees that the foundation of legal justice in natural law means that it also pertains to the human community beyond particular political communities. The breadth of the scope of legal justice is also suggested by Aquinas’s comparison of legal justice to charity.

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67 Russell Hittinger observes that: “John Finnis rightly points out that general justice cannot require us to regard ‘the state (rather than any and every community to which one is related) as the only direct object of general justice’… By the same token, there is nothing in the natures of diverse groups, rightly considered, that is opposed to being ‘referred’ once again to the wider unity of order.” See Hittinger, “The Coherence of the Four Basic Principles of Catholic Social Doctrine: An Interpretation,” Keynote Address, Pontifical Academy of Social Sciences, XVIII Plenary Session. Margaret S. Archer and Pierpaolo Donati, eds., *Pursuing the Common Good*. Pontifical Academy of Social Sciences, *Acta* 14 (Città Del Vaticano, 2008), 116, n. 78.


69 Wright, 154.

the latter the divine common good.\textsuperscript{71} As legal justice is primarily ordered to the good of a particular political community, so too charity is ordered according to those with whom we have concrete fellowship rather than mankind in general.\textsuperscript{72} Moreover, the comparison suggests that

the common good Aquinas referred to was the common good of a complete political community.\textsuperscript{73} Though Keys believes legal justice does pertain to a common good beyond the political community in some way, she rightly holds that its central case is the common good of particular political communities.\textsuperscript{74} Though legal justice can be referred to a common good beyond particular political communities, Finnis is mistaken to downplay the specifically political nature of general justice by applying it to any social group or dissolving it into the universal community of mankind.

Finnis says that general justice can be specified into the forms of particular justice, distributive and commutative. He then defines the justice of the political community as the securing the individual rights of citizens.\textsuperscript{75} By ensuring that people receive their due in externalities from the community and from each other, he says the political community achieves its end. But there is no species of justice specifically concerned with acts of individuals toward the political common good, according to Finnis.

Finnis’s account of general justice is contrary to Aquinas’s own definition of the virtue. Though it is not inaccurate to call it “general justice,” Aquinas more frequently refers to it as “legal justice” \{\textit{iustitia legalis}\}.\textsuperscript{76} This very expression signals that general

\textsuperscript{71} \textit{ST} II-II, q. 58, a. 6, co.
\textsuperscript{72} \textit{ST} II-II, q. 26, aa. 6-8.
\textsuperscript{73} Dewan, “St. Thomas, John Finnis, and the Political Common Good,” 353. Pakaluk, 74, notes the comparison too.
\textsuperscript{74} Keys, \textit{Promise of the Common Good}, 90-91.
\textsuperscript{75} Finnis, \textit{Aquinas}, 133, 137-38.
\textsuperscript{76} Aquinas used \textit{iustitia legalis} and its declensions a total of 114 times. He used \textit{iustitia generalis} and its declensions 15 times.
or legal justice refers to the specifically political common good:

Justice…directs man in his relations with other men. Now this may happen in two ways: first as regards his relation with individuals, secondly as regards his relations with others in general, in so far as a man who serves a community, serves all those who are included in that community. Accordingly justice in its proper acceptation can be directed to another in both these senses. Now it is evident that all who are included in a community, stand in relation to that community as parts to a whole; while a part, as such, belongs to a whole, so whatever is the good of a part can be directed to the good of the whole. It follows therefore that the good of any virtue, whether such virtue direct man in relation to himself, on in relation to certain other individual persons, is referable to the common good, to which justice directs: so that all acts of virtue can pertain to justice, in so far as it directs man to the common good. It is in this sense that justice is called a general virtue. And since it belongs to the law to direct to the common good, as stated above, it follows that the justice which is in this way styled general, is called “legal justice,” because thereby man is in harmony with the law which directs all the acts of the virtues to the common good.  

Legal justice in its central case clearly refers to the common good of particular political communities, not the common good of social groups or all mankind. Neither the family nor the universal community of mankind has the power on its own to make law in its central case. Since, as Finnis himself asserts, the central case of law is the law made by the political community, it would make no sense for Aquinas to call the virtue “legal” justice and not refer it specifically to the political common good in its central case. That is why Aquinas said that

77 ST II-II, q. 58, a. 5, co.: “Respondeo dicendum quod iustitia, sicut dictum est, ordinat hominem in comparatione ad alium. Quod quidem potest esse dupliciter. Uno modo, ad alium singulariter consideratum. Alio modo, ad alium in communi, secundum scilicet quod ille qui servit aliqui communitati servit omnibus hominibus qui sub communitate illa continentur. Ad utrumque igitur se potest habere iustitiae secundum proprium rationem. Manifestem est autem quod omnes qui sub communitate aliqua continentur comparantur ad communitem sicut partes ad totum. Pars autem id quod est totius est, unde et quodlibet bonum partis est ordinabile in bonum totius. Secundum hoc igitur bonum cuiuslibet virtutis, sive ordinantis aliquem hominem ad seipsum sive ordinantis ipsum ad aliquas alias personas singulares, est referibile ad bonum commune, ad quod ordinat iustitia. Et secundum hoc actus omnium virtutum possunt ad iustitiam pertinere, secundum quod ordinat hominem ad bonum commune. Et quantum ad hoc iustitiae dicatur virtus generalis. Et quia ad legem pertinet ordinare in bonum commune, ut supra habitum est, inde est quod talis iustitia, praedicto modo generalis, dicitur iustitia generalis, quia scilicet per eam homo concordat legi ordinanti actus omnium virtutum in bonum commune.” See also ST I-II, q. 61, a. 5, ad 4; I-II, q. 113, a. 1, co.; II-II, q. 101, a. 3, ad 3; II-II, q. 120, a. 2, ad 1; II-II, q. 157, a. 2, ad 2; Eth. V, lect. 2, no. 909; lect. 11, n. 1010; lect. 12, nn. 1016, 1020-24.

78 Keys, Promise of the Common Good, 180-81.
“legal justice is a special virtue in respect of its essence, in so far as it regards the common good as its proper object. And thus it is in the ruler principally and by way of a mastercraft, while it is secondarily and administratively in his subjects.”

He also compared it to specifically political prudence.

There are human acts whose specific object is the political common good, and which only indirectly affect the particular good of individuals and families. Aquinas gave the example of a man who fights for his country in war as an act of legal justice directed toward the specifically political common good.

Perhaps Finnis is concerned that identifying general justice with legal justice may conduce to the mistake of identifying the political common good with the existing positive law of any given country. The virtue of legal justice will ordinarily require us to obey the positive law. But no political community has perfectly just laws, so the political common good cannot be equated exactly with the content of its positive law. That is why, in the passage quoted above, legal justice is identified firstly with the political common good, and secondly with the positive law. Therefore, the political common good is in accord with the natural law. The virtue of legal justice requires the positive law to be in accord with the natural law. If a positive law is contrary to the common good, exceeds the authority of the lawgiver, or distributes burdens on the community unevenly, then it is contrary to the natural law.

In this sense, legal justice should not be equated with blind obedience to the positive law. The flip side of this is that, because they

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79 ST II-II, q. 58, a. 6, co.: “iustitia legalis est specialis virtus secundum suam essentiam, secundum quod respicit commune bonum ut proprium objectum. Et sic est in princepe principaliter, et quasi architechtonice; in subditis autem secundario et quasi ministrative.”
80 ST II-II, q. 47, ad 1; Eth. VI, lect. 7, n. 1196.
81 ST II-II, q. 58, a. 7, ad 3.
82 Ver., q. 28, a. 1, co.
83 Finnis’s insistence that we not define the political common good with the law of the state is reflective of a broader Thomistic trend, insofar as we can call Catholic social doctrine an expression of Thomistic political thought. Pius XI redefined legal justice as social justice so that the political common good would not be confused with the state or its positive law. See Hittinger, “Coherence of the Four Basic Principles,” 114-15.
84 ST I-II, q. 96, a. 4, co.
pertain to the political common good before they pertain to the positive law, legal justice and natural law may require us to perform specific actions in a way that is not proper for positive law to do.\textsuperscript{85}

Legal or general justice is not general by way of predication, but by way of causality, i.e., its existence is not logical, but it is a common cause relative to its effects.\textsuperscript{86} The political common good is common by causality because it actually has an effect on human beings and helps make them good. It causes men to be good by commanding them to perform particular good actions, as we shall see in Chapter 3. But it also causes men to be good by eliciting virtuous acts on its own behalf, because it is the object of a natural inclination, as we shall see in Chapter 4.

\textit{Punishment and Social Coordination}

Finnis argues that the political common good is instrumental to the basic goods secured in private by individuals, families, and other social groups. The government and law seem to be able to facilitate the private pursuit of the basic goods for two reasons, according to Finnis’s interpretation of Aquinas: because they punish wrongdoing and provide for social coordination. But why do Aquinas and Finnis say human beings need punishment to be administered by public authority? What do they say are the ends of punishment? Do they think human punishments have any relationship to divine punishment? What is the relationship between the punitive and coordinative functions of law, according to each of them? Finnis gives no systematic account of

\begin{footnotesize}
\textsuperscript{85} Keys, \textit{Promise of the Common Good}, 188-91. Pakaluk believes that the scope of legal justice includes the “nearly unrestricted domain” of actions insofar as they tend toward citizens’ imperfect happiness. Pakaluk, 67. Wright is correct that this reading is too expansive. See Wright, 142. Nevertheless, this point is distinct from another on which Pakaluk and Wright agree, namely, that the law cannot secure justice without aiming in some way at complete virtue.

\textsuperscript{86} Dewan, “St. Thomas, John Finnis, and the Political Common Good,” 352.
\end{footnotesize}
the relationship between law, punishment, and social coordination in Aquinas, so we have to
discover the connections between them on our own. Let us start with Finnis’s account of
punishment in Aquinas, which he discusses in chapters VI and VII, before turning to his
treatment of the law’s role in coordinating social interaction in Chapter VIII.

Finnis says that Aquinas arrived at the concept of the perfect community by comparing it with the deficiencies of individuals and families.\textsuperscript{87} Thus he did not conceive of the perfection of the political community by reference to its attaining some extrinsic end. What makes individuals, families, and social groups “imperfect” in comparison with the “perfect” or “complete” community is that they are not able to provide for the rule of law on their own. By themselves, individuals and families cannot secure themselves against violence by others or enforce a fair system of exchange with others.\textsuperscript{88} If they tried to protect themselves or enforce contracts on their own, it would be unreasonable to expect them to be impartial in meting out justice to their malefactors, because they are swayed by their passions when they believe they have been wronged. Since the punishments inflicted for injustice can be irreparable, it is necessary that they be enforced by an impartial authority.\textsuperscript{89} Those are the reasons why human beings require coercive law, according to Finnis’s interpretation of Aquinas. They need a public authority to provide the punishment necessary to prevent other individuals and groups from frustrating their private pursuit of the basic goods. The threat of punishment makes it possible to pursue one’s private good in a way that is commensurate with that of others, because government

\textsuperscript{87} Finnis, \textit{Aquinas}, 244-45.
\textsuperscript{88} Ibid, 247.
\textsuperscript{89} Ibid, 249-50, 275.
and law enforce rules of fair play for all.\textsuperscript{90}

It is worth considering whether Finnis’s account of punishment itself is accurate as an interpretation of Aquinas. Though his account of punishment in Aquinas is not systematic, Finnis does discuss the two ends of punishment according to Aquinas, medicinal and retributive. He says that for Aquinas punishment is a kind of medicine, or cure, that:

\[\text{\ldots involves far more than the possible reform of the offender, and includes also the restraining and the sheer deterring from wrongdoing and coercive inducement to decent conduct. Above all, it includes the healing of a disorder—\textit{an unjust inequality, a defectus in statu reipublicae}—introduced into the whole community by the wrongdoer’s conduct. It is the remedying of this social disorder that gives punishment its defining characteristics.}\textsuperscript{91}\]

Punishment is medicinal in repressing the bad will of the criminal, but regardless of whether the criminal is cured by this punishment, it is also medicinal in teaching potential criminals what the consequences of crime are.\textsuperscript{92} The deterrent effect of punishment would not be just, however, unless the punishment itself was. If it was administered for the sake of perceived beneficial social consequences rather than because the criminal deserved it, then the punishment would be unjust.\textsuperscript{93} The medicinal end of punishment is ultimately justified by the retributive end of punishment, which we will consider presently.

Peter Koritansky argues that Finnis reads his own “unfair advantage theory” of penology into Aquinas by equating the repression of a criminal’s bad will with the negation of undue benefits the criminal gains from his crime. Finnis says that:

\[\text{The debts from which just punishment liberates the offender are not debts to the}\]

\textsuperscript{90} Peter Koritansky discerns a tendency in Finnis to reduce justice to fairness in his treatment of Aquinas. See Koritansky’s \textit{Thomas Aquinas and the Philosophy of Punishment} (Washington, DC: Catholic University of America Press, 2011), 87, n. 39.
\textsuperscript{91} Finnis, \textit{Aquinas}, 212.
\textsuperscript{92} \textit{ScG} III, chap. 141. \textit{ST} I-II, q. 87, a. 3, ad 2.
\textsuperscript{93} Steven A. Long, “\textit{Evangelium Vitae}, St. Thomas Aquinas, and the Death Penalty,” \textit{Thomist} 63, no. 4 (October 1999), 520.
victims whom the offender has indeed wronged (in one way or another willfully) and who therefore might be plaintiffs in a civil proceeding or might understandably but wrongly desire revenge. Rather, we may say, those debts are the advantage—the inequality—which, in the willing of an offence, is wrongly gained relative to all the offender’s fellows in the community against whose law, and so whose common good, the offence offends: the advantage of freedom from external constraints in choosing and acting.  

But Aquinas did not believe that the problem of the unrestrained freedom of the criminal’s will was that it gave him more freedom than his fellow citizens. Nor did he believe that crime redounded to the benefit of the criminal in any way. On the contrary, criminals harm themselves when they commit crime, because they act contrary to their natural inclination to the common good and become morally worse persons.

Koritansky contends that Aquinas’s undeniable belief in retributive punishment requires Finnis to qualify his assertion that the political common good is instrumental, because “doing so would commit him to some version of the utilitarian thesis that political punishment is only justified by its usefulness to individuals.” But Finnis does not want the non-instrumental nature of punishment to lead to the conclusion that political community itself is not instrumental. Therefore, he attempts to establish non-instrumental retributive punishment on purely instrumental grounds. For this argument to succeed, Finnis would need to appeal to a standard of justice that is more particular than general justice as he defines it, but broader than particular justice. He would need to appeal to the legal justice that pertains to the specifically political common good. But he fails to do this. Finnis’s retribution is applied for taking “unfair

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94 Finnis, Aquinas, 214. Emphasis in Finnis. Koritansky notes that this interpretation of Aquinas is comparable to Finnis’s own view in NLNR, 262-63. See Koritansky, Aquinas and the Philosophy of Punishment, 52, 148. He does give Finnis credit for aptly describing Aquinas’s belief in the importance of the repression of the will through punishment and defending retribution against the utilitarian charge that it is gratuitous.
95 ST II-II, q. 25, a. 6, ad 2. Koritansky, Aquinas and the Philosophy of Punishment, 149-51. Finnis notes that criminals harm themselves in NLNR, 264.
96 Koritansky, Aquinas and the Philosophy of Punishment, 93, n. 55.
97 Ibid.
advantages” that violate particular justice. That is why his most extended discussion of punishment comes in Chapter VI, “Distribution, Exchange, and Recompense.” It is significant that this discussion is separated from the discussion of morally licit killing in Chapter IX, because the two accounts of Aquinas’s understanding of punishment are in tension with one another.

When Finnis discusses morally licit killing and just war in Aquinas, he says that “we have no iusta causa for war unless those we are attacking {impugnantur} deserve to be attacked by reason of their guilt in respect of some wrong which they refuse or fail to rectify. This is the concept of guilt and desert which grounds retributive punishment.”98 But Finnis never says what kind of justice a political community violates when it commits an injustice against another political community, nor what kind of justice could authorize one to fight a just war. That is because he simply disagrees with Aquinas about the rationale for fighting a just war. Finnis treats morally licit killing not a form of punishment, but rather as a form of self-defense. Moreover, he is explicit in stating his disagreement with Aquinas that it is wrong for soldiers to intend to kill enemy combatants, even in a just war.99 But it hardly needs pointing out that, although killing in war can be a kind of self-defense, Aquinas believed that the authority to kill in war was an extension of the public authority to kill evildoers.100 As far as Finnis is concerned, punishment and morally licit killing have nothing to do with one another.

But for our purposes, this allows Finnis to restrict his treatment of punishment and retribution to his earlier chapters, where the discussion can be limited to particular justice and a general justice that is not specifically political. What this allows him to do is essentially conflate

98 Finnis, Aquinas, 284-85.
99 Ibid., 286-87.
punishment, which for Aquinas applies to violations of the common good, and restitution, which for Aquinas applies to violations of particular justice.\textsuperscript{101} Finnis’s conception of retribution thus turns out to be exceedingly thin, as does his whole rationale for forming a political community.

As we have seen, Finnis’s method of interpreting Aquinas makes him tend to separate practical and speculative reason, and also to the step of abstracting political justice from divine justice. When he finally introduces his consideration of revelation, Finnis acknowledges that every man must confront the reality of divine reward and punishment in the next life. But he says that “The determinatio of penalty which is central to human judging and punishment (or reprieve) of offenders has no counterpart” in divine justice.\textsuperscript{102} So even after Finnis introduces the consideration of revelation, he still holds that neither capital punishment nor any other legal punishment can be a manifestation of divine judgment. But Aquinas believed that the political authority has a divine mandate to administer capital punishment:

Some have held that the killing of man is prohibited altogether. They believe that judges in the civil courts are murderers, who condemn men to death according to the laws. Against this St. Augustine says that God by this commandment does not take away from Himself the right to kill. Thus, we read “I will kill and I will make to live” [Deut. 32:39]. It is therefore lawful for a judge to kill according to a mandate from God, since in this God operates, and every law is a command of God: “By Me kings reign, and lawgivers decree just things” [Prov. 8:15]. And again: “For if you do what is evil, fear; for he does not bear the sword in vain; for he is God’s minister” [Rom. 13:14]. To Moses also it was said: “Wizards you shall not allow to live” [Exod. 22:18.] And thus that which is lawful to God is lawful for His ministers when they act by His mandate. It is evident that God, who is the Author of laws, has every right to inflict death on account of sin. For “the wages of sin is death” [Rom. 6:23]. Neither does His minister sin in infliction that punishment. The sense, therefore, of “You shall not kill” is that one shall not kill by one’s own authority.\textsuperscript{103}

\textsuperscript{101} ST II-II, q. 62, a. 6, co. Koritansky, Aquinas and the Philosophy of Punishment, 152-55.
\textsuperscript{102} Finnis, Aquinas, 328.
The justice of the political community participates in divine justice, and human law imitates divine law in the way it punishes. This leads Steven A. Long to argue that, for Aquinas, temporal punishment is not simply medicinal in curbing the criminal’s will and protecting society. It is also medicinal in manifesting the divine order of justice on earth. Long points out that “This, of course, entails a noninstrumental view of the common good, in which this common good essentially and necessarily is defined in relation to a transcendent moral order which it must acknowledge and, within its limited jurisdiction, providentially serve.” Since Aquinas defined the natural law as the rational creature’s participation in the eternal law, then insofar as the political community is just, it ultimately participates in divine authority. Long argues that if human law and justice does not metaphysically participate in divine law and justice, then it is not law and is unjust. This shows further interpretive difficulties for Finnis that result from his abstracting Aquinas’s political thought from his theology and metaphysics.

Punishment was notably absent from Aquinas’s four part definition of law, according to which law is essentially an ordinance of reason for the sake of the common good, promulgated by him who has care of the community. Punishment is only one of the effects of law, along with commanding, prohibiting, and permitting. It cannot be an essential part of law, because the definition of law must be applicable to the four kinds of law, eternal, natural, divine, and

XIII, 4: si malum fecere, time: non enim sine causa gladium portat, Dei enim minister est. Moysi quoque dicitur, Exod. XII, 18: maleficos non patieris vivere. Id enim quod licitum est Deo, licitum est ministries eius, per mandatum ipsius. Constat autem quod Deus non peccat, cum sit auctor legum, infligendo mortem propter peccatum. Rom. VI, 23: stipendia peccati mors. Ergo nec minister eius. Est ergo sensus: non occides propria auctoritate.” See also Rom. chap. 13, lect. 1.

104 ST II-II, q. 64, a. 2, ad 2; ScG III, chap. 146. See Long, “Evangelium Vitae, St. Thomas Aquinas, and the Death Penalty,” 532-34.
106 Ibid., 519. Koritansky, Aquinas and the Philosophy of Punishment, 139, n. 17 signals his agreement.
108 ST I-II, q. 90, a. 4, co.
109 ST I-II, q. 92, a. 2, co.
human. There is punishment according to the natural, divine, and human law. If, however, Aquinas had said that punishment existed according to the eternal law, it would imply that God had foreordained at least some men to the punishment of damnation. That, in turn, would deny free will. Though Finnis does not believe that punishment is essential to law either, he pays greater attention to it in his interpretation of Aquinas than in his personal writings, because of his claim that the need for impartial punishment is what motivates people to form political community.

Finnis says that “for Aquinas the whole construction of a strictly ‘public’ realm is by law and for law.” That is the only reason Finnis admits it might be possible to call the political common good a basic good. Finnis asserts that “the central case of law is co-ordination of willing subjects by law.” But in a state of innocence, in which men never sinned, Finnis says there would be no government or law. Government and law, which come about to impose impartial punishments, are by implication a consequence of sin. His most extensive discussion of social coordination applies to all social groups, not specifically to the political community.

Even if we concede that the political common good is justice and peace as Finnis describes them, the community still requires a public authority to determine the means to achieve them. Like Simon, Finnis points out that there is no single, predetermined way to achieve the political common good, because there are many ways and means available to pursue the common good. Unity of practical judgment cannot be attained without the exercise of authority, even

110 Finnis, Aquinas, 251. Emphasis in Finnis.
111 Ibid., 245, 247.
112 Ibid., 257.
113 Ibid., 248.
114 Ibid., 35-37.
115 Ibid., 269. For how this applies to the family, see ibid., 172. See the more extensive discussion in Simon, General Theory of Authority, 31-32, 40-41.
among practically reasonable men. That is because of the plenitude of contingencies and the fact that practical judgments do not admit of demonstration. We must have social coordination before we can have punishment by public authority, and practically effective punishment then results in smoother, more profound social coordination. A fundamental reason that political community is formed must be for coordinating the pursuit of the common good, whatever we say it is.

Finnis concedes that if the political common good is not instrumental, it is because of the need to provide punishment. If my criticisms of Finnis are correct, then there must be some other end beyond justice and peace as Finnis has defined them, in order to justify the existence of political community and the purchase it has over individual and particular goods. What was it for Aquinas?

The Functioning of Law and the End of Political Life

Finnis asserts that Aquinas equated the specifically political common good with the operation of government and law. As Wright shows, this allows Finnis to define the political common good as instrumental to the justice and peace necessary to facilitate the private pursuit of the basic goods. This focus on the functioning of law helps explain the centrality of punishment in Finnis’s explanation of why political community is formed. But Finnis never demonstrates the existence of the specific common good of the political community, as distinct from the political common good, or how the political community could exist and flourish apart from government and law. Wright says that “The community seems to be political only insofar as it falls under the authority of a particular government, and the government itself has no direct

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116 Finnis, Aquinas, 221-22.
or essential connection to that flourishing,” except insofar as it is necessary to punish injustice.  

Nor does he explore the ambiguities of the distinction for his methodology.  

Instead of focusing on functioning or operation of government, Aquinas’s own clear method was to focus on ends and goods inherent in political life. Finnis focuses on what government does, but Aquinas focused on what it is for. He said that the end of human life and the end of the political community are the same. In his Commentary on Aristotle’s Nicomachean Ethics, he said that:

> But this good common to one or to several many states is the object of our inquiry, that is, of the particular skill that is called political science. Hence to it, as to the most important science, belongs in a most special way the consideration of the ultimate end of human life. But we should note that he says political science is the most important, not simply, but in that division of practical sciences which are concerned with human things, the ultimate end of which political science considers. The ultimate end of the whole universe is considered in theology, which is the most important without qualification. He says that it belongs to political science to treat the ultimate end of human life.

So political science must consider the ultimate end of man because the end of human life is also the end of the political community. Even if that end turns out to be an ontological good as well as a moral good, it is the duty of political science to consider it qua ontological good and how government and law relate to it, though it is not clear how Finnis’s political science would be able to do this. In what remains of this chapter, we will consider what Aquinas actually believed the political common good to be.

If the political common good is not justice and peace, then what is it? Is it happiness,

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117 Wright, 154.
118 Wright, 154, 156.
119 Ibid., p. 143.
121 Eth. I, chap. 2.
virtue, contemplation, or some combination of these things? In various places, Aquinas speaks of each of them as the end of the political community. What do Aquinas and Finnis say about them specifically?

The De Regno

Before we consider the end of the political community, we should say something about one of the works in which Aquinas discusses it. The De Regno is the work in which Aquinas discusses the end of the political community most straightforwardly. As we shall see in the next section, Finnis and his critics disagree about whether the De Regno supports his interpretation of the political common good in Aquinas or not. But because the De Regno was neither completed nor fully revised, there is some question about whether Aquinas wrote it, or if he did, whether much weight can be attributed to the arguments it contains. Finnis characterizes the De Regno “an openly theological little treatise written in a style unlike Aquinas’ academic works in philosophy and theology, but probably authentic.”\(^{123}\) It is unclear why he should call it a theological work, since its subject is not primarily God, but kingship. Nevertheless, Finnis is right in pointing out that the authenticity of the work has been called into question.

The De Regno is a short, incomplete work that was either continued or grafted onto a larger work called the De Regimine Principum (which can refer to the larger part of the work or the two parts combined). It has been established that the author of the De Regimine Principum was Ptolemy of Lucca.\(^{124}\) Ptolemy either continued Aquinas’s work, or some later editor

\(^{123}\) Finnis, p. 228.
\(^{124}\) Alfred O’Rahilly, “V. Tholomeo of Lucca, Continuator of the De Regimine Principum,” Irish Ecclesiastical Record 31 (1929), 606-14.
combined to two works. But both parts of the work have at times been attributed to Aquinas, confusing the issue of whether he wrote any of it at all. The question of Aquinas’s authorship has literally been debated for centuries.

The De Regno was addressed to one of three kings who ruled Cyprus during Aquinas’s lifetime, Henry I (r.1218-1253), Hugh II (r. 1253-1267), or Hugh III (r. 1267-1284). Henry I can be ruled out because his reign ended before the translation of Aristotle’s Politics into Latin, which occurred in 1259 or 1260. The De Regno freely borrows from the work. Stephen Lusignan, O.P., a scion of the ruling dynasty, wrote in 1573 that it had been addressed to Hugh III. In doing so, he may have been drawing upon a tradition of his family or a tradition of the Dominicans in Cyprus. But that does not explain why Aquinas left the work unfinished, unless he was working on it when he died. That can be ruled out because his later works show greater grasp of the Politics than the De Regno. Therefore, many have thought that Hugh II was the most likely intended addressee. He came to the throne before his first birthday, and was in his teens when he died in 1267, so Aquinas may have written the De Regno to teach an impressionable young monarch. Hugh II was the only thirteenth century king of Cyprus to be buried in the Dominican church in Nicosia, which suggests he was close to the order. Finally, his premature death may explain why Aquinas never finished the work. Weisheipl concludes that he wrote it between 1263 and 1267. On the other hand, Torrell believes that the work shows the influence of the Commentary on the Ethics, which he dates to 1271. This inclines him

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128 Ibid., xxviii-xxix.
129 Ibid., xxx.
130 Weisheipl, Friar Thomas D’Aquino, 195.
toward the view that Hugh III was the addressee.\(^{131}\) We may never be able to know for certain when it was written, to whom it was addressed, and why it was written.

In recent times, two broad sorts of objection have been made against identifying the *De Regno* as an authentic work of Aquinas, internal and external. Eschmann was the most skeptical of the works’ authenticity. He made two broad arguments against the authenticity of the work based on evidence internal to the text. First, he argued that the text as we have it does not follow the plan laid out in the very first section of the work. Eschmann claimed that the *De Regno* was meant to have two sections, one on the theory of kingship and one on the practice of kingship.\(^{132}\) The fact that various passages within the text do not seem well connected to one another led him to conclude that the text that we have is actually a collection of fragments from a larger work. Therefore, he concluded that Book I, chapters 7-12 on the rewards of good and bad kings were a fragment that belonged to the part of the work that was on the practice of kingship, but had been placed in the theoretical part by an editor.\(^{133}\) Eschmann hypothesized that there had been a complete original manuscript of the work, but that part of it was lost and the remaining fragments were rearranged by an editor.\(^{134}\)

Contrary to Eschmann, Lawrence Fitzgerald, O.P., argued that the organization of the *De Regno* as we have it does indeed make sense.\(^{135}\) He pointed out that nowhere did the author draw the distinction between theory and practice that is central to Eschmann’s interpretation.
Fitzgerald admitted that there are omissions from the *De Regno*, but contended that these do not necessarily mean that fragments have been artificially put together; they may simply be the result of the work being unfinished. Moreover, the discussion of the rewards of good and bad kings in Book I, chapters 7-12 belongs there because it concerns the formal and final causes of kingship, which should be considered toward the beginning of a work on kingship.\(^{136}\) Therefore, Fitzgerald concluded that Eschmann’s objections to the internal integrity of the *De Regno* can be resolved without too much difficulty.

But Eschmann advanced a second, more forceful objection to attributing the *De Regno* to Aquinas. He argued that the teaching of the *De Regno* on the relationship between the spiritual power of the popes and the temporal power of kings contradicted the earlier teaching of Aquinas in his *Commentary on the Sentences of Peter Lombard*. In the *Commentary on the Sentences*, Eschmann said the “Spiritual and secular power are not derivative by original *imperia*. They are like first causes, each autonomous in its own order, the spiritual power in the things belonging to the salvation of souls, the political power in the things concerning the civil good. None of these powers is absolute power; rather each one is limited by, and according to, its proper *ratio superioritatis*.“\(^{137}\) Nevertheless, these two powers could be combined in the case of a spiritual ruler who also happens to be a temporal ruler, like the pope.

Eschmann believed that the *De Regno* taught a contradictory position, namely, that the pope’s spiritual power includes the temporal power, and that temporal rulers are therefore subject to him not only in spiritual matters, but in temporal affairs too. In this view, the temporal power


\(^{137}\) Eschmann, “Two Powers,” 178. See *Sent. II*, d. 44.
is subsumed into the spiritual power.\textsuperscript{138} Therefore, he believed that teachings of the \textit{Commentary on the Sentences} and the \textit{De Regno} on the two powers were contradictory, and that this contradiction called the authenticity of the \textit{De Regno} into question.\textsuperscript{139} On the one hand, Eschmann seemed to think that the \textit{De Regno} “has its rightful place in the collection of the \textit{Opera omnia} of Thomas Aquinas. It is as a work of this author that it was first presented to the reading public; it will forever keep this label.”\textsuperscript{140} On the other hand, he clearly had serious doubts that it was authentic, but seemed reluctant to say so straightforwardly.\textsuperscript{141}

Eschmann’s conclusions about the \textit{De Regno} were challenged by another of his Dominican confrères, Leonard Boyle. Boyle pointed out that the supposedly contradictory passages in the \textit{Commentary on the Sentences} and the \textit{De Regno} actually dealt with different subjects: the former concerned conflicting claims of obedience, while the latter concerned the limits of temporal power. Moreover, Eschmann’s account of the two powers in the \textit{De Regno} focused solely on Book I, chapter 14, without considering its context in the whole work. Book I, Chapter 12 compares the relationship of the king to his political community to the relationship of God to the world. Chapter 13 explains that, like God, the king “creates,” “produces,” “provides,” and “governs.” What chapter 14 further explains is that, unlike God, the king does not have complete power over his political community. He has responsibility for its intrinsic end, which is virtue, but not its extrinsic end, which is God. Responsibility for this end belongs

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\item \textsuperscript{138} Eschmann, “Two Powers,” 179. See DR I, chap. 14.
\item \textsuperscript{139} Eschmann, “Two Powers,” 195. Indeed, he thought they could be traced to two distinct schools of medieval canon law. See 182-94.
\item \textsuperscript{140} Eschmann, “Two Powers,” 195-96.
\item \textsuperscript{141} Weisheipl relates that “The day before Fr. Eschmann died on April 11, 1968, I had a long talk with him at the hospital and I asked him whether he thought the \textit{De regno} to be authentic. He shook his head thoughtfully and said, ‘No, I don’t think so.’” See Weisheipl, \textit{Friar Thomas D'Aquino}, 434, n. 6.
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to priests, and kings are subject to priests in matters directed ordered to this end.\textsuperscript{142} Finally, it is clear from the next chapter that the author believes that the two powers are wielded by two distinct juridical bodies.\textsuperscript{143} Thus the author introduced the spiritual power of priests and the pope to highlight the limits of temporal power, not to argue that temporal power is derived from the spiritual.

The second type of objection that could be made to the authenticity of the \textit{De Regno} would be on the basis of external criteria, i.e., by casting doubt on the accuracy of the manuscripts we have of it. Eschmann attempted to do this by alternately arguing that the text we have is actually made up of fragments of an original complete manuscript or suggesting that those who edited it after Aquinas’s death may have been mistaken in attributing it to him.\textsuperscript{144} But this flies in the face of the extensive manuscript evidence assembled by Alfred O’Rahilly.\textsuperscript{145} Weisheipl further pointed out that several catalogues of Aquinas’s works dating from before Ptolemy of Lucca’s \textit{De Regimine Principium} attribute the \textit{De Regno} to Aquinas. Ptolemy’s own catalogue of Aquinas’s works lists such a work among them.\textsuperscript{146} Finally, no one who doubts that Aquinas actually wrote the \textit{De Regno} has suggested an alternative author.\textsuperscript{147}

It seems that, because of manuscript evidence and the basic compatibility of the substance of the \textit{De Regno} with what Aquinas says in his other writings, he did write the \textit{De

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\textsuperscript{143} Boyle, “Two Powers,” 241. See also Fitzgerald, “Two Powers,” 549-56.
\textsuperscript{146} Weisheipl, \textit{Friar Thomas D’Aquino}, 189-91.
\end{flushright}
Regno up to the words “ut animi hominum recreentur” in Book II, chapter 4. 148 Nevertheless, we should be cautious in using the work to interpret Aquinas’s political thought, because the work was left incomplete and unrevised. 149 Safer interpretations will corroborate claims based on the text of the De Regno with Aquinas’s other writings. Those who ground claims about Aquinas on the basis of the De Regno alone step to that extent out on a limb.

The End of the Political Community in the De Regno

Aquinas seems to speak of several related but distinct things as the end of the political community, as its common good. Those who believe that Aquinas thought the political community was ultimately ordered to complete virtue and perfect happiness have appealed to his treatise on Christian kingship, the De Regno, as the work where he most clearly states this view. 150 Instead of arguing that Aquinas did not write the De Regno, or that it is useless as a guide to his thinking because he never completed it, Finnis reinterprets it to agree with his broader account of Aquinas’s thought. He says that the De Regno is not inconsistent with his own account, but that Aquinas’s differentiation between the nature of divine and human governance is “firmer and more explicit” in the Summa Theologiae. 151

Those who believe that happiness or virtue is the end of the political community frequently point to the passage in the De Regno where Aquinas said that:

Therefore, since the beatitude of heaven is the end of that virtuous life which we live at present, it pertains to the king’s office to promote the good life of the multitude in such a way as to make it suitable for the attainment of heavenly happiness, that is to say, he should command those things which lead to the

149 Torrell, St. Thomas Aquinas, 170-71.
150 For example, Pakaluk, 78-86.
151 Finnis, Aquinas, 231.
happiness of Heaven, and, as far as possible, forbid the contrary.\textsuperscript{152}

Finnis quotes this passage, but leaves out the passage that immediately follows:

What conduces to true beatitude and what hinders it are learned from the law of God, the teaching of which belongs to the office of the priest, according to the words of Malachi (2:7): “The lips of the priest shall guard knowledge and they shall seek the law from his mouth.” Wherefore the Lord prescribes in the Book of Deuteronomy (17:18-19) that “after he is raised to the throne of his kingdom, the king shall copy out to himself the Deuteronomy of this law, in a volume, taking the copy of the priests of the Levitical tribe, he shall have it with him and shall read it all the days of his life, that he may learn to fear the Lord his God, and keep his words and ceremonies which are commanded in the law.” Thus the king, taught the law of God, should have for his principle concern the means by which the multitude subject to him may live well.

This concern is threefold: first of all, to establish a virtuous life in the multitude subject to him; second, to preserve it once established; third, having preserved it, to promote its greater perfection.\textsuperscript{153}

Not only does Aquinas speak of virtue here, he is clearly referring to complete virtue, i.e., the virtue necessary to gain Heaven. For Aquinas, the divine law commands every act of every virtue.\textsuperscript{154} Why else would he recommend that the king study the Mosaic law contained in sacred Scripture rather than, say, Aristotle’s \textit{Ethics} and \textit{Politics}? Finnis tries to counteract this claim by interpreting the next two paragraphs of the \textit{De Regno} to say that the political common good is justice and peace as he has defines them.

\textsuperscript{152} \textit{DR} I, chap. 16: “Quia igitur vitae, qua in praesenti bene vivimus, finis est beatitudo caelestis, ad regis officium pertinet ea ratione vita multitudinis bonam procurare secundum quod congruit ad caelestem beatitudinem consequandam, ut scilicet ea praecipiat quae ad caelestem beatitudinem ducunt, et eorum contraria, secundum quod fuerit possibile, interdicat.” Finnis, \textit{Aquinas}, 229.

\textsuperscript{153} \textit{DR} I, chap. 16: “Quae autem sit ad veram beatitudinem via, et quae sint impedimenta eius, ex lege divina cognoscitur, cuius doctrina pertinet ad sacerdotum officium, secundum illud Mal.: labia sacerdotis custodient scientiam, et legem requirent de ore eius. Et ideo in Deut. dominus praecipit: postquam sederit rex in solio regni sui, describet sibi Deuteronomium legis huius in volumine, accipiens exempla a sacerdote leviticae tribus, et habebit secum, legetque illud omnibus diebus vitae suae, ut discat timere dominum Deum suum et custodire verba et caeremonias eius, quae in lege praecepta sunt. Per legem igitur divinam edoctus, ad hoc praecipuum studium debet intendere, qualiter multitudo sibi subdita bene vivat: quod quidem studium in tria dividitur, ut primo quidem in subjecta multitudine bonam vitam instituat; secundo, ut institutam conservet; terto, ut conservatam ad meliora promoveat.”

\textsuperscript{154} \textit{ST} I-II, q. 100, a. 2, co. See Pakaluk, 68-69, 79-80, including 80, n. 73.
Here Aquinas drew an analogy between the good of human life and the good of the political community. For a man to achieve his good, he must live a virtuous life and have the material goods instrumental to it. For a multitude, or political community, to live well, it must have its ruler procure peace, direct it to acting well, and provide the material goods it needs.\textsuperscript{155}

In the subsequent paragraph, Aquinas listed three threats to the preservation of the good life of the multitude, which he referred to as the public good. From this passage Finnis concludes that the good life of the multitude is the equivalent of the public good as he defines it.\textsuperscript{156} In the next paragraph, which Finnis quotes in full, Aquinas said that:

Thus a threefold responsibility \{cura\} lies on the king. [1] First, in relation to the replacement of those who hold various offices: just as divine rule preserves the integrity of the universe by arranging that corruptible, transient things are replaced by new ones generated to take their place, so the king should be concerned with to preserve the good of the group subject to him \{subiectae multitudinis\} by conscientiously arranging how new officials are to succeed those who fail or drop out. [2] Second, by his laws and degrees, punishments and rewards, the king is to restrain his subjects from immorality and lead them to virtuous action \{ab iniquitate coerceat, et ad opera virtuosa inducat\}, thereby following the example of God, who gave us law and who requites with reward those follow and with punishments those who violate it. [3] Thirdly, the king is responsible for keeping the group subject to him safe against enemies; there would be no point in avoiding internal dangers, if the group were defenseless against external dangers.\textsuperscript{157}

\textsuperscript{155} \textit{DR} I, chap. 16, n. 118. The Dominican Fathers’ translation renders “bonam vitam multitudinis” as “virtuous living of the multitude.” It should be noted that the peace Aquinas spoke of in this passage does not exclude the more robust peace suggested by Pakaluk above.

\textsuperscript{156} \textit{DR} I, chap. 16, n. 119. Finnis, \textit{Aquinas}, 230. Finnis says that the shift is so “effortless” that the reader may miss it.

\textsuperscript{157} \textit{DR} I, chap. 16, n. 120: “Igitur circa tria praedicta triplex cura imminet regi. Primo quidem de successione hominum et substitutione illorum qui diversis officiis prae sunt, ut sicut per divinum regimen in rebus corruptibilibus, quia semper eadem durare non possunt, provisum est ut per generationem alia in locum aliorum succedant, ut vel sic conservetur integritas universi, ita per regis studium conservetur subiectae multitudinis bonum, dum sollicito curat qualiter alii in deficientium locum succedant. Secundo autem ut suis legibus et praeceptis, poenis et praeemiis homines sibi subiectos ab iniquitate coerceat et ab opera virtuosa inducat, exemplum a Deo accipiens qui hominibus legem dedit, observantibus quidem mercedem, transgressentibus poenas retribuens. Tertio imminent regi cura ut multitudo sibi subjecta contra hostes tuta reddatur. Nihil enim prodesset interiora vitare pericula, si ab exterioribus defendi no posset.” Translation from Finnis, \textit{Aquinas}, 229. Note that Aquinas twice makes an analogy between the rule of the king over his people and the rule of God in this passage.
Finnis argues that the second charge laid upon the king “is not: of leading people to the fullness of virtue by coercively restraining them from every immorality.”\textsuperscript{158} These passages “deny rather than assert that a ruler should impose on individuals a legal duty to pursue their ultimate happiness.”\textsuperscript{159} What they say “is no more than: of leading people to those virtuous actions which are required if the public weal is not to be neglected, and of upholding peace against unjust violations.”\textsuperscript{160} But nothing in this passage or the passages quoted above requires the king to command every virtue and coercively restrain people from every vice. Nor does anyone claim that Aquinas believed that people should be legally obliged to pursue happiness. Finnis repeatedly creates straw man arguments and invokes a false dichotomy between totalitarianism and libertarianism which says that Aquinas must either hold that the government and law must command every virtue and forbid every vice, or command only those virtues instrumental to the maintenance of justice and peace as he defines them.\textsuperscript{161}

Finnis argues that these passages show that Aquinas’s statements about the king leading his people to virtue have the restricted meaning that he says they do. But the broader context of Chapter 16, which we quoted above, shows that he is wrong. If we return to the second of the passages we have quoted above, we see that Aquinas says the king should restrain people from the things that would hinder them from getting to heaven “as far as possible,” i.e., as far as practically, reasonably, or prudently possible. This is consistent with other passages in his works.\textsuperscript{162}

\textsuperscript{158} Finnis, \textit{Aquinas}, 231. Emphases in Finnis.
\textsuperscript{159} Ibid., 231.
\textsuperscript{160} Ibid.
\textsuperscript{161} Wright, 159.
\textsuperscript{162} For example, \textit{ST} I-II, q. 90, a. 3, ad 2; q. 92, a. 1, co.; ad 3; q. 96, a. 2, ad 2; a. 3, co.
The centrality of virtue in Book I of Aquinas’s *De Regno* emerges more clearly when we see that he contrasted the good king with the tyrant. In chapters 3 and 4, he contrasted the merits of monarchy with the demerits of tyranny. In chapters 8 through 12, he contrasted the rewards suitable for a good king with the punishments suitable for a tyrant. While the good king seeks the common good, the tyrant seeks his selfish good.\(^\text{163}\) While the good kind promotes virtue in his subjects, the tyrant undermines virtue: “The result is that few virtuous ones are found under tyrants, since those presiding, who ought to lead their subjects to virtue, instead despicably envy the view of their subjects and impede it as much as they can.”\(^\text{164}\) This contrast between the good king and the tyrant shows that the king is supposed to lead his people to virtue, according to Aquinas. Pakaluk rightly concludes that “As regards *De Regno*, then, the texts examined by Finnis cannot be reconciled with the view he wishes to ascribe to Aquinas; in fact, when examined more thoroughly, they can be seen to support the opposite conclusion.”\(^\text{165}\)

What about the rest of Aquinas’s works? Do they allow us to determine whether Aquinas believed happiness, virtue, or contemplation to be the end and common good of the political community?

*Happiness and Virtue*

Aquinas made several statements that seem to suggest that he believed that the political common good is happiness.\(^\text{166}\) But at other times, he seemed to say it was virtue or contemplation. Therefore, we should consider Finnis’s account of happiness in Aquinas’s

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\(^{163}\) *DR* I, chap. 4, no. 26; *Virz.*, q. 2, a. 2; *ST* I-II, q. 92, a. 1, ad 4.

\(^{164}\) *DR* I, chap. 4, no. 28. Translation Blythe’s. “Ex hoc autem contingit ut, dum praesidentes, qui subditos ad virtutes inducere debere, virtuti subditorum nequiter invident et eam pro posse impediunt, sub tyrannis pauci virtuosi inveniantur.” See also chap. 11.

\(^{165}\) Pakaluk, 85. McGrade agrees, 135-37.

\(^{166}\) *ScG* III, chap. 44, n. 4; *ST* I-II, q. 3, a. 2, ad 2; I-II, q. 90, a. 2, co.
thought and its relation to the political common good, before turning to virtue and contemplation.

What is happiness? What kinds of happiness are there? How are the different kinds of happiness related to one another? What is the relation between practical reason, political science, and the different kinds of happiness? What is the relation between happiness and virtue? How do they relate to contemplation?

Finnis equates the terms happiness, *beatitudo*, *felicitas*, and fulfillment. He notes that Aquinas distinguished between perfect and imperfect happiness, which Finnis sometimes distinguishes as fulfillment and complete fulfillment. He says that imperfect happiness or fulfillment is: “not so much an item to be added to the list of basic human goods, as rather a kind of synthesis of them: satisfaction of all intelligent desires and participation in all the basic human goods (whatever they are), and thus a fulfillment that is complete and integral (integrating all its elements and participants).” But Bradley calls Finnis’s equation of his own integral human fulfillment with Aquinas’s imperfect happiness “a major realignment—or, to use more charged terms, deconstruction and misapplication—of Aquinas’s doctrine.”

Imperfect happiness does not come from possessing basic goods, but from possessing states of character, i.e., the practical and speculative virtues. That is why Aquinas organized the moral parts of the *Summa* on the basis of the virtues. But Finnis says that “this superstructure can obscure morality’s foundations by distracting us from the first principle of practical reason, which is to do good and avoid evil. The virtues are simply states of character that result from resolving practical difficulties rightly.” Finnis is right that “principles, propositional practical

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168 Finnis, 85-86.
169 Bradley, “John Finnis on Aquinas ‘the Philosopher’,” 8.
170 Ibid., 5.
truths, are more fundamental than virtues.”¹⁷² Though he does not commit the mistake of putting the principles and virtues in opposition to one another, he may place too much emphasis on the former at the expense of the latter.

Imperfect happiness can be attained through man’s natural powers through the practice of virtue and the contemplation of God, according to Aquinas. It thus “participates” in perfect happiness.¹⁷³ Possessing the virtues is important because the natural virtues dispose one to receive the infusion of divine grace necessary to practice the supernatural virtues, which are necessary in turn to achieve perfect happiness.¹⁷⁴ Aquinas’s definitions of imperfect and perfect happiness depend in part on his ability to contrast them with one another. But this comparison and contrast is not readily available to Finnis, because his method precludes the introduction of third order speculative reasoning until his last chapter.

Finnis notes that when inquiring what constitutes human happiness, Aquinas eliminated a host of possibilities—wealth, honor, glory, power, and pleasure—before finally concluding that no created good could suffice to satisfy all of man’s desires. The imperfect happiness we can have in this life never satisfies all our desires because it is fragile and impermanent; we can lose it through misfortune or vice.¹⁷⁵ Though Finnis introduces the possibility of perfect happiness when he discusses imperfect happiness in Chapter IV, he does not discuss Aquinas’s concept of perfect happiness there. In Finnis’s account, imperfect happiness is open to the possibility of perfect happiness, but the latter need not be considered in order to understand Aquinas’s political thought. He tells us that the political common good cannot be perfect happiness, or directed to

¹⁷² Ibid., 124.
¹⁷³ ST I-II, q. 5, a. 3, ad. 2
¹⁷⁵ ST I-II, q. 5 a. 4, resp. See Finnis, Aquinas, 104-106.
perfect happiness, and only returns to the question he posed about what it actually is in his final chapter.\textsuperscript{176}

In the first section of his final chapter (X.1), in which he argues from the perspective of first order speculative reasoning as yet uninformed by revelation, Finnis begins to explain Aquinas’s concept of perfect happiness. He takes up Aquinas’s line of argument about happiness from \textit{Summa contra Gentiles}, Book III. Finnis characterizes this line of argument as “philosophical” three times,\textsuperscript{177} before half conceding that Aquinas “perhaps does not really try to show, philosophically,”\textsuperscript{178} that there is such a thing as perfect happiness. Bradley points out that Aquinas explicitly stated that the arguments Finnis invokes were theological.\textsuperscript{179} Perhaps Finnis is trying to make Aquinas go further than he really could philosophically.

But regardless of whether the argument is philosophical or theological, Finnis says that once we come to understand through unaided reason that God created and governs the universe through his benevolent providence, practical reason now has a “further overarching point,” which is to understand God and be like him; now our imperfect happiness can participate in perfect happiness.\textsuperscript{180} Through unaided human reason, then, we can know philosophically that:

Complete fulfillment, thus understood, can have its beginning \textit{(inchoatio)} in this life for all who are willing to live by their understanding (however implicit) that there is a God who is governing and providing for the universe, and who is able somehow, as part of that providence, to liberate human beings from whatever now makes their fulfillment incomplete.\textsuperscript{181}

Now Finnis is willing to acknowledge that:

Having argued philosophically to the existence of a creator who lacks nothing in

\textsuperscript{176} Finnis, \textit{Aquinas}, 295.
\textsuperscript{177} Ibid., 307, 312, 315.
\textsuperscript{178} Ibid., 317.
\textsuperscript{179} Bradley, “John Finnis on Aquinas ‘the Philosopher’,” 17. See \textit{ScG} I, chaps. 2, 9; II, chap. 4.
\textsuperscript{180} Finnis, \textit{Aquinas}, 314-15.
\textsuperscript{181} Ibid., 316.
goodness, one has sufficient reasons to postulate that the structure of creation, including natural human desires, makes good sense. But precisely what, in the actual conditions of the universe taken as a whole, is necessary lest the natural desire be in vain is not something we are in a position to judge—certainly not with the resources proper to philosophy.  

Finnis has now introduced “third order” speculative reasoning into his consideration of happiness. This consideration yields a conception of perfect happiness that was not available to him through “first order” practical reasoning. Only now do natural desires, which must be somehow fulfilled, become admissible, according to Finnis’s method. Speculative reason can glimpse perfect happiness, but not completely. As Finnis says, a complete understanding of perfect happiness requires him to introduce theology into his account of Aquinas. In retrospect, his equating imperfect happiness with the possession of the basic goods becomes less satisfactory.

The good is what all things desire, and there are no desires implanted within us that cannot be satisfied. But human desires in general, and the desire for perfect happiness in particular, cannot be completely satisfied in this life. Moreover, as Finnis acknowledges, man cannot know with certainty what content of perfect happiness is or how to obtain it without the benefit of divine revelation. Without divine revelation, philosophy might lead us to the conclusion that every human being has a natural desire that cannot be fulfilled. Nature would seem to have ordained universal frustration and would itself lack intelligibility.

After he moves from a first order philosophical consideration of happiness to one that is informed by divine revelation, Finnis is willing to attribute more positive content to perfect

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182 Ibid., 317.
183 ST I-II, q. 5, a. 3, co.
happiness. He says that perfect or complete happiness is “radically social.”\textsuperscript{186} Because man’s likeness to God must include his actively benefiting other creatures, perfect happiness does not just consist in the beatific vision, but includes “a willing sharing of goods with other human persons, in friendship.”\textsuperscript{187} This includes praying for the souls of others.\textsuperscript{188} But Aquinas says that although friendship with others is necessary for happiness in this life, it is not necessary for perfect happiness. It may, however, add to that happiness.\textsuperscript{189} Finnis says that this “artificial…hypothesis of disembodied solitariness” is a consequence of Aquinas’s having said that the perfect happiness consists in contemplation.\textsuperscript{190} He thinks it falls short of what divine revelation teaches about complete human fulfillment. But Porter argues this interpretation is “in the teeth of what Aquinas actually says.”\textsuperscript{191} Finnis neglects to mention in this context that Aquinas believed in the ultimate resurrection of the body, though he refers to it elsewhere.\textsuperscript{192} Moreover, Aquinas taught that heavenly beatitude consists in contemplation without practical activity.\textsuperscript{193} If there are any external actions on the part of the blessed in heaven, they are “referred to contemplation as to their end.”\textsuperscript{194}

Aquinas said that perfect happiness must be constant, stable, and perpetual. Perfect happiness is universal enough to satisfy all of man’s desires, so that his will is lulled and he wants nothing else. The only good that can satisfy all man’s desires is the universal good, which is God.\textsuperscript{195} The contemplation of the divine essence for its own sake constitutes perfect

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\item \textsuperscript{186} Finnis, \textit{Aquinas}, 327.
\item \textsuperscript{187} Ibid., 318.
\item \textsuperscript{188} Ibid., 329.
\item \textsuperscript{189} \textit{ST I-II, q. 4, a. 8, resp.}
\item \textsuperscript{190} Finnis, \textit{Aquinas}, 319.
\item \textsuperscript{191} Porter, “Reason, Nature, and the End of Human Life,” 481.
\item \textsuperscript{192} \textit{Supp.}, qq. 75-85. Finnis, \textit{Aquinas}, 328.
\item \textsuperscript{193} \textit{ST I-II, q. 3, a. 5, co. See Bradley, Aquinas on the Twofold Human Good, 395.}
\item \textsuperscript{194} \textit{ST II-II, q. 181, a. 4, co.: “referentur ad finem contemplationis.”}
\item \textsuperscript{195} \textit{ST I-II, q. 2, a. 8, resp.}
\end{itemize}
happiness. That is because God is the highest object of man’s highest power, his speculative intellect.\textsuperscript{196} But we cannot contemplate the divine essence in this life, because our intellectual operations are impeded and limited by our bodies and circumstances.\textsuperscript{197}

Supposing we have determined what the different kinds of happiness are, how they relate to one another, and how we are able to know them, how does happiness relate to political science? Finnis says that imperfect happiness suffices for moral and political philosophy as “the organizing point of individual and social choice, as something attainable (so far as is possible in one’s circumstances) by one’s own or our own actions as we are.”\textsuperscript{198}

Though Finnis’s considered position is that the political common good pertains only to justice and peace, he sometimes indicates that it might be happiness. He says that “Aquinas locates the immediate principle (source) of unity in moral life (and thus in political life, too) in the unity—the essential coextensiveness—of (1) the good of complete reasonableness in one’s willing of human goods with (2) the good of imperfecta beatitudo.”\textsuperscript{199} He also says that “One’s own fulfillment, then, takes place within—is part of—common fulfillment, felicitas communis. This common good, which as an individual’s or group’s end or intention—principle—provides the most satisfactory and fully reasonable direction in choosing and acting, is indeed the good of a complete community, a communitas perfecta.”\textsuperscript{200} This makes it sound as though the happiness of the complete community is equivalent to the happiness that is the common good of the political community. It highlights the difficulty Finnis has preserving the distinction between the specifically political common good and the common good of the political community throughout

\textsuperscript{196} ST I-II, q. 3, a. 5. See also ScG III, chap. 37.
\textsuperscript{198} Finnis, Aquinas, 105-107.
\textsuperscript{199} Ibid., 108.
\textsuperscript{200} Finnis, Aquinas, 113-14.
But can political science go beyond the consideration of imperfect happiness to perfect happiness, according to Aquinas? Aquinas said that political science must consider the ultimate end of human life. He said that happiness is the end of the political community:

Now as reason is a principle of human acts, so in reason itself there is something which is the principle in respect of all the rest: wherefore to this principle chiefly and mainly law must needs be referred. Now the first principle in practical matters, which are the object of practical reason, is the last end: and the last end of human life is bliss or happiness, as stated above. Consequently the law must needs regard principally the relationship to happiness. Moreover, since every part is ordained to the whole, as imperfect to perfect; and since one man is part of the perfect community, the law must needs regard properly the relationship to universal happiness. Wherefore the Philosopher, in the above definition of legal matters mentions both happiness and the body politic: for he says (Ethics V.1) that we call those legal matters “just, which are adapted to produce and preserve happiness and its parts for the body politic”; since the political community is a perfect community, as he says in Politics I.1.201

What kind of happiness was Aquinas referring to here? He believed that the political common good definitely pertains to the ultimate end of man, which is perfect happiness. As we have seen, sometimes Aquinas said that the political community’s end is happiness.202 He said moreover that “The end of human life and of human society is God.”203 But political science could not know that end specifically without the benefit of revelation. Without revelation, it would mistake the content of happiness, and politics would be unable to make its proper

201 ST I-II, q. 90, a. 2, co.: “Sicut autem ratio est principium humanorum actuum, ita etiam in ipsa ratione est aliquid quod est principium respectum omnium aliorum. Unde ad hoc oportet quod principaliter et maxime pertineat lex. Primum autem principium in operativis, quorum est ratio practica, est finis ultimus. Est autem ultimus finis humanae vitae felicitas vel beatitudine, ut supra habitum est. Unde oportet quod lex maxime respiciat ordinem qui est in beatitudinem. Rursus, cum omnis pars ordinetur ad totum sicut imperfectum ad perfectum; unus autem homo est pars communitates perfectae, necesse est quod lex proprie respiciat ordinem ad felicitatem communem. Unde et philosophus, in praemissa definitione legalium, mentionem facit et de felicitate et communione politica. Dicit enim, in V Ethic., quod legalia iusta dicimus fectiva et conservativa felicitatis et particularum ipsius, politica communicatione, perfecta enim communitates civitas est ut dicitur in I Polit.” Here substituting “political community” for “state.” See also ST I-II, q. 3, a. 2, ad 2; ScG III, chap. 39; Pol. I, chap. 1.
202 ST I-II, q. 90, a. 2, co.
203 ST I-II, q. 100, a. 6, co.: “Finis autem humanae vitae et societate est Deus.” See also DR I, chap. 16, n. 114.
contribution to happiness. Since Aquinas believed he knew the content of perfect happiness, at least as far as any mortal can, the question is what contribution he thought the political community has to make to it. Given that he thought the best regime in history had been the Mosaic regime, because it had received its laws from God, we can conclude that he thought revelation’s contribution to our understanding of the political common good was significant.²⁰⁴ Failure to formulate the relationship between divine revelation, happiness, and political life in this way necessarily commits one to misinterpreting Aquinas’s moral and political thought. If we mistake the end, we will mistake the means, and politics will lead us astray from our end instead of helping us attain it. But Finnis never confronts these issues, though his sensitivity to the way metaphysics and theology affect practical reason shows that he is aware of them. In fact, he says little about the relationship between revelation and political philosophy in his writings, beyond saying that both are rational and public in nature, and that public recognition of the true religion need not infringe upon the religious liberty of non-believers.²⁰⁵

Can happiness, whether perfect or imperfect, be considered a common good, according to Aquinas? Perfect happiness, or beatitude, has two meanings. Objective beatitude is the supreme good in itself, i.e., God, who exists independently of other things. As De Koninck noted, “When St. Thomas asserts that God is a common good, he means a good which is numerically one, yet which can be the end of many.”²⁰⁶ Subjective beatitude is the participation of the creature in objective beatitude, in God. This beatitude is common to all good things.²⁰⁷ If it sounds strange to speak of subjective beatitude as a common good, that is because it is common by

²⁰⁴ ST I-II, q. 105, a. 1, co.
²⁰⁶ De Koninck, “In Defense of Saint Thomas,” 256. This was precisely the point of De Koninck’s disagreement with Eschmann.
²⁰⁷ ST I, q. 26, a. 3, co.; I-II, q. 34, a. 3, co. See Kempshall, 81. Sherwin, 314.
Imperfect happiness participates in perfect happiness, and cannot fully be understood without reference to it. Practical reason and political science cannot correctly understand their ends without correctly understanding imperfect and perfect happiness. In order to understand happiness, Aquinas said political science must understand virtue: “happiness is an action according to perfect virtue. Hence we can study happiness better by means of knowledge of virtue…Since the principle object of this science is the good of man, which is happiness, an inquiry into virtue fittingly comes within the scope of this science.” Therefore, we should compare what Finnis and Aquinas say about virtue and how it relates to happiness.

Aquinas frequently asserts that the political common good is virtue. Finnis asserts that, for Aquinas, happiness comes from “virtue in action. And this means practical reason in action, successfully extending its directiveness to all one’s emotional and voluntary dispositions and activity.” Finnis defines virtue as “excellence and strength {virtus} of character involving a disposition and readiness to act with intelligent love in pursuit of real goods—the basic human goods towards which the primary practical principles direct.” In his account, the virtues are ordered to pursuit of the basic goods. But “virtues are not merely attitudes of openness to basic goods, they provide ordering principles for the pursuit of those goods.” Finnis’s account has Aquinas ordering the virtues to the basic goods instead of ordering the basic goods to the virtues.

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208 Froelich, 47; Sherwin, 310.
209 Eth. I, lect. 19, n. 224: “felicitas est operatio quaedam secundum virtutem perfectam. Et sic per cognitionem virtutis melius poterimus de felicitate considerare…Cum igitur haec scientia principaliter quae rerum bonum humanum quod est felicitas, consequens est quod ad hanc scientiam pertineat de virtute scrutari.”
210 Pol. I, chap. 1, n. 17; DR. I, chap. 16; ST I-II, q. 92, a. 1, co.; q. 96, a. 2, ad. 2; a. 3, co.
211 Finnis, p. 107.
212 Finnis, p. 84.
But Porter points out that Aquinas never claimed that imperfect happiness is constituted by Finnis’s basic goods of life, knowledge, or friends. Those goods are rather prerequisites for the practice of virtue.\textsuperscript{214} Borrowing, and revising, Peter Lombard’s definition, Aquinas said virtue is a good habit of mind, by which we live rightly, of which no one can make bad use, and which God works in us, but without us.\textsuperscript{215} Imperfect happiness results from having the states of character that are the virtues rather than possessing basic goods.

\textit{Contemplation}

Aquinas twice suggested that the political common good might be contemplation.\textsuperscript{216} If this might be a further end of the political community, we should examine what Finnis says about its role in Aquinas’s thought. We have seen that Finnis does not believe that the beatific vision solely consists in contemplation, but includes practical activity on behalf of others. In this life, Finnis asserts that:

Virtuous living is not only foundational and never dispensable—never reasonably left behind—but is also included in the best possible fulfillment of the contemplation which is somehow action’s fulfillment. In the last analysis, contemplation is a form of action and had best issue in (further) action, indeed ‘public’ action. In any event, Aquinas never suggests that either families or political communities should be wholly directed towards facilitating contemplation by their members.\textsuperscript{217}

There are two claims in this passage that we should examine. First, Finnis claims that contemplation is ordered to public action. Aquinas did distinguish between acts of contemplation that were for their own sake, and acts of contemplation that issued in practical

\textsuperscript{215} \textit{ST} I-II, q. 55, a. 4, obj. 1 and co.
\textsuperscript{216} \textit{ScG} III, chap. 37, no. 7; \textit{Eth}. X, lect. 11, n. 2101.
\textsuperscript{217} Finnis, \textit{Aquinas}, 110.
But Finnis would blur that distinction and the carefully considered distinctions Aquinas worked out between the active and contemplative lives, which were grounded in philosophical arguments rather than theological ones. Aquinas made those distinctions because he believed that the contemplative life is generically more meritorious than the active life. The business of political life hinders the contemplative life because it disturbs the leisure necessary for contemplation. Aquinas was quite clear that contemplation is fundamentally to be sought for its own sake, and not for the sake of some further result.

Aquinas believed that the perfection of man comes from the perfection of that which is his most excellent, characteristic part: his speculative reason. For Aquinas, the goods that practical reason obtains are to be used to facilitate the exercise of speculative reason. What distinguishes speculative reason from practical reason is its object: speculative reason’s object is truth, while that of practical reason is right action. Finnis makes it sound as though speculative reason is ultimately ordered to practical action. Part of the confusion here stems from Finnis’s failure to distinguish between ontological goods and moral goods in his understanding of the basic goods. He considers ontological goods only insofar as they happen to be moral goods. This highlights yet again the central shortcoming of his approach.

The second questionable claim in the passage quoted above is Finnis’s assertion that political community is not ordered to facilitating contemplation. It is true that Aquinas did not think human life should be “wholly directed” toward contemplation, but no one claims he did.

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218 ST II-II, q. 181, a. 3, co.
219 ST II-II, q. 180-82. In ST II-II, q. 182, a. 1, co., Aquinas lists nine reasons for the superiority of the contemplative life over the active life, eight of which come from Aristotle, and only one of which comes from sacred Scripture.
220 ST II-II, q. 182, a. 2, co..
222 ST II-II, q. 182, a. 4, co. See Bradley, “John Finnis on Aquinas ‘the Philosopher’,” 5-6.
223 ST I-II, q. 3, a. 5.
think that. Aquinas did suggest, however, that like everything else in human life, the political community is ultimately, if indirectly, ordered to the perfection of man in contemplation:

In fact, all other human operations seem to be ordered to this one, as to an end. For, there is needed for the perfection of contemplation a soundness of body, to which all the products of art that are necessary for life are directed. Also required are freedom from the disturbances of the passions—this is achieved through the moral virtues and prudence—and freedom from external disorders, to which the whole program of government in civil life is directed. And so, if they are rightly considered, all human functions may be seen to subserve the contemplation of truth.\textsuperscript{224}

Finnis says that this passage means that the “freedom from external disturbances” Aquinas spoke of here was merely a “pre-condition” to contemplation.\textsuperscript{225} That assertion is not positively false, but it misleadingly diminishes the meaning of the verbs “ordinari” and “servire” and neglects to that Aquinas twice refers to contemplation as the single end of all human actions.

In this passage the very justice and peace that Finnis says constitute the political common good are ordered to contemplation as their end. They dispose man to contemplation by removing potential obstacles to contemplation, such as contention and strife. The moral virtues and prudence likewise dispose man to the contemplative life by removing interior obstacles to contemplation, such as unruly appetites, although the practical virtues do not pertain to contemplation in its essence.\textsuperscript{226}

If we can say that there is one further end of the political community, then it is that the life of virtue and the happiness that comes from it dispose one to contemplation. The effects of God’s action in creation also belong to the contemplative life dispositively, insofar as they show

\textsuperscript{224} ScG III, chap. 37, n. 7: “Etiam omnes aliae humane operationes ordinari videntur sicut ad finem. Ad perfectionem enim contemplationis requiruntur incolumitas corporis, ad quam ordinantur artificialia omnia quae sunt necessaria ad vitam. Requiritur etiam quies a perturbationibus passionum, ad quam pervenitur per virtutes morales et per prudentiam; et quies ab exterioribus perturbationibus, ad quam ordinatur totum vitae civilis. Ut sic, si recte considerentur, omnia humana officia servire videantur contemplantibus veritatem.”

\textsuperscript{225} Finnis, Aquinas, 110, n. 33.

\textsuperscript{226} ST II-II, q. 180, a. 2, co.; q. 181, a. 1, ad 3; q. 181, a. 2, co.
us the way to contemplation of God Himself and guide us to knowledge of Him. The contemplative life is the highest way of life in this world and is a faint but real intimation of what eternal life is like. In this life contemplation bestows on us “a certain inchoate beatitude” that we will have completely in the next life. Contemplating God is the end of human life even though we cannot engage in it all the time, but only “episodically,” as Ralph McInerny put it.

Conclusion

Finnis is adamant that the political common good for Aquinas is instrumental, and not concerned with securing the basic goods, happiness, complete virtue, or contemplation. In that sense, we might say that he believes in an intrinsic political common good, but not really in an extrinsic political common good (except perhaps indirectly). That is why it makes more sense for him to call the political common good “complete” rather than “perfect,” because for Aquinas the term perfection suggests the attainment of an extrinsic end. But as we have seen, he mischaracterizes the justice and peace with which he identifies the political common good. Moreover, his rather weak justification for retributive punishment leaves him with a weaker justification for political community, since it is chiefly the need for punishment that causes men to form political communities.

Aquinas spoke of the political common good in many different ways, and his use of the term common good is equivocal and analogical. Sometimes he speaks of it as justice and peace in the sense that Finnis does, or as what Kempshall calls utility or mutual benefit. The consensus among scholars that the political common good is not instrumental according to Aquinas is

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227 ST II-II, q. 180, a. 4, co.
228 McInerny, Aquinas on Human Action, 49.
overwhelming, though they rarely parse out how the things the common good might be are related to one another. Kempshall, a historian, does the best, most nuanced job of this. He characterizes the two notions of the political common good that Aquinas invokes as mutual benefit and the life of virtue, and says that “Despite his ability to choose from these two definitions, Aquinas repeatedly emphasizes that the common good of the political community is the moral good of the life of virtue.”

Perhaps we can parse out the relationship between the different aspects of the political common good. The political common good certainly makes particular goods more secure,

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229 Among those who claim that Aquinas believed that the political common good is virtue is Finnis’s mentor, Germain Grisez, in *The Way of the Lord Jesus, Vol. II: Living a Christian Life* (Chicago: Franciscan Herald Press, 1983), 850, n. 16. Grisez says that Aquinas followed Aristotle in holding “that the general promotion of virtue and suppression of vice should be the main component of the common good of political society.” Crofts and Elders speak of the political common good as including the spiritual well being of citizens. See Richard Crofts, “The Common Good in the Political Theory of Thomas Aquinas,” *Thomist* 37 (January 1973), 158: “the purpose of the state is to provide for the material, intellectual, moral, and spiritual needs of man. The state is an enabling organization which sets and keeps man on the path toward a virtuous life.” Elders, “The Actuality of St. Thomas Aquinas’s Teaching on the Common Good,” 49-50: “the common good is the well-being of all the members of society and consists primarily in their spiritual perfection.” But Elders also says that “Aquinas asserts that the virtuous life is the goal of the legislator,” 54. Sherwin, 327: “the temporal good is only a common good if it be directed to the ultimate common good: heavenly beatitude.” De Koninck, “The Primacy of the Common Good against the Personalists,” 100, says it is “speculative happiness”: “The practical common good should be ordered to this speculative good which extends as a common good to persons.” Froelich, 55, says it is happiness. Brock, 236, says it is happiness. Dewan, “Divinity of the Common Good,” 218: “The goal of politics, the achievement of virtue, constitutes a peace which in turn makes possible contemplation of the divine.” Pakaluk, 92: “Since virtue is rightly ranked above any instrumental goods that might also be sought by political association, virtue becomes the chief aim, or even the aim, of political association. Virtue cannot be a direct goal without being the chief goal.” Wright, 158: “The law aims at virtue precisely because the political community is for virtue.” Jeanne Heffernan Schindler, “A Companionship of Caritas: Friendship in St. Thomas Aquinas,” in John von Heyking and Richard Avrameko, eds., *Friendship and Politics: Essays in Political Thought* (Notre Dame: University of Notre Dame Press, 2008), 155: “Prompted by charity to be concerned about their ultimate end, [the good ruler] habituates his citizens in the natural virtues, which enable them to live out the infused virtues with greater ease.” John Goyette, “On the Transcendence of the Political Common Good: Aquinas versus the New Natural Law Theory,” *National Catholic Bioethics Quarterly* 13, no. 1 (Spring 2013), 141, says it is virtue. Though she is critical of his account of Aquinas’s moral philosophy, Jean Porter is persuaded by Finnis’s interpretation of the political common good. See Porter, “Reason, Nature, and the End of Human Life,” 483-484. See also her “The Common Good in Thomas Aquinas,” in Dennis P. McCann and Patrick D. Miller, eds., *In Search of the Common Good* (New York: T & T Clark, 2005), 94-120. Eschmann believed that it is merely a *bonum utile*. See “In Defense of Jacques Maritain,” 194-95. One wonders whether his conviction that the political common good is a *bonum utile* was connected with his conviction that the *De Regno*, which places such a great emphasis on the role of the king in leading his subjects to virtue, was not an authentic work of Aquinas.

provides mutual benefits for members of the political community, promotes the good of social coordination, punishes evildoers, and is founded on justice and peace. But it is ordered to something more. The end of the political community for Aquinas, its common good, is the life of virtue:

For the political community was originally instituted for the sake of living, namely, that human beings adequately find the means to be able to live. But the political community’s existence results in human beings living, and living well insofar as the laws of the political community direct the life of human beings to virtue.231

Here Aquinas said that the political community contributes to living well through the law, and identifies living well with living a life of virtue. Virtuous living leads to the imperfect happiness that we can have in this life and is conducive to attaining the perfect happiness we can have in the next. Happiness is a common good only by predication, so it cannot be the direct object of the political community. Virtue, however, can be good by causality, insofar as the political community causes its members to perform certain virtuous acts and elicits others that are not possible outside of political community. Therefore, the political community is a partnership in virtue, the political common good is the life of virtue, and is thus indirectly dispositive to happiness and contemplation.

Finnis, however, claims that Aquinas believed that the political community should only promote virtue to the extent it was necessary for the maintenance of justice and peace. If, as Aquinas said, the political common good requires the practice of virtues beyond justice, Finnis says this is only insofar as they pertain to political justice. The law does not, therefore, aim at inculcating complete justice or complete virtue in its citizens. Finnis implies that to do so would

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231 Pol. I, chap. 1, n. 17: “est enim primitus facta gratia vivendi, ut scilicet homines sufficienter invenirent unde vive possent: sed ex eius esse provenit, quod homines non solum vivat, sed quod bene vivant, inquantum per leges civitatis ordinatur vita hominum ad virtutes.” See also note 162 above.
be totalitarian.\textsuperscript{232} Let us now turn to a discussion of these claims and precisely how government and law contribute to the life of virtue according Finnis and Aquinas.

\textsuperscript{232} Finnis, Aquinas, 223, 225.
Chapter 4
Law and Virtue

Introduction

In the last chapter, we concluded that, pace Finnis, for Aquinas the political common good is the virtue of the members of the political community. In this chapter, we will demonstrate that claim more fully. Finnis argues that, according to Aquinas, the law promotes virtue only for the sake of the limited and instrumental good of justice and peace. Law is concerned with other virtues only insofar as they pertain to justice and peace. Even if it commands acts of other virtues, Finnis says that it merely requires external compliance. The law cannot reach inside of man to affect his soul or character. It is not, therefore, ordered to complete virtue.\(^1\)

This raises a series of questions about the relationship between law and virtue. Can justice and peace be had without the law aiming at complete virtue? To what extent can the law promote virtue? If Finnis is wrong, and law is ordered to complete virtue in some way, how does it actually contribute to making men virtuous? Can the law aim at complete virtue and still be compatible with limited government?

The Aims of Human Law and Divine Law

In order to support his contention that the justice and peace the political common good requires fall short of complete justice and complete peace, Finnis draws a sharp distinction

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\(^1\) Finnis, Aquinas, 228
between divine and human government, their methods, and purposes. The divine law is concerned with each individual, and orders men to God, so it reaches into inner acts of the will. The human law, however, is concerned with men in general, and orders them to the common good, so its scope is limited to external acts.² He bases this argument on the following passage, which bears quoting in full:

But it must be noted that the good has various degrees, as Dionysius says (Div. Nom. iv): for there is a perfect good and an imperfect good. In things ordered to an end, there is a perfect goodness when a thing is such that it is sufficient in itself to conduce to the end: while there is imperfect goodness when a thing is of some assistance in attaining the end, but is not sufficient for the realization thereof. Thus a medicine is perfectly good if it gives health to a man; but it is imperfect, if it helps to cure him without being able to bring him back to health. It must be observed that the end of human law is different from the end of divine law. For the end of human law is the temporal tranquility of the state, which end law effects by directing external actions, as regards those evils which might disturb the peaceful condition of the state. On the other hand, the end of the divine law is to bring man to that end which is everlasting happiness; which end is hindered by any sin, not only of external, but also of internal action. Consequently that which suffices for the perfection of human law, viz. the prohibition and punishment of sin, does not suffice for the perfection of the divine law; but it is requisite that it should make man altogether fit to partake of everlasting happiness. Now this cannot be done save by the grace of the Holy Ghost, whereby “charity” which fulfilleth the law “is spread abroad in our hearts” (Rom. 5:5): since “the grace of God is life everlasting” (Rom. 6:23). But the Old Law could not confer this grace, for this was reserved to Christ; because, as it is written (John 1:17), the law was given “by Moses, grace and truth by Jesus Christ.” Consequently the Old Law was good indeed, but imperfect, according to Heb. 7:19: “The law brought nothing to perfection.”³

² Finnis, Aquinas, 223-24.
³ ST I-II, q. 98, a. 1, co.: “Sed notandum est quod bonum diversos gradus habet, ut Dionysius dicit, IV cap. de Div. Nom., est enim aliquod bonum perfectum, et aliquod bonum imperfectum. Perfecta quidem bonitas est, in his quae ad finem ordinantur, quando aliquid est tale quod per se sufficiens est inducere ad finem, imperfectum autem bonum est quod operatur aliquid ad hoc quod perveniatur ad finem, non tamen sufficit ad hoc quod ad finem perducat. Sicut medicina perfecta bona est quaem hominum sanat, imperfectum autem est quaem hominem aduat, sed tamen sanare non potest. Est autem scindium quod est alius finis legis humanae, et alius legis divinae. Legis enim humanae finis est temporalis tranquillitas civitatis, ad quem finem pervenit lex cohibendo exteriores actus, aquamun ad illa mala quae possunt perturbare pacificum statum civitatis. Finis autem legis divinae est perducere hominem ad finem felicitatis aeternae. Quod quidem fieri non potest nisi per gratiam spiritus sancti, per quam diffunditur caritas in cordibus nostris quae legem adimpletr, gratia enim Dei vitam aeterna, ut dicitur Rom. VI. Hanc autem gratiam lex vetus conferre non potuit, reservabatur enim hoc Christo, quia, ut dicitur Ioan., I, lex per Moysen data est; gratia et
This passage would seem to support both Finnis’s specific argument about the end of law and his broader argument about the political community being ordered to peace. Dewan concedes Finnis’s interpretation of this passage, but says “I do not believe that it expresses the deepest level of Thomas’s position.” Pakaluk, however, says that there is nothing in the passage that necessarily requires us to believe that the peace Aquinas referred to is peace as Finnis defines it.

Though the passage does lend weight to Finnis’s case, it is important to read the response in full instead of just quoting the part that says “that the end of human law is different from the end of divine law” as Finnis does. In the full response, both the human law and the Old Law are compared to the New Law as imperfect to perfect. Aquinas clearly meant to compare human law to the medicine that “helps to cure [a man] without being able to bring him back to health.” This is consistent with saying that the law contributes directly to imperfect happiness in this life, and indirectly to perfect happiness in the next. Again, Aquinas said the same was true of the Old Law in its relation to the New. This becomes more clear later in the same question where Aquinas said that the help provided by the law “should be bestowed on men in an orderly manner, so that they might be led from imperfection to perfection; wherefore it was becoming that the Old Law should be given between the law of nature and the law of grace.”

We should also consider the place of this article within the broader context of the *Summa Theologiae*. It was appropriate for him to distinguish between the specific, direct
objects of human and divine law here because this is the first article of the first question in Aquinas’s “treatise on law” concerned with the Old Law, and comes immediately after his discussion of the human law. It would be strange if he had not distinguished between them fairly clearly in this context. So this passage lends weight to Finnis’s argument about the different aims of human and divine law, but not so much as to crush opposing interpretations of the whole treatise on law.

**Human Law, the Virtues, and Interior Acts of the Will**

Finnis argues that human law cannot and should not try to directly judge or command inner acts of the will. He quotes Aquinas to prove his point that justice can concern itself with the acts of the other virtues only insofar as they pertain to justice:

> Now human law is ordained for one kind of community, and the divine law for another kind. Because human law is ordained for the civil community, implying mutual duties of man and his fellows: and men are ordained by one another to outward acts, whereby men live in communion with one another. This life in common of man with man pertains to justice, whose proper function consists in directing the human community. Wherefore human law makes precepts only about acts of justice; and if it commands acts of other virtues, this is only insofar as they assume the nature of justice, as the Philosopher explains (*Ethics* V.1).\(^7\)

Finnis says this means that the law can command acts of temperance insofar as it penalizes citizens for adultery, child abuse, and sexual assault. It means that justice can command acts of courage to prevent soldiers, policemen, and firemen from dereliction of their public duties.\(^8\) We might add that it can command temperance for those fulfilling public duties insofar as it punishes citizens for adultery, child abuse, and sexual assault. It means that justice can command acts of courage to prevent soldiers, policemen, and firemen from dereliction of their public duties.\(^8\)

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\(^7\) *ST* I-II, q. 100, a. 2, co.: “Est autem alius modus communitatis ad quam ordinatur lex humana, et ad quam ordinatur lex divina. Lex enim humana ordinatur ad communem civilem, quae est hominum ad invicem. Hominem autem ordinatur ad invicem per exteriores actus, quibus homines sibi invicem communicant. Huius modi autem communicatio pertinet ad rationem iustitiae, quae est proprie directa communitatis humanae. Et ideo lex humana non proponit praecepta nisi de actibus iustitiae; et si praecipiat actus aliarum virtutum, hoc non est nisi inquantum assumunt rationem iustitiae; ut patet per philosophum, in V Ethic.” Finnis, *Aquinas*, 224.

\(^8\) Finnis, *Aquinas*, 225.
firemen, policemen, and soldiers for drunkenness on the job. But in commanding these specific acts of virtue, because they relate to the common good, the law does not require that they be performed the way that someone who possessed the given virtue in a complete way would perform them. The law may command soldiers to practice the virtue of temperance insofar as they may not drink alcohol while on duty or in a combat zone, but it does not prevent them from being intemperate when off duty or outside of a combat zone except insofar as they might harm someone else, e.g., by driving drunk.

In addition to asserting that it would be wrong for the law to command inner acts of the will, Finnis says that it is unable to judge them effectively in any case. Rulers, judges, and the law simply do not have the ability to know the inner movements of the will. They can judge intentions of an act, but not the deepest motivations behind it. Secret sins only become their concern when they have an effect on the public good.⁹

Finnis says that the government and law cannot command citizens to perform acts of virtue as though they perfectly possessed the relevant virtue because Aquinas denied that they have the right to command people in interior acts of their wills. He grounds this claim in Aquinas’s assertions that people are free to dispose of their bodies for the purpose of getting married.¹⁰ Since Finnis cites the following passage three times in this context, it is worth quoting extensively. In considering whether human beings are obliged to obey their superiors in all things, Aquinas said that, for a slave:

> His body is subjected and assigned to his master, but his soul is his own. Consequently in matters touching the internal movement of the will man is not bound to obey his fellow man, but God alone.

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¹⁰ Ibid., 240.
Nevertheless man is bound to obey his fellow man in things that have to be done externally by means of the body: and yet, since by nature all men are equal, he is not bound to obey another man in matters touching the nature of the body, for instance in those relating to the support of his body or the begetting of his children. Wherefore servants are not bound to obey their masters, nor children their parents, in the question of contracting marriage or of remaining in the state of virginity or the like. But in matters concerning the disposal of actions and human affairs, a subject is bound to obey his superior within the sphere of his authority; for instance a soldier must obey his general in matters relating to war, a servant his master in matters touching the execution of the duties of his service, a son his father in matters relating to the conduct of his life and the care of the household; and so forth.\(^\text{11}\)

First, we should note that in this article Aquinas is not speaking of political rulers, except in the case of the soldier obeying a superior officer in war. In fact, he is more concerned with obedience to the political authority in the following article. The two main examples he uses in this article speak to the limits of domestic authority, since both slaves and children belong to a household, though they could be extended to limit political authority by implication. Second, the natural equality of men mentioned here does not preclude the possibility of morally licit forms of slavery for Aquinas, so it seems unlikely that the kind of equality he is broadly speaking of is the “fundamental equality of human persons” to which Finnis appeals, unless by that he means equality in their supernatural ordination to God.\(^\text{12}\) In this context, “remaining in the state of virginity” probably means that parents cannot oblige their children to marry against their will as opposed to referring to consecrated virginity. So this passage limits the scope of human law by

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\(^{11}\) \textit{ST II-II, q. 104, a. 5, co.}: “Corpora obnoxia sunt et adscripta dominis, mens quidem est sui iuris. Et ideo in his quae pertinent ad interiorem motum voluntatis, homo non tenetur homini obedire, sed solum Deo. Tenetur autem homo homini obedire in his quae exterius per corpus sunt agenda. In quibus tamen etiam, secundum eam quae ad naturam corporis pertinent, homo homini non obedire, sed solum Deo, quia omnes homines natura sunt pares, puta in his quae pertinent ad corporis sustentationem et prolis generationem. Unde non tenentur nec servi dominis, nec filii parentibus obedire de matrimonio contrahendo vel virginitate servanda, aut aliquo alio huissusmodi. Sed in his quae pertinent ad dispositionem actuum et rerum humanarum, tenetur subditus suo superiori obedire secundum rationem superioritatis, sicut miles duci exercitus in his quae pertinent ad bellum; servus domino in his quae pertinent ad servilia opera exequenda; filius patri in his quae pertinent ad disciplinam vitae et curam domesticam; et sic de aliis.”

\(^{12}\) Finnis, \textit{Aquinas}, 240.
implication, but as we have seen, marriage and reproduction are not immune from the care of the law.\textsuperscript{13}

Finnis bases this argument that the reach of law is limited on the dignity of the human person and the proper scope of the public good, but upon examination it seems that Aquinas made the statements he cites in quite different contexts. This is an example of how the wall Finnis constructed to separate public and private good in Aquinas rests on shaky foundations.

Finnis asserts that, because the aim of human law is different from that of the divine law, it commands only the acts of virtue necessary to achieve political justice and peace. Moreover, he says that human law aims only at virtue for the sake of the political common good, not for the sake of its effect upon the individual. But this raises the question of whether justice between men in external acts can be secured without men personally possessing the virtue of justice.

Finnis concedes that:

\begin{quote}
Human law must inculcate virtues because it will only work well as a guarantor of justice and peace if its subjects internalize its norms and requirements and—more important—adopt its purpose of promoting and preserving justice…So the preservation of the public good needs people to have the \textit{virtue}, the inner dispositions, of justice.\textsuperscript{14}
\end{quote}

Moreover, “it is a legitimate hope and important aim {\textit{finis}} of government and law that its citizens will come to have the virtue of justice and act out that particular excellence of character.”\textsuperscript{15} So it turns out that the law does have to concern itself with the internal disposition of the will insofar as it pertains to justice.\textsuperscript{16}

In fact, Aquinas said that this is within the scope of the virtue of legal justice. In response to an objection that justice concerned the passions, Aquinas said that although justice is

\textsuperscript{13} Malo, q. 15, a. 2, ad 12.
\textsuperscript{14} Finnis, Aquinas, 232.
\textsuperscript{15} Ibid., 232.
\textsuperscript{16} Wright, 144.
not immediately concerned with the passions, “legal justice, which is directed to the common
good, is more capable of extending to the internal passions whereby man is disposed in some
way or other in himself, than particular justice, which is directed to the good of another
individual: although legal justice extends chiefly to the other virtues in the point of their external
operations.” Unfortunately, Aquinas gave no examples in this article of how legal justice
might extend to an internal passion. Justice is in the rational appetite, or will, rather than the
sensitive (irascible or concupiscible) appetites, or the passions. But since the passions
participate in reason by being ordered and directed by the will, the implication would seem to be
that the virtue of legal justice enables one to control one’s passions insofar as they manifest
themselves in external actions. Legal justice might lead one to perform an act of temperance in
order to refrain from physically endangering others or setting a bad example for them.

We have seen that Finnis defines what Aquinas called legal justice as general justice and
said that it pertains to the common good of any social group, not the specifically political
common good. But we showed that, for Aquinas, legal justice did have the specifically political
common good for its object. What about the subject of legal justice, i.e., the will of the agent
who performs the acts of the virtue? Legal justice disposes the individual to more readily give
others their due, make his actions commensurate with the common good, and to act for the
common good for its own sake. Wright says that they may even come to pay their taxes from a

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17 ST II-II, q. 58, a. 9, ad 3: “bonum commune est finis singularum personarum in communitate existentium, sicut
bonum totius finis est cuiuslibet partium. Bonum autem unius personae singularis non est finis alterius. Et ideo
iustitia legalis, quae ordinatur ad bonum commune, magis se potest extendere ad interiores passions, quibus homo
aliqualiter disponitur in seipso, quam iustitia particularis, quae ordinatur ad bonum alterius singularis personae.
Quamvis iustitia legalis principalius se extendat ad alias virtutes quantum ad exteriore operationes earum.”
18 ST II-II, q. 58, a. 4, co.
19 Keys, Promise of the Common Good, 181-82, 197. Keys notes that Aquinas is more specific than Aristotle about
how the virtue of legal justice perfects the subject who practices, giving it greater “interiority.”
disposition to act for the sake of the common good. Finnis agrees that the virtue of justice makes people more ready to give others their due and make their actions commensurate with the common good. But he would deny that it would cause them to act for the political common good for its own sake, because he denies that the political common good is good for its own sake.

Amorose helpfully distinguishes between internal actions, private external actions, and public external actions. This differentiates actions more broadly than Wright’s distinction between self- and other-regarding actions. Amorose says that Finnis equates all references to external actions in Aquinas with public external actions. Obviously, the law concerns itself with the public external actions. But can it concern itself with private external actions or internal actions? Insofar as each individual is part of the whole community, when the individual acts upon himself, he acts upon the community. This was one of Aquinas’s arguments against the ostensibly private act of suicide: “every man is part of the community, and so, as such, he belongs to the community. Hence by killing himself, he injures the community.” Some of the acts of any given virtue or vice will be private, while some acts of the same virtue or vice will tend to be public. But even private acts of vice have some remote affect on the community. Though the law is chiefly concerned with external public acts, as we saw in our discussion of the distinction between private and public good, it is probably impossible to formulate a general rule for distinguishing between purely public external acts and purely private external acts. Therefore, it may also be impossible to absolutely

20 Wright, 146.
21 Wright, 137.
22 Amorose, 115. See Finnis, Aquinas, 233-34.
23 ST I-II, q. 64, a. 5: “homo est pars communitatis, et ita id quod est, est communitatis. Unde in hoc quod seipsum interficit, injuriam communitati facit.” See Kempshall, 121-23.
24 ST II-II, q. 122, a. 1, co.
prohibit the law from concerning itself with private external actions.

*Justice, Peace, and Complete Virtue*

If the justice necessary for the political common good depends upon the performance of at least some acts of other virtues, then “it must be at least a legitimate interest of government that citizens have other virtues too.”²⁵ Finnis concedes that practical reasonableness as he defines it requires possession of all the virtues because they are interconnected. He further concedes that private vice weakens our disposition to be virtuous toward others, although he refers to it as a failure of practical reasonableness instead of vice.²⁶ Aquinas said that someone with imperfect moral virtue may be good at performing the acts of some virtues, but not so good at performing the acts of others. Perfect moral virtue, however, requires the possession of all the virtues in their integrity.²⁷ If, as Finnis says, those belonging to the political community should have the complete or perfect virtue of justice, then they need to possess the other moral virtues too. But Finnis objects that “even in seeking to promote justice-related virtues by requiring patterns of conduct which should habituate subjects to acts of these virtues, the law cannot rightly demand that people acquire, or be motivated by, these virtuous states of character or disposition.”²⁸ So Finnis denies that the law is concerned with cultivating virtue for the sake of the individual.

As Wright points out, for Finnis “beyond the political common good and for the sake of its conditions, the law no longer *leads* to virtue, but instead *facilitates* the virtuous life of all…the

²⁶ See also Ibid., 108, n. 18, 232. This was conceded even by John Stuart Mill. See *On Liberty and Other Writings*, ed. Stefan Collini (Cambridge: Cambridge University Press, 1989), 81
²⁷ *ST I-II*, q. 65, a. 1, co.
²⁸ Finnis, *Aquinas*, 233-34.
virtuous conditions realized at this level are the terminus of the *legislator’s* purpose toward virtue.” But the simple fact that law only commands specific acts of the virtues in matters pertaining to the political common good does not mean that it does not aim at cultivating virtue in the character of the individual for his own sake. While it is true that law may not require that people perform acts of the virtues on the basis of internal virtuous states, that assertion does not require us to conclude that the lawmaker does not intend that, through repeatedly performing specific acts of a given virtue, people will come to possess that virtue completely. In fact, Aquinas himself distinguished between what the lawmaker requires and why he requires it. Nor does the fact that the law does not directly command the performance of all the acts of all the virtues necessarily mean that the lawmaker does not intend it to contribute to the complete virtue of the individual.

*Law and Virtue in the “Treatise on Law”*

When Aquinas said that the law should be concerned with “restraining subjects from immorality and leading them to virtuous action,” Finnis says he meant this only insofar as it is necessary to uphold justice and peace. When Aquinas said the political common good should be congruent with the pursuit of perfect happiness in heaven, Finnis says that this simply meant that it should be a suitable instrument for individuals and families to put to their private purposes. He asserts that this is true of the *De Regno* but is more clear in the *Summa*

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29 Wright, 145-46. Emphases in Wright.
30 Wright, 150-53.
31 *ST I-II*, q. 100, a. 9, ad 2. Wright, 146-50
32 Wright, 150.
Strangely, Finnis describes Aquinas’s treatment of law in the *Summa as “disconcertingly formal” and asserts that the “non-formal substantive question, whether the point of such co-ordination is to make people *really* good persons *all round*, is simply not the issue in these passages.*35 But is that really the case?

The relationship between law and virtue is central to the so-called “treatise on law,” questions 90-108 of the Prima Secundae of the *Summa*. In particular, question 96, on the power of human law, raises many questions that call for analysis, especially articles 2 and 3. When Aquinas posed the question whether human law should repress all vice in article 2, he answered that:

> Now human law is framed for a number of human beings, the majority of whom are not perfect in virtue. Therefore human law does not forbid all vices, from which the virtuous abstain, but only the more grievous vices, from which it is possible for the majority to abstain; and chiefly those that are to the hurt of others, without the prohibition of which human society could not be maintained: thus human law prohibits murder, theft, and suchlike.36

This would seem to support Finnis’s claim that law is chiefly concerned with punishing crime, especially those which undermine life in community. But Aquinas said law “chiefly” forbids vices that harm others, meaning that at least some vices that do not directly harm others could be forbidden, though he did not say what kind here.

The second objection in article two says that “the intention of the lawgiver is to make the citizens virtuous. But a man cannot be virtuous unless he forbears from all kinds of vice.

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34 Finnis, *Aquinas*, 231.
35 Ibid., 234.
36 *ST* I-II, q. 96, a. 2, co.: “Lex autem humana ponitur multitudini hominum, in qua maior pars est hominum non perfectorum virtute. Et ideo lege humana non prohibentur omnia vitia, a quibus virtuosi abstinent; sed solum graviora, a quibus possibilis est maiorem partem multitudo abstinere; et praecipue qua sunt in nocentum aliorum, sine quorum prohibitione societas humana conservari non posset, sicut prohibentur lege humana homicidi et furta et huiusmodi.”
Therefore it belongs to human law to repress all vices."\(^{37}\) We would therefore expect Aquinas’s reply to reject the claim that lawmakers intend to make citizens virtuous, but it does not. Instead, he said that: “The purpose of law is to lead men to virtue, not suddenly, but gradually. Wherefore it does not lay upon the multitude of imperfect men the burdens of those who are already virtuous, viz. that they should abstain from all evil. Otherwise, these imperfect ones, being unable to bear such precepts, would break out into yet greater evils.”\(^{38}\) So Aquinas did not reject the claim that law intends to make citizens completely virtuous, but said that it must do this gradually. The law’s limited ability to lead men to virtue stems partly from limitations inherent in the law itself, but may also be limited by the weakness of its human subject.\(^{39}\)

The third article of question 96 asks whether human law is competent to direct all acts of virtue. Aquinas said that:

The species of virtue are distinguished by their objects, as explained above. Now all the objects of virtue can be referred either to the private good of an individual, or to the common good of the multitude: thus matters of fortitude may be achieved either for the safety of the state, or for upholding the rights of a friend, and in like manner with the other virtues. But law, as stated above, is ordained to the common good. Wherefore there is no virtue whose acts cannot be prescribed by the law. Nevertheless, human law does not prescribe concerning all the acts of every virtue, but only in regard to those that are ordainable to the common good—either immediately, as when certain things are done directly for the common good—or mediately, as when a lawgiver prescribes certain things pertaining to good order, whereby the citizens are directed in the upholding of the common good of justice and peace.\(^{40}\)

\(^{37}\) ST I-II, q. 96, a. 2, ad 2: “intentio legislatoris est cives facere virtuosos. Sed non potest esse aliquis virtuosus, nisi ab omnibus vitiiis compescatur. Ergo ad legeom humanam pertinent omnia vitia compescere.”
\(^{38}\) ST I-II, q. 96, a. 2, ad 2: “lex humana intendit hominess inducere ad virtutem, non subito, sed gradatim. Et ideo non statim multitudini imperfectorum imponit ea quae sunt iam virtuosorum, ut scilicet ab omnibus malis abstineant. Alioquin imperfecti, huiusmodi praecepta ferre non valentes, in deteriora mala prorumperent.”
\(^{39}\) Dewan, “St. Thomas, John Finnis, and the Political Common Good,” 348-49. See also ST II-II, q. 122, a. 1, ad 1.
\(^{40}\) ST I-II, q. 96, a. 3, co.: “species virtutum distinguentur secundum objecta, ut ex supradictis patet. Omnia autem objecta virtutum referi possunt vel ad bonum privatum aliquius personae, vel ad bonum commune multitudinis, sicut quae sunt fortitudinis potest aliquis exequi vel propter conservationem civitatis, vel ad conservandum ius amici sui; et simile est in alios. Lex autem, ut dictum est, ordinatur ad bonum commune. Et ideo nulla virtus est de cuibus actibus lex praecepere non possit. Non tamen de omnibus actibus omnium virtutum lex humana praecipit, sed solum de illis qui sunt ordinabiles ad bonum commune, vel immediate, sicut cum aliqua directe propter bonum commune.
Earlier we saw that Finnis bases his interpretation of Aquinas’s distinction between public and private good on this passage. He also says that it shows that “the law of the state cannot rightly regulate the full range of choices required by practical reasonableness.” It is easy enough to imagine acts of virtue that can be ordered immediately, or directly, to the common good. On the one hand, this would appear to strengthen Finnis’s argument. The kinds of acts that can be ordered mediately, or indirectly, to the common good pertain to justice and peace. But on the other hand, given that it says that “there is no virtue whose acts cannot be prescribed by the law” either immediately or mediately, it is not clear that this passage has the restrictive force that Finnis claims.

One example of an act of virtue that Finnis mentions that Aquinas might have said is mediately directed to the common good is marital fidelity. On the one hand, an act of adultery, might constitute a kind of “secret and truly consensual act of vice,” and seem to fall outside the legitimate scope of the law. On the other hand, Finnis places a high premium on marital fidelity and lists adultery as one of the “injustices” that law legitimately prescribes against. But it is not clear how Finnis’s position is compatible with making adultery a crime punishable by law. It would seem that, at most, adulterers could be penalized by being put at a disadvantage in divorce settlements and custody disputes. If law can promote the virtue of marital fidelity in this somewhat modest way, in what other modest ways can it promote other virtues?

In his response to the second objection of the third article, Aquinas said that we can speak of acts of virtue in two different ways. First, a man can perform a specific act of virtue, even

fiunt; vel mediate, sicut cum aliqua ordinantur ad legislatore pertinentia ad bonam disciplinam, per quam cives informantur ut commune bonum iustitiae et pacis conservent.” See also ST II-II, q. 61, a. 5, ad 4.


42 See Wright, 134 and n. 7.

though he does not completely possess the virtue in question. Aquinas said this is how the law commands specific acts of the virtues, and Finnis would agree. Second, “an act of virtue is when a man does a virtuous thing in a way in which a virtuous man does it. Such an act always proceeds from virtue: and it does not come under a precept of law, but is the end at which every lawgiver aims.” This would seem to suggest that the direct aim of law is the performance of specific acts of virtue, but that an indirect or mediate aim of law is the habituation of an inner disposition to possess virtue in a complete way. In fact, this is spelled out by Aquinas in a passage four questions later:

The intention of the lawgiver is twofold: His aim, in the first place, is to lead men to something by the precepts of the law: and this is virtue. Secondly, his intention is brought to bear on the matter itself of the precept: and this is something leading or disposing to virtue, viz. an act of virtue. For the end of the precept and the matter of the precept are not the same: just as neither in other things is the end the same as that which conduces to the end.

Though Aquinas said this in the context of a discussion of the moral precepts of the Old Law, those moral precepts belong to the natural law, so they can be known by reason, and what is true of them is true of human law too. The fact that this statement applies to law in general is also signified by the fact that the objection to which Aquinas was responding cites Aristotle rather than a theological authority. Therefore, human law may refrain from directly commanding citizens to be completely virtuous without giving up the goal of disposing them to become completely virtuous.

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44 *ST I-II*, q. 96, a. 3, ad 2: “dicitur actus virtutis, quia aliquis operatur virtuosa eo modo quo virtuosus operatur. Et talis actus semper procedit a virtute, nec cadit sub praecepto legis, sed est finis ad quem legislator ducere intendit.”

45 *ST I-II*, q. 100, a. 9, ad 2: “intentio legislatoris est de duobus. De uno quidem, ad quod intendit per praecepta legis inducere, et hoc est virtus. Alius autem est de quo intendit praeceptum ferre, et hoc est id quod ducit vel disponit ad virtutem, scilicet actus virtutis. Non enim idem est finis praecepti et id de quo praeceptum datur, sicut neque in aliis rebus idem est finis et quod est ad finem.” This point is noted by Wright, 150. See also Pakaluk, 73.

46 *ST I-II*, q. 100, a. 1, co.
Aquinas gave an example of how law can contribute to gradually leading a vicious person to practicing specific acts of virtue and then becoming completely virtuous. He said that even though someone may at first obey a law out of fear of being punished for breaking it rather than because they practice the virtue the relevant law prescribes, by “becoming accustomed to avoid evil and fulfill what is good, through fear of punishment, one is sometimes led on to do so likewise, with delight, and of one’s own accord. Accordingly, law, even by punishing, leads men on to being good.”

Keys says that there is a twofold pedagogy in Aquinas’s theory of law, a negative pedagogy and a positive pedagogy. The negative pedagogy promotes virtue by punishing the vicious. It physically prevents them from harming others, and may eventually dispose them to becoming good. Long might point out that that legal punishment does this in part by teaching criminals something about the consequences their deeds for the state of their immortal souls. In addition to the harm they cause to the direct victim of their crime, and to their own souls, criminals commit “scandal.” This does not mean that they horrify others, but that they set a bad example that others may be tempted to imitate, thus leading them astray. Aquinas considered this one of the most serious consequences of crime. But his negative pedagogy is only half of what Aquinas considered the law’s teaching function.

Keys contends that scholars have focused too much on the negative pedagogical function of the law, obscuring the positive pedagogical function, by which it helps good men become

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47 *ST* I-II, q. 92, a. 2, ad 4: “per hoc quod aliquis incipit assuefieri ad vitandum mala et ad impendum bonum propter metum poenae, perductur quandoque ad hoc quod delectabiliter et ex propria voluntate hoc faciat. Et secundum hoc, lex etiam puniendo perducit ad hoc quod homines sint boni.” See also *ST* I-II, q. 95, a. 1, co.; q. 96, a. 2, co.


49 Koritanski, 157-69.
better.\textsuperscript{50} In a way, good men are a “law unto themselves,” because they readily conform themselves to the requirements of the law and never come under its coercive force.\textsuperscript{51} Those with the gift of a naturally good disposition do not need the discipline that the law provides for bad men, and parental education suffices to make them good.\textsuperscript{52} Nevertheless, Keys points out that Aquinas said on two occasions in his treatment of the Old Law that law serves both to repress vice and help the good become better. He said that “every law is imposed on two kinds of men. Because it is imposed on some men who are hard-hearted and proud, whom the law restrains and tames: and it is imposed on good men, who, through being instructed by the law, are helped to fulfill what they desire to do.”\textsuperscript{53}

Law helps the good fulfill their desire to become better in several ways. First, by restraining the vicious, it removes an obstacle to the tranquility of order that is conducive to the cultivation of virtue. Second, the good may not be able to discern some elements of the natural law because they live in a corrupt culture, so they may not be able to become as perfect as they would if they lived in a culture that promoted virtue. So the law removes their ignorance by clarifying what reason requires and strengthening their ability to perform good actions and avoid evil.\textsuperscript{54} Third, law reminds them to perform the duties that they wish to toward their neighbors. Fourth, law perfects their nature as political animals by directing them to the common good.\textsuperscript{55}


\textsuperscript{51} \textit{ST} I-II, q. 96, a. 5, co.

\textsuperscript{52} \textit{ST} I-II, q. 95, q. 1, co.

\textsuperscript{53} \textit{ST} I-II, q. 98, a. 6, co.: “quaelibet lex duobus generibus hominum imponitur. Imponitur enim quibusdam duris et superbis, qui per legem compescuntur et domantur, imponitur etiam bonis, qui, per legem instructi, adjuvantur ad impleendum quod intendunt.” See also q. 101, a. 3, co. Keys, \textit{Promise of the Common Good}, 209-10.

\textsuperscript{54} \textit{ST} I-II, q. 98, a. 6, co. See also q. 94, a. 4, co.

\textsuperscript{55} \textit{ST} I-II, q. 72, a. 4, co.; q. 96, a. 1, co.; \textit{Pol.} I, chap. 2. Keys, \textit{Promise of the Common Good}, 210-14.
The “treatise on law” includes Aquinas’s discussion of eternal, natural, human, and divine law. He defined law and compared and contrasted the different kinds of law in order to clarify the nature of each. He argued that law had a negative pedagogy, whereby it punishes the vicious, but also a positive pedagogy, by which it helps those disposed toward good become better. Inferior kinds of law are ordered to superior kinds of law as imperfect to perfect. Each kind of law is intertwined with the other kinds of law in some way. But each kind of law makes its own distinct contribution to the betterment of those subject to it. Human law tries to lead men to virtue as far as is prudently possible under the circumstances of the particular political community to which it is applied. This makes it possible to say that the limited end of human law is teleologically ordered to the complete end of the divine law.

Public Morality: Education and Religion

Since the political common good of justice and peace requires that government and law be concerned enough with virtue for the people to be just, Finnis admits that the political community “may require and enforce a public morality going wider than issues of justice and peace.”56 This is consistent with his observation that Aquinas thought “a government or legislature should…ascertain and adhere to the truth about human fulfillment and morality,” although it is not clear how it could do so through first order practical reasoning alone.57 But what might public morality require? What is its specific purpose, and what means would be suitable to promote it? How are we to know the proper sources of public morality? Finnis says little about what its contents might be.

56 Finnis, Aquinas, 232-33.
57 Ibid., 239.
Public morality would seem to come from two sources for Aquinas, namely, education and what Finnis elsewhere calls natural religion. Finnis says very little about education in Aquinas. In Chapter V, he makes a passing reference to education when he discusses raising children as one of the purposes of marriage. But in Chapter X, section 5, after introducing revelation into the perspective of practical reason, he says that parents should see that “children are nurtured and protected, fairly dealt with, and educated by instruction and discipline, in the hope that they will gain eternal life.” So the goal of marriage and the household becomes more expansive once revelation is introduced. Finnis says nothing, however, about whether children should be raised to be good citizens.

Aquinas said little on the subject of education himself. If we can take him to have embraced Aristotle’s views of education, then Aquinas thought that, in order to become virtuous, men need the kind of external, disciplinary force that comes from law. On the one hand, the coercive power of the law gives it a firmness that parental discipline necessarily lacks. But on the other hand, parents have an ability to move children to learn virtue through love in a way that the law cannot. Again, if we assume he agreed with Aristotle, then Aquinas thought that:

[I]t is best that there be strict supervision by public authority over the education of children and the virtuous activities of the citizens and that man be so instructed to be able to do this properly.

But men commonly neglect this duty because it is plain they show no public concern for it. Hence it seems fitting that each private person do something to help his children and friends become virtuous; or if he cannot, at least he should select the means to make this possible. Apparently it can best be

60 Ibid., 323.
done, according to the preceding statements, if a man becomes a legislator, i.e., if he acquires the skill to be able to make good laws.\textsuperscript{63}

Here Aquinas described one’s motivation to become a lawmaker precisely as coming from the desire to make men virtuous, and to make them virtuous for their own sake. But he will also want to make them virtuous for the sake of the common good, because the political community cannot be good unless those who live within it are good too, including citizens, women, children, and slaves.\textsuperscript{64} Aquinas might, on consideration, have qualified Aristotle’s assertion that one can best make men virtuous by becoming a lawmaker by saying that one can do so still more effectively by entering priesthood or religious life and preaching the Gospel. But he could still accept Aristotle’s general argument. The education of children in virtue, therefore, is not simply the concern of the family, but of the whole political community. This is one important constituent element of public morality for Aquinas.

Like Aristotle, Aquinas believed that it is important to the political community that those who rule and those who are ruled both be virtuous and prudent. Aquinas distinguished between several different species of prudence, each with their proper objects. Regnative prudence is the prudence of those who govern and make laws. Directly subordinate to regnative prudence is military prudence, which governs acts pertaining to the defense of the political community. Political prudence is the prudence of the good citizen, whose actions are “ruled and measured” by the laws. Prudence \textit{simpliciter} is the prudence of the good man, who orders his whole life to its proper end. Finally, domestic prudence is the prudence that pertains to governing a

\textsuperscript{63} \textit{Eth.} X, lect. 15, nn. 2155-56: “Optimum igitur est, quod habeatur recta cura de nutritionibus puerorum, et virtuosis actionibus civium, secundum publicam auctoritatem; et quod homo instruatur, ut possit hoc idonee operari. Sed cum homines negligent hoc in communi, quia scilicet non exhibent ad hoc publicam curam, videtur esse conveniens unicuique privatae personae ut conferat suis filiis et amicis aliquid ad hoc quod sint virtuosi, vel si non potest conferre, quod saltem eligat ea per quae hoc possit fieri. Quod quidem maxime videtur posse fieri, secundum praedicta, si aliquis fiat legis positivus, idest si acquirat idoneitatem, quia possit condere rectas leges.”

\textsuperscript{64} Pol. I chap. 11, n. 5.
household. Each of these species of prudence should order the good that pertains to it in a way that is commensurate with the political common good.\(^{65}\)

Aquinas’s distinction between regnative prudence and political prudence captures Aristotle’s distinction between ruling and being ruled. This distinction makes sense because those who govern are materially responsible for the political common good, while those who are governed are materially responsible for their particular good and making sure that it is commensurate with the common good. Like the specific virtue of legal justice, regnative prudence pertains specifically to the political common good.\(^{66}\)

Aquinas’s distinction between political prudence and prudence \textit{simpliciter} also captures the distinction “the Philosopher” made between the good citizen and the good man. Like Aristotle, Aquinas believed that the good ruler, in order to be a good ruler, must also be a good man: “the common good of the state cannot flourish, unless the citizens be virtuous, at least those whose business it is to govern. But it is enough for the good of the community, that the citizens be so far virtuous that they obey the commands of their rulers.”\(^{67}\) The virtuous, prudent ruler will aim at the correct end for the political community, namely, happiness, and will craft laws consistent with that end. But a political community in which more people participate in rule, such as an aristocracy or a popular government, has a greater need to make people virtuous precisely because more of them will rule and be ruled. Finnis says that free or popular government is “the central case” of government, and that it is important for many people to be

\(^{65}\) \textit{ST} II-II, q. 47, aa. 10-12; q. 48, a. 1, co.

\(^{66}\) \textit{ST} II-II, q. 47, a. 10, ad 1.

\(^{67}\) \textit{ST} I-II, q. 92, a. 1, ad 3: “impossibile est quod bonum commune civitatis bene se habeat, nisi cives sint virtuosi, ad minus illi quibus convent principari. Sufficit autem, quantum ad bonum communitatis, quod ali intantum sint virtuosi quod principum mandatis obedient.” See Aristotle, \textit{Politics} III, chap. 4. Finnis adverts to this parenthetically in \textit{Aquinas}, 234.
able to participate in ruling and being ruled. The success of such a political community requires that many people be robustly prudent. But Aquinas said that practical judgment can be misled or corrupted by disordered appetites. Since prudence appoints the mean to the moral virtues, someone will misjudge the mean of a given virtue to the extent that he lacks temperance or fortitude. As Finnis puts it: “Practical reasonableness is essentially all of a piece; those who violate or neglect its directiveness in ‘private’ choices are thereby weakened in their rational motives, and their dispositions, for following its directiveness in ‘public’, other-affecting choices.” That means that, at some level, the stability and endurance of a good political community requires that people truly possess the virtues of temperance and fortitude, regardless of its limited ability to effectively inculcate those virtues.

For rulers to be truly good, they require a good education. That is why Aquinas took the trouble to write the *De Regno*, in order to instruct the king of Cyprus, and by extension, anyone else participating in political rule, about the responsibilities of public office. Aquinas said that the best thing for a king to study in order to be a good king was the Mosaic law. He said this for two reasons: first, because studying sacred Scripture and taking it to heart is good for the king’s soul; second, because it contains guidance on how to lead the people to live well. Provisions for religious education in public schools might represent a version of this kind of instruction suitable for more popular governments.

Lest we think that Aquinas’s recommendation to study sacred Scripture was simply motivated by piety, we should recall his complaint that “politicians do not seem to produce any

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69 ST II-II, q. 47, a. 7.  
71 *DR* I, chap. 16, n. 116. See also *ST* I-II, q. 105, a.1, ad 2.  
work on political science either in speeches or writing.” He thought this a shame, because “Surely they could confer on their countries no greater benefit, which would remain after them, than to be the means of making other good statesmen. Likewise there would be nothing more acceptable to themselves than the ability to make other men statesmen—they could do nothing more useful, even for their best friends.” In the absence of works of political science informed by the experience of statesmen, Aquinas thought a ruler was best educated to rule by reading Scripture and, presumably, his own work on kingship.

This leads us to the other important element of public morality for Aquinas, natural religion. As we noted earlier, Aquinas asserted that “offering sacrifice to God belongs generically to the natural law, and consequently all are agreed on this point, but the determination of sacrifices is determined by God or by man.” He also noted that “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.” That is, the religion of the gentiles tended to be instrumental to the good of the political community and concerned with good order.

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73 Eth. X, chap. 9, lect. 16, n. 2169: “civiliter conversantur non videntur neque scripto neque verbo aliquid tradere circa politicam, quamvis hoc esset multo melius scribere.”
74 Eth. X, chap. 9, lect. 16, n. 2170: “Nihil enim melius possent praestare suis civitatibus, quod relinqueretur post eos, quam si facerent alquos esse bonos politicos. Similiter etiam nihil esset magis eligibile quantum ad ipsos, quam habere potentiam faciendi alios esse politicos; neque etiam amicissimis suis possent alquid utilius conferre.” Aristotle made this point in passing, but Aquinas dwelt on it a little more, with a greater sense of lament.
75 ST I-II, q. 85, a. 1, ad 1: “oblatio sacrificii in communi est de lege naturae, et ideo in hoc omnes convenient. Sed determinatio sacrificiorum est ex institutio human vel divina, et ideo in hoc differunt.”
76 ST I-II, q. 99, a. 3, co.: “leges humanae non curaverunt aliquid instituere de culto divino nisi in ordine ad bonum commune, et propter hoc etiam multa confruenterunt circa res divinas, secundum quod videbatur eis expediens ad informandos mores hominum.”
Religion need not directly command the performance of specific virtuous acts. Keys points out that Aquinas distinguished between things which reason prescribes that must absolutely be done, and “Other things [that] are prescribed or forbidden, not as an absolute duty, but as something better to be done. These may be called ‘commandments’ because they are expressed by inducement and persuasion: an example whereof is seen in Exod. 22:26: ‘If thou take of thy neighbor a garment in pledge thou shalt give it him again before sunset’; and in other like cases.”

Keys notes that the Mosaic law enjoined other *mandata* as “being useful to the better maintaining of the order of virtue.” These included showing hospitality toward strangers, forgiving loans that cannot be repaid, and allowing neighbors to enter your vineyard to enjoy your fruit there (but not to carry fruit off with them). These practices promote peace, liberality, and civic friendship.

Keys points out that for Aquinas justice depends on its potential or quasi-potential parts, such as religion, piety, obedience, friendliness, gratitude, and liberality. Political communities therefore have an interest in promoting these virtues, but they are the kind of virtues the law fosters best by “inducement and persuasion,” through things like civic holidays. She uses the virtue of gratitude and the American holiday of Thanksgiving as an example. Thanksgiving was established as a federal holiday to express gratitude for the benefits conferred on the United States by divine providence and has been commemorated as such in public proclamations down to the present day. The traditions associated with it strengthen the bonds between family members, friends, and even strangers. Public holidays like Memorial Day and Veteran’s Day

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78 *ST* I-II, q. 99, a. 5, co.: “Quaedam vero praecipiuntur vel prohibentur, non quasi praeclare debita, sed propter melius. Et ista possunt dici mandata, quia quondam indictionem habent et persuasionem. Sicut illud Exod. XXII, si pignus acceperis vestimentum a proximo tuo, ante solis occasum reddas ei; et aliqua similia.”

79 *ST* I-II, q. 99, a. 5, co.: “utile ad hoc quod ordo virtutis melius conservetur.”


81 *ST* I-II, q. 65, a. 1; II-II, q. 80, a. 1. Keys, *Promise of the Common Good*, 223.
honor the courage and sacrifices of members of the armed services; Mothers’ and Fathers’ days recognize the importance of parents to the family and the whole community. Public medals honor service to the national defense, the arts, and the sciences. All of these public acts of the political community reflect a conception of the common good and the virtues necessary to sustain it. They were absolutely integral to the common life of political communities in the Italy of Aquinas’s time.

It is natural then, according to Aquinas, for all political communities to have public manifestations of religion through which the community promotes virtues conducive to the common good. It is likewise natural for the community to order itself to the divine through the public religious acts of its members. Public acts must be based on some conception of God and the good for man, whatever it may be. Aquinas pointed out that even tyrants aim at a good; it just happens to be their own selfish good. But it was important for Aquinas that religion be based on the truth about God and man. Pakaluk points out that “only officials who have a correct conception of happiness will succeed consistently at framing laws that do not hinder citizen’s attainment of happiness.” Finnis acknowledges this in his discussion of the political common good.

Man’s true end, the highest good, the source of his happiness can only be known with precision because of God’s revelation of himself to man in Jesus Christ. Therefore, man cannot devise the true religion, nor the laws most conducive to happiness, by dint of unaided human

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82 Keys, Promise of the Common Good, 220-22. Pakaluk, 58, interprets national holidays promoting “civic spirit” to be consistent with Finnis’s statement that the law can encourage habitually just dispositions in citizens.
84 ST I-II, q. 92, a. 1, ad 4.
85 Pakaluk, 50. Keys concurs; see Promise of the Common Good, 225.
86 Finnis, Aquinas, 239.
reason. Some knowledge of the divine can be had by unaided human reason, but only by a few people, through great effort, and with considerable admixture of error.\textsuperscript{87} This is true of human knowledge of practical and contingent matters too.\textsuperscript{88} Therefore, divine revelation gives us certain, relatively precise knowledge about God, and the divine law gives us greater, more certain knowledge about practical matters. In his final chapter, Finnis acknowledges this, when he revises the perspective of practical reason as it is informed by acceptance of revelation.\textsuperscript{89} Reason and revelation are compatible, not least because revelation actually strengthens reason, including practical reasoning about politics.\textsuperscript{90}

Aquinas believed that, although the old Mosaic law had been abrogated and superseded by the New Law of Christ, since its judicial precepts could be known through reason alone, they were a model useful for imitation in the Christian dispensation.\textsuperscript{91} Therefore, when Aquinas compared Aristotle’s mixed regime with the regime of the Mosaic law, he concluded that “the Mosaic law is actually more reasonable than Aristotle. It would seem that, according to Thomas, Aristotle’s understanding of politics is impressive but not quite complete, for it does not adequately grasp that supremely important aspect of justice which orders humanity to God. The Mosaic law, given by the omniscient God, does not suffer from this weakness.”\textsuperscript{92} Divine revelation turns out to be necessary for knowledge of the best regime in theory and the best regime practically possible for Aquinas.

\textsuperscript{87} ST I, q. 1, a. 1, co.
\textsuperscript{88} ST I-II, q. 91, a. 4, co.
\textsuperscript{89} Finnis, \textit{Aquinas}, 324-27
\textsuperscript{90} Kries, 99-101.
\textsuperscript{91} Ibid., 84-89.
\textsuperscript{92} Kries, 101. See also \textit{ST} II-II, q. 56, aa. 1-2 and q. 122, a. 1, co. See also Keys, \textit{Promise of the Common Good}, 190.
Finnis says that “in establishing their constitutional arrangements a people might without injustice or political impropriety record their solemn belief about the identity and name of the true religious faith and community,” as long as the rights of religious minorities are given legal protection. He characterizes such acts as being concerned with the publicly recognizing truth, rather than publicly promoting virtue.

What religion ultimately does is foster civic friendship, which is based on a partnership in civic virtue and a shared love of the political community. From civic friendship comes a readiness to perform virtuous acts of legal justice. We will return to civic friendship in Chapter 5.

In What Ways Is the Political Common Good Limited?

Finnis repeatedly suggests that law must aim only at the virtue necessary for justice and peace, or it must directly command all the acts of every virtue. But this is a false dichotomy that neglects a third, more realistic possibility, and one that have seen is embraced by Aquinas, namely, that the law aims at a mean of virtue that a given people can bear and that leads them gradually and indirectly toward greater virtue. Besides his assertion that the government and law do not aim to make people completely virtuous, what other theoretical and practical limitations does Finnis say Aquinas placed on the demands of the political common good?

One of the reasons that Finnis believes that law cannot aim at complete virtue is that the government and specifically political common good are limited. He notes that for Aquinas,

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93 Finnis, “Religion and State,” 102. Even if this were politically possible, however, he points out that circumstances might make it imprudent. See also Finnis, Aquinas, 324-27.
94 Finnis, pp. 223, 225, 231.
“governments themselves are not above the law, but are appropriately regulated and limited by law.” Aquinas distinguished between what he called regal rule and political rule. Regal rule is the rule of a king who, although subject to the law, is not subject to its coercive force; regal rule is based on plenary power. Political rule is rule in which the king is subject to the coercive force of the law; his power is limited by explicit constitutional provisions. Finnis acknowledges that Aquinas said that the regal rule of one is theoretically the best form of regime, if the king is not corrupted. The best regime practically possible, according to Aquinas, is a mixed regime combining monarchical, aristocratic, and popular elements. Such a regime would be limited by “clear laws about rotation of office, about elections, and about the division of powers amongst ministers—and provided also that these laws are regularly followed by people who get power.”

The mixed regime is therefore limited through constitutional mechanisms that prevent the centralization and abuse of power. These limits would also seem prevent it from using its power to try to make the people completely virtuous.

The problem for this interpretation is that what Finnis calls “Aquinas’s robust declaration that mixed government is best” came in the context of his discussion of the Mosaic regime of the Old Law. When Aquinas compared the Mosaic regime described in sacred Scripture to the mixed regime described by Aristotle in his *Politics*, he found that the former was basically compatible with the latter, except insofar as the philosopher’s teaching touched upon religion. Aquinas went beyond Aristotle on several points in order to accommodate the best regime to the demands of the true God. Laws concerning marriage, immigration, and the labor of slaves are

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100 Ibid., 261. *ST* I-II, q. 105.
modified to facilitate rest and the worship of the one true God. Therefore, the best practically possible, mixed regime was not incompatible in Aquinas’s mind with a regime that was instituted by God and ordered to Him. For Finnis, this best regime could only be known once third order practical reasoning is reoriented after we accept revelation.

The authority of government is further limited for Aquinas to the extent that it must conform itself to justice. But what if a government introduces laws that are unjust? The rule of law is so important that one should obey unjust laws if disobeying them would cause greater evils, such as public disorder or scandal. Finnis points out that Aquinas says that laws are unjust and not morally binding if they are not ordered to the common good, if they exceed the authority of the lawgiver, or if they do not fairly distribute their burdens among subjects. There is one article of the “treatise on law” in which Aquinas made each of these points, but Finnis does not cite it, instead referring to other places in his works. The article in question says that a law fails to bind in conscience if it meets any of the three criteria just mentioned, plus a fourth criterion, which Finnis nowhere mentions: “laws may be unjust through being opposed to the divine good: such are the laws of tyrants inducing to idolatry, or to anything else contrary to the divine law: and law of this kind must nowise be observed.”

One might expect that Aquinas would describe the characteristic acts of tyranny to be violations of the natural and divine law. Though he acknowledged that tyrants may violate the

101 ST I-II, q. 105, aa. 3-4. Kries, 93-98.
102 ST I-II, q. 96, a. 4, co.; II-II, q. 69, a. 4, co.; q. 104, a. 6, ad. 3. Finnis, Aquinas, 273-74.
103 ST I-II, q. 96, a. 4, co. Finnis, Aquinas, 272-73.
104 ST I-II, q. 96, a. 4, co.: “leges possunt esse iniustae per contrarietatem ad bonum divinum, sicut leges tyrannorum inducentes ad idololatriam, vel ad quodcumque alius sit contra legem divinam. Et tales leges nullo modo licet observare.”
divine law, this was not the defining characteristic of tyranny. He described the characteristic acts of a tyrant as preferring his individual good to the common good, robbing his people, and exceeding his authority.

What does Finnis say about the limit placed on political authority by the right of rebellion against tyranny? He points out that Aquinas said citizens have a right to resist certain acts of both regal and political regimes. Finnis asserts that the right of rebellion “is a private right which might extend as far as a kind of tyrannicide, in which the death of the tyrant is a side-effect (perhaps foreseen as certain) of force used in defense of self or others.” He believes that “Aquinas’ thesis…that the tyrant can be killed by public authority (as the emperor Domitian was put to death by the Roman senate) stands and falls with his theory of capital punishment,” but explicitly disagrees with Aquinas about whether capital punishment is morally licit. Finnis grounds the right to rebellion in the right of others participating in public authority to remove a tyrant, as Aquinas did. He argues, however, that they may not formally intend to kill the tyrant, but rather incapacitate him from exercising his tyrannical rule.

Practically speaking, Finnis says the political common good is limited by the perfect community that is the Church and the private goods of individuals. He claims that Aquinas believed the political community is limited by the Church qua perfect community, and that it is:

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105 See ST I-II, q. 96, a. 4, co.; II-II, q. 10, a. 10, co.
106 See DR I, chap. 7; ST I-II, q. 92, a. 1, ad 4; q. 105, a. 1, ad 5; II-II, q. 60, a. 4, co; q. 70, a. 4, ad 2; q. 104, a. 6, ad 3; q. 118, a. 8, ad 5.
107 Finnis, Aquinas, 258. See Virt., q. 1, a. 4, co.
108 Finnis, Aquinas, 289.
109 Ibid., 290. Since he believes capital punishment and tyrannicide, or the direct intentional killing they entail, to be intrinsically immoral, Finnis is compelled to assert that in attempting to assassinate Hitler, Count von Stauffenberg placed his bomb “without the intent precisely to kill the tyrant” but rather with the intention that he “be incapacitated from participating in the ongoing Nazi tyranny whose murderous violence he directed.” Ibid., 290-91.
110 Ibid., 290-91. DR I, chap. 7, n. 47.
111 Finnis, Aquinas, 226.
…the right and responsibility of the Church’s leaders to teach moral truths, not only as they apply to private life but also as they apply to political affairs or the actions of groups and associations entirely independent of the Church, and the responsibility of members of the Church, both in their public and their private lives, to put those truths into practice in the circumstances as they themselves judge them to be.  

Finnis does not clearly formulate the location of the Church vis-à-vis the political community, except to say that the political community does not “include” what he calls the private goods of religious faith and worship. Presumably that also means that it does not include the Church in the sense of containing it. But he does not describe the Church as external or parallel to the complete political community, nor does he speak of the divine or natural law as transcending the political common good.

In placing limits upon government, Finnis says that for Aquinas “the status of freedom, self-possession, and equality—the metaphysical reality and normative entitlement which he is appealing to—is the status of persons.” Finnis grounds a host of limitations upon government power on the basis of this assertion. It is the most important reason he gives for limiting government power in his chapter on the common good. But, as he admits, it entails admitting a “first” order metaphysical principle into “third order” practical reason. Finnis makes no attempt to justify this move or explain how it is compatible with his assertion that the speculative and practical orders are “irreducibly distinct.”

It is no wonder then that Long makes a forgivable exaggeration when he says that, in Finnis’s account, “the state appears to be limited only from below, by the private or quasi-private...
good.”\textsuperscript{116} It would be more accurate to say that Finnis leaves the impression that limits to the political common good are internal or chiefly internal, and therefore his account of limitations on the political common good is inadequate. That is why Dewan is correct to recall that, for Aquinas, limits on the claims of the political common good are “due to the wider common good of the whole of reality, not the primacy of the private or personal.”\textsuperscript{117} Finnis’s last chapter shows that he recognizes that Aquinas believed the political community was limited by external, transcendent, or metaphysical realities. But he never explains why or how that could be. This represents a serious weakness in his account of Aquinas’s political thought.

Conclusion

Contrary to what Finnis claims, Aquinas did believe that human law aims at leading men to complete virtue, albeit indirectly and gradually. It cannot do otherwise, since it inevitably depends on some assumption about the good for man, and the political common good requires at least those participating in governing to be just men. The political community directly commands those acts of virtue that pertain directly to the political common good, and promotes other acts of the virtues through inducement and persuasion, especially by promoting education and religion as far as prudence allows. The political community helps men become good, even to become as perfect as men can be in this life. That is why, as we shall see in the next chapter, pace Finnis, Aquinas believed man can be called a “political animal.”

\textsuperscript{117} Dewan, “St. Thomas, John Finnis, and the Political Common Good,” 340.
Chapter 5
Is Man a Political Animal?

Introduction

In the last chapter, we saw that the political community helps man become better and more perfect through law. In this chapter, we will show that is why it is appropriate to say that man is a political animal and that the political community is good in itself. The constituent elements of the political community are individuals, families, and other social groups. Individual persons are produced by marriage, which leads to the formation of a family. What Finnis calls the basic good of *societas* or friendship also results in the formation other social groups. Individuals, families, and groups of neighboring families then form the political community. Thus far Aristotle, Aquinas, and Finnis agree.

Aquinas said in various places that man is either a conjugal, social, or political animal, or some combination of the three. Which one of these is man most fundamentally, according to Aquinas and Finnis? How do different aspects of human sociability relate to Aquinas’s theory of the natural inclinations? How self-sufficient or stable can the family be independently of government and law? Is the political community the object of a natural inclination? Does it meet Finnis’s definition of a basic good, i.e., is it good in itself? Are there virtues that man can only practice in political community?
Man as a “Conjugal Animal”

Before we consider whether Aquinas thought man was a political animal, we should examine Finnis’s claim that, as Aquinas put it “Human beings are by nature more conjugal than political.”¹ In what sense do Aquinas and Finnis say that the family is prior to the political community? How stable is the family independently of the political community and law? To what extent do human beings have a natural inclination to marry? Sometimes Finnis identifies marriage with the second natural inclination, reproduction and rearing of children, while at other times his identifies it with the third, living in society. Did Aquinas identify it with one or the other or both?

Aquinas said that Aristotle gave two arguments for why man was more a conjugal animal than a political animal:

The first is that antecedent and necessary things seem to belong to nature more completely. But domestic society, to which the union of man and wife pertains, is antecedent to civil society; for the part is antecedent to the whole. Domestic society is also more necessary because it is ordered to acts necessary for life, viz., generation and nourishment. Obviously then man is inclined by nature more to conjugal than to political society. The second reason is that generation of offspring, to which the union of man and wife is ordered, is common to other animals and therefore follows the nature of the genus. So it is clear that man is by nature more a conjugal than a political animal.²

When we examine Aquinas’s statement that man is more a conjugal animal than a political animal, we see the first argument he says Aristotle makes to this effect resembles the first natural

¹ Eth. VIII, lect. 12, n. 1720: “homo magis est secundum naturam animal coniugale quam politicum.” Translation Finnis’s. See Aquinas, 243.
² Eth. VIII, lect. 12, n. 1720: “Quarum prima est quia ea quae sunt priora et necessaria magis videntur ad naturam pertinere: societas autem domestica, ad quam pertinet coniunctio viri et uxoris, est prior quam societas civilis sicut pars est prior toto. Est etiam magis necessaria, quia societas domestica ordinatur ad actu necessarios vitae, scilicet generationem et nutritionem. Unde patet quod homo naturalius est animal coniugale quam politicum. Secunda ratio est, quia procreatio filiorum, ad quam ordinatur coniunctio viri et uxoris, est communis alis animalibus, et ita sequitur naturam generis. Et sic patet, quod homo magis est secundum naturam animal coniugale quam politicum.”
inclination, which is to preserve oneself in being. The family is in fact more necessary to bare human survival than the political community. Aquinas said the family is antecedent or prior to civil society, but as a part is prior to a whole. The family is closer to nature because it is more necessary for subsistence; but like any part, it achieves its perfection or completion within a greater whole. The second argument of Aristotle’s is identical the second natural inclination, which, as Aquinas pointed out, man shares in common with other animals, namely, the generation of offspring. If man’s conjugal nature refers only to what he has in common with other animals, then it cannot represent the terminus of his fulfillment or perfection.\(^3\) We know we can identify what Aquinas says here about reproduction with the second natural inclination because two paragraphs later Aquinas specifically distinguished between the reproductive end of conjugal union, which human beings have in common with animals, from the conjugal friendship that is not available to animals, but is only common to human beings.\(^4\)

As we saw in Chapter 2, Finnis calls marriage the object of the second natural inclination, a basic good, a *bonum honestum*, and therefore good in itself.\(^5\) On the one hand, he wants to maintain that marriage is the object of the second natural inclination because he maintains that the family exists prior to society. But on the other hand, he wants to connect marriage with the third natural inclination, which he identifies with the basic good of *societas* or friendship. Finnis’s theory of the basic goods does not seem to match up with Aquinas’s theory of the natural inclinations here. Finnis defines the basic good of marriage in Aquinas this way: “This *societas* is a unique type of relationship; it is unified by its dual point (finis): the procreation, "

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\(^3\) *ST* I-II, q. 94, a. 2, co.

\(^4\) *Eth.* VIII, lect. 12, n. 1722.

nurture, and education of children, and the full sharing of a life in a home. It is a companionship {societas} of the greatest friendship.”

Having these two ends of procreation and marital unity, marriage is held together by the good of marital fidelity:

What, then, is fides—literally “fidelity” or “faithfulness”—in this context? It is the disposition and commitment of each of the spouses to “cleave to {accedere}”—precisely, to be maritally united with—the other and no other person. So, besides the negative commitment not to be maritally or in any other way sexually united to anyone else (“fidelity”), fides even more basically includes a positive commitment and willingness, a reason for action…This positive fides is the willingness and commitment to belong to, and be united in mind and body with, one’s spouse in the form of societas and friendship which we call marriage.

For Finnis fidelity is constitutive of marriage itself, as distinct from procreation or friendship. He speaks of fidelity and friendship in his account of Aquinas on marriage much more than he speaks of children or reproduction.

From this account of fidelity flow all marital and sexual norms, according to Finnis. On the basis of this standard, he rules all non-marital sexual acts immoral. He says his treatment of Aquinas on this subject considers marriage, sex, family, and the household insofar as they pertain to the basic good of marriage, not insofar as they pertain to what he calls “personal morality.” This requires him to give an account of marriage that does not depend on metaphysics or theology but which still ends up being compatible with orthodox Catholic teaching on sexual morality.

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6 Ibid., 145-46.
7 Finnis, Aquinas, 144-45.
8 Ibid., 153.
9 Ibid., 143.
10 Bradley, “John Finnis on Aquinas ‘the Philosopher,” 21, questions whether Finnis or anyone else can “establish unimpeachable philosophical foundations for the past or current roster of ecclesiastically orthodox moral views. The initial fides, then and now, seems no less crucial than the intellectum.”
Aquinas certainly thought that sexual sins were contrary to the good of marital fidelity and contrary to reason. But he called sins like contraception, homosexuality, masturbation, and bestiality specifically contrary to nature.\textsuperscript{11} Aquinas said these acts are contrary to nature because they are contrary to the form of the marital act, i.e., heterosexual intercourse between a married couple that aims at reproduction. But to describe an act as having a form, matter, and teleology is to characterize it in first order, metaphysical terms. Therefore, Finnis replaces the Aristotelian teleology of the marital act with his deontological concept of marital fidelity.

Insofar as cultural norms deviate from marital fidelity, Finnis says they deprive people of the benefits of marital fidelity, especially “conception, bringing to birth, nurture, and education to maturity, freedom, and virtue on which the political community depends.”\textsuperscript{12} Non-marital sex is unreasonable precisely because it undermines the pursuit and attainment of these goods.\textsuperscript{13} Considering how much the political community depends on the proper rearing and education of children, it is surprising how little Finnis says about them in his treatment of Aquinas. He says the ability of parents to form the characters of their children “may well be frustrated unless it is given some assistance and support by state government and law,” but little else.\textsuperscript{14} If the political community is formed by families, and depends on them, it would seem that families would want the political community to adopt policies specifically designed to perpetuate themselves in their proper form. Not only would this include provisions for the civic education of the young, but also tax and inheritance policy. Admittedly, Aquinas said little about such things himself. But

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\textsuperscript{12} Finnis, Aquinas, 151-52. See also 154.
\textsuperscript{13} Ibid., 152.
\textsuperscript{14} Ibid., 233.
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Finnis may be less interested in making such arguments because they would diminish his stress upon the stability of the family in its central form.

Finnis asserts that for Aquinas “groups of families are contingent in their size, interactions, and common purposes and activities, if any. Families, in their central form, are not in that way contingent.”\textsuperscript{15} Finnis’s interpretation of Aquinas’s political theory depends upon the assumption that the form of the family is very stable over time and across different cultures. If the basic structure of the family is not stable independently of external influences, then the family depends more on government and law to give it structure and stability.

In fact, Aquinas suggested at one point that marriage may not always have existed at all times and all places. In response to an objection in the \textit{Summa Theologiae} citing a claim by Cicero that in primitive times men were not married, Aquinas answered that:

The assertion of Cicero may be true of some particular nation, provided we understand it as referring to the proximate beginning of that nation when it became a nation distinct from others; for that to which natural reason inclines is not realized in all things, and this statement is not universally true, since sacred Scripture states that there has been matrimony from the beginning of the human race.\textsuperscript{16}

Moreover, Aquinas pointed out that although marriage is natural, practices pertaining to marriage are different in different countries.\textsuperscript{17} Finally, Aquinas said that the polygamy practiced by the Old Testament patriarchs was morally licit. Polygamy was not contrary to the primary, unchanging precepts of the natural law, but contrary to the secondary precepts, from which man

\textsuperscript{15} Ibid., 242-43.
\textsuperscript{16} Supp., q. 41, a. 1, ad 2: “verbum Tullii potest esse verum quantum ad aliquam gentem (si tamen accipiatur principium proximum illius gentis, per quod ab aliis gentibus est distincta): quia non in omnibus producitur effectam hoc ad quod naturalis ratio inclinat. Non autem est verum universitaliter: quia a principio humani generis sacra Scriptura recitat fuisse coniugia.” Cicero, \textit{De Inventione} I, chap. 2.
\textsuperscript{17} Supp., q. 41, a. 1, ad 3.
can be dispensed from a competent authority. Since God created marriage, He had the power to dispense man from the law prescribing one wife in order to provide for the multiplication of offspring to worship Him.\textsuperscript{18} Finnis’s method of excluding theology from his interpretation of Aquinas’s political theory allows him to avoid considering this particular difficulty for his account of the family.

Even if, as Finnis says, the central form of marriage is not contingent, human knowledge of it may be. Aquinas said that our knowledge of the natural law may be blotted out, “since in some, the reason is perverted by passion, or evil custom, or an evil habit of nature; thus formerly, theft, although it is expressly contrary to the natural law, was not considered wrong among the Germans, as Julius Caesar relates in his book on the Gallic war.”\textsuperscript{19} Therefore, it would seem necessary for the political community adopt measures to ensure that citizens have the correct understanding of the family and adopt correct policies vis-à-vis the family in order to support itself in its proper form. Finnis does not adequately provide for this in his account of Aquinas.

Pakaluk argues that Finnis assumes far too stable and enduring a definition of marriage and family prior to and independently of law.\textsuperscript{20} Pakaluk exaggerates, however, when he says that families have “a relatively slight ability to remain intact if they lack governance from without” and that “to the extent that law has been withdrawn from the regulation of family life families have collapsed in disarray.”\textsuperscript{21} This makes is sound as though the family is merely a construct of the political community and the law. Changes in law have contributed to the

\textsuperscript{18} Supp., q. 65, a. 2, co.
\textsuperscript{19} ST I-II, q. 94, a. 4, co.: “hoc propter hoc quod aliqui habent depravatam rationem ex passione, seu ex mala consuetudine, seu ex mala habitudine; sicut apud germanos olim latrocinium non reputatabatur iniquum, cum tamen sit expresse contra legem naturae, ut refert Iulius Caesar, in libro de bello Gallico.”
\textsuperscript{20} Pakaluk, 62-63.
\textsuperscript{21} Pakaluk, 62.
disintegration of the family, but so have cultural, social, economic, and technological changes. Moreover, the degree of transience one attributes to the family depends to some extent on how stable one assumes the family to be.

Despite rather overstating his case, Pakaluk makes several valid points in criticizing Finnis’s account of the family and its relation to the political community. The structure of the family in a particular country is significantly shaped by that country’s laws, public policies, economy, and culture. Those factors can either serve to strengthen the “central form” of the family or weaken it. Therefore, law should help perfect our natural inclination to reproduce through inducement and persuasion toward the monogamous marriage that reason and experience teach is best for men and societies, as far as is prudently possible.

Finnis must assume a high degree of stability for the family, because he says its need for the political common good is only limited and instrumental. Finnis says that individuals, families, and groups of families are prior to the political community: “These parts are prior to the complete community not historically but in a more important way: in their immediate and irreplaceable instantiation of basic human goods. The need which individuals have for the political community is not that it instantiates an otherwise unavailable basic good.” It is true that families in some form are temporally prior to the political community, but they are not prior to the family in the metaphysical sense, because they are ordered to the political community as to an end. Aquinas said that Aristotle showed that:

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22 For an exploration of these issues, see Carle C. Zimmerman, Family and Civilzation (Wilmington: ISI Books, 2008).
23 Pakaluk, 63-64.
24 Finnis, Aquinas, 242, 245.
The political community is by nature prior to the household or an individual human being, by the following argument. The whole is necessarily prior to the parts, namely, in the rank of nature and perfection...But individual human beings are related to the whole political community like the parts of a human being to the human being. For, as hands and feet cannot exist apart from a human being, so neither is a human being self-sufficient for living apart from a political community.  

The family is ordered to the political community as imperfect is ordered to perfect and part is ordered to whole. Neither the individual nor the family are self-sufficient outside of political community.

Pakaluk contends that, the way Finnis describes it, the political community is almost like a confederation of families in the same way that the U.S. was once a confederation of states. Indeed, Finnis comes close to saying something like this: “But a civitas, complete in its own way, may be unable to defend itself; so, beyond family and civitas, there rises a third level of community, communities of civitates organized for mutual defense {compugnatio}; they may amount to a realm {regnum} or a province {provincia} or simply to a condition of friendship between states {amicitia inter civitates}.” For Finnis, the political community’s function is to facilitate the private pursuit of the basic goods by families and individuals at every level of political development.

Though the central form of the family is stable, Finnis says that the family is incomplete in comparison to the complete political community because it cannot enforce contracts and defend itself against external threats; it requires an external, impartial authority to punish

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26 Pakaluk, 60.
27 Finnis, Aquinas, 114.
malefactors. This is true enough. But more importantly for Aquinas the family is imperfect in comparison with the political community because it is not self-sufficient and complete in the fullest sense. In a family alone man can provide for his bare physical needs, but he cannot fully perfect his nature.

In order to be stable for most people most of the time, the family in its central form must be supported by the law provided by a perfect community, whether that law comes from the political community or the Church. Therefore, it seems likely that, for Aquinas, any natural inclination to marriage is part of a natural inclination to live in political community rather than a natural inclination to reproduce. Let us see if the inclination to form a family, as distinct from the inclination to reproduce, can be assigned to the second part of Aquinas’s third natural inclination, which is to live in society.

Reproduction, Marriage, and the Natural Inclinations

Finnis places marriage in both the second and the third of Aquinas’s natural inclinations. Locating marriage in one inclination or the other is not important to him, because the natural inclinations are not central to his interpretation of Aquinas. As we have seen, he personally finds the theory unconvincing. He does not think the natural inclinations can be posited without appealing to first order speculative reasoning. Though Finnis says that the natural inclinations are ordered to basic goods, he never notes that they are also ordered to goods qua common goods, e.g., in the case of reproduction.

28 Ibid., 247.
29 ST II-II, q. 50, a. 3, ad 3.
30 Finnis, Aquinas, 317.
But the theory of the natural inclinations underpins Aquinas’s thought on reproduction not just as it relates to the individual, but also as it pertains to the family, the political community, and the human species. The natural inclination to reproduce is ordered to the common good of the family, because it results in the birth of children. Children perpetuate the family biologically and give parents an incentive to remain together.31 But the natural inclinations play a role in limiting the power of the family over the individual, as we have seen. Heads of household cannot, e.g., prevent their slaves from marrying or compel their children to marry against their wishes.32 Reproduction is also ordered to the common good of the political community.33 Lest the notion of public concern for reproduction seem dangerous or outdated, we should consider whether the modern welfare state can perpetuate itself without citizens biologically generating new taxpayers. If they are not biologically generated, then new taxpayers have to be gotten somehow, e.g., by importing them from outside, which causes a host of other new political challenges. Finally, reproduction is ordered to the good of the human race, as it is ordered to the good of each species. The individual naturally desires the common good of his species over his particular good; this is true for all substances, including human beings.34

We can easily identify reproduction and the rearing of children with the second natural inclination, as Finnis does. It is more difficult to place marriage itself among the natural inclinations. Reproduction should be a consequence of marriage, so Finnis identifies marriage

31 Eth. VIII, lect. 12, n. 1724.
32 ST II-II, q. 104, a. 5, co. Paul Cornish, “Marriage, Slavery, and Natural Rights in the Political Thought of Aquinas,” Review of Politics 60, no. 3 (Summer 1998), 551, is correct to connect Aquinas’s statements here to his theory of the natural inclinations. But Cornish identifies both the inclination to reproduce and the inclination to marry with the second natural inclination. On the other hand, he scolds Finnis for dismissing the theory of the natural inclinations and accusing Aquinas of the “naturalistic fallacy” in NLNR.
33 Malo, q. 15, a. 2, ad 12; ScG IV, chap. 78, no. 2; ST II-II, q. 154, a. 9, ad 3.
34 ST I, q. 60, a. 4; a. 5, ad 1. Brock, 238-39.
with the second natural inclination, arguing that: “It is clear that in ST I-II q. 94 a. 2c, when speaking of coniunctio maris et feminae, Aquinas is inviting his readers to think of marriage. For in this sentence he quotes a few words from a passage in Justinian’s Digest (AD 533) which also expressly refers to marriage (matrimonium) as a maris et feminae coniunctio.”

The full passage from Justinian’s Digest, however, reads:

> Natural law is that which all animals have been taught by nature; this law is not peculiar to the human species, it is common to all animals which are produced on land or sea, and to fowls of the air as well. From it comes the union of man and woman called by us matrimony, and therewith the procreation and rearing of children; we find in fact that animals in general, the very wild beasts, are marked by acquaintance with this law.

Here matrimonium does not specifically refer to the sacrament of marriage, but to the procreation and rearing of children, which is common in some way to all animals. Thus matrimonium can refer to the second natural inclination that is common to man and animals and to the sacrament of marriage, which is available only to human beings. Aquinas said that “Although those who are born of an unlawful intercourse are born according to the nature common to man and all animals, they are born contrary to the law of nature which is proper to man,” i.e., according to his rational nature which pertains to the third natural inclination.

The other two passages Finnis cites to corroborate his interpretation seem to mitigate in favor of marriage being an object of the third natural inclination. For instance, in the next passage Finnis cites in support of his claim that it pertains to the second natural inclination,

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37 Aquinas seems to speak of matrimony as referring to the second natural inclination at *Suppl.*, q. 67, a. 3, co.
38 *Suppl.*, q. 68, a. 1, ad 1.
Aquinas spoke of the possession of property as something reinforcing marital unity. He also said that the acquisition of wealth should be directed to the good of the family. But on Finnis’s account, wealth and property would seem to be insecure until we establish a political community with law that can punish violations of property rights. Otherwise, the economic stability of the family would seem to be uncertain. In the final passage Finnis cites in favor of his reading, Aquinas said:

This union with a certain definite woman is called matrimony; for which the above reason is said to belong to the natural law. Since, however, the union of the sexes is directed to the common good of the whole human race, and common goods depend on the law for their determination, as stated above, it follows that this union of man and woman, which is called matrimony, is determined by some law.

This contradicts what Finnis claims about the basic good of marriage and the political common good in Aquinas. Aquinas recognized that the institution of the family is very much shaped by law, and accordingly may be shaped in different ways by the laws of different political communities. This suggests that marriage, as distinct from procreation and childrearing, may better be assigned to the third of Aquinas’s natural inclinations.

Finnis also identifies marriage with friendship and societas, which on his own account is the second half of the third natural inclination. Finnis says marriage “in its central case is a true

40 Pol. I, chap. 6; ST II-II, q. 50, a. 3, ad 1.
41 Finnis, pp. 234, 247.
42 See ST II-II, q. 154, a. 2, co.: “Haec autem determinatio certae feminae matrimonium vocatur. Et ideo dicitur esse de iure naturali. Sed quia concubitus ordinatur ad bonum commune totius humani generis; bona autem communia cadunt sub determinatione legis, ut supra habitum est, consequens est quod ista coniunctio maris ad feminam, quae matrimonium dicitur, lege aliqua determinetur.” Suppl., q. 41, a. 1, ad 2; q. 42, a. 2, co.; q. 44, a. 3, co.; q. 45, a. 1, co.; q. 50, a. 1, ad 4; q. 54, a. 3, co.; q. 55, a. 11, co.; q. 57, a. 2, co.; q. 58, a. 5, co.; q. 59, a. 2, ad 3; q. 61, a. 1, ad 1; q. 66, a. 5, co.; q. 68, a. 2, co.; a. 3, co.
form of friendship” but not that marriage is “the” central case of friendship. Aquinas also said that marriage was a kind of friendship. Pakaluk seems to solve the difficulty of which natural inclination to assign marriage to by asserting that human beings have a natural inclination to copulate and have children that could be identified with the second natural inclination. This makes sense insofar as this inclination is shared by man with other animals. But Pakaluk does not think that any natural inclination to marriage can be distinguished from the natural inclination to live in society and political community. This interpretation makes sense, since the third natural inclination pertains only to the rational animal, man. Man alone marries, has friends, and lives in political community. This reinforces the broader argument we have made here about the relationship between marriage on political community and law in Aquinas. It also shows Finnis’s difficulty in reconciling his theory of basic goods with Aquinas’s theory of natural inclinations. It seems that we can connect man’s nature as a conjugal, social, civil, and political animal—or all of these aspects of his nature combined—with the third natural inclination.

*Man as Social Animal: Societas and Friendship*

We have evaluated Finnis’s claim that man is most fundamentally a conjugal animal and the implications of saying that marriage is the object of either the second or third natural inclination. Man’s conjugal nature is not the complete expression of his natural inclination to live in society. Finnis argues that Aquinas believed man is a social—as distinct from political—
animal. There are indeed many places where Aquinas simply refers to man as a social animal. But what does this distinction mean according to Finnis?

Finnis identifies the second half of Aquinas’s third natural inclination, living in society, with the basic good of friendship or *societas*. Finnis says that friendship means that we desire the basic goods for ourselves and for others, so that we can all have happiness. The essence of friendship is that one is interested in another’s well-being for his own sake:

Thus the interest of neither person comes to rest solely on that person’s own well-being. So their relationship of interest (will, choice, action, and affection) is, and is directed towards, a truly common good—not simply two individual goods of the same “common” type, nor the sum of those goods. It is that truly common good which gives their relationship, their sharing (communicatio), its *ratio*, its intelligible ground or point...

What is true of the intelligible structure of friendship between A and B remains true when the interest in others’ well-being for its own sake—for their own sake—is extended to many and even to all human beings.

There are several important things to note about this passage. First, the definition of friendship is significant. Second, the assertion that the friendship we have with concrete individuals can be extended in principle to the whole human race. Third, the assertion that friendship is a common good that is greater than the sum of its parts; it is good in itself. Let us examine the implications of these assertions in turn.

Finnis’s definition of friendship is important because it establishes the central case of friendship, by which we can measure other forms of friendship. Finnis distinguishes between primary or central forms of friendship and secondary forms of friendship in Aquinas. The

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46 *ST* I, q. 96, a. 4, co.; I-II, q. 61, a. 5, co.; *Eth. I*, lect. 1, n. 4
48 Ibid., 116-17.
central forms of friendship seem to be marriage and those between “special friends.” Finnis quotes Aquinas referring to marriage as “the greatest friendship.” Special or “particular friendships” are strong relationships with specific individuals. The secondary forms of friendship include things like neighborliness and fraternity. Through these different kinds of friendship we instantiate or protect goods for other people.

For Aquinas, however, the central case of friendship is the charity or love that men have for God. Finnis’s method precludes him from defining friendship this way in his treatment of Aquinas’s political theory, although he frequently discusses friendship as charity in his final chapter on Aquinas’s theology. This is significant because, as Jeanne H. Schindler argues, the theological possibility of human friendship with God moved Aquinas to revise the philosophical account of friendship he found in Aristotle considerably. For Aristotle, god and man could not be friends because they are not equals. But Christ told His apostles in John 15:15 that He would no longer call them servants, but friends, because He had communicated knowledge about God the Father to them. For Aquinas, friendship between men was now based on a shared love of God, and charitably desiring our fellow man’s good for his own sake meant desiring his participation in perfect happiness. Like Aristotle, Aquinas recognized that friendship between men in this life could be based on utility, pleasure, or virtue. But the fundamental distinction

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50 Ibid., 146; quoting ScG III, chap. 123, n. 6.
52 *ST* II-II, q. 23, a. 1, co.
54 Schindler, 147-49. See also Schwartz, 5. On the loneliness of Aristotle’s prime mover, see *Nicomachean Ethics*, VIII, chap. 7. For a broader discussion of the significance of the possibility of friendship between God and man for political philosophy, see James V. Schall, *At the Limits of Political Philosophy: From “Brilliant Errors” to Things of Uncommon Importance* (Washington, DC: Catholic University of America Press, 1996), 231-35.
between types of friendship for him was between friendship based on concupiscence, as when we love someone for the usefulness or pleasure they bring to us, and friendship based in love for its own sake, as when we love someone for their own sake.\textsuperscript{56} Marriage is a form of friendship that includes both of these.\textsuperscript{57}

Aquinas’s definition of charity as the central form of friendship bears on the second important aspect of the passage quoted from Finnis above, namely, the extension of friendship to all of mankind. How broadly does friendship toward our fellow man extend? On the one hand, Finnis says that because human beings are fundamentally equal and can all participate in the basic goods, “everyone can rightly have a kind of friendship with every other human person.”\textsuperscript{58} This would seem to be the basis of friendship between states.\textsuperscript{59} As Finnis says, the scope of friendship for Aquinas is ultimately universal. But whereas Finnis roots the universal scope of friendship and love of neighbor as self in practical reason, it is not clear that Aquinas thought we could understand the universal scope of friendship or the golden rule without the benefit of divine revelation. After all, he treated it in the context of the supernatural virtue of charity. Since we love those who belong to our friends, and all men belong to God, we must love and have friendship even with our enemies, not just with fellow countrymen or co-religionists.\textsuperscript{60} Without revelation, it is not obvious that we would recognize our enemies as belonging to the same God we do and treat them as friends. Indeed, Aquinas said that “no one but God can make

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\item \textsuperscript{56} \textit{ST} I-II, q. 26, a. 4, co.
\item \textsuperscript{57} \textit{ST} II-II, q. 26, a. 11.
\item \textsuperscript{58} Finnis, \textit{Aquinas}, 117.
\item \textsuperscript{59} Ibid., 114.
\item \textsuperscript{60} \textit{ST} II-II, q. 23, a. 1, ad 2. See Schindler, 147-49; Schwartz, 132.
\end{itemize}
us love our enemies.” 61  Again, we cannot explain Aquinas’s political theory without recourse to its theological context.

On the other hand, Finnis says that to posit the existence of “universal friendship is not to suggest that one is directed by practical reasonableness to leave behind particular, limited relationships with one’s family, neighborhood, or workplace, one’s city and country, or one’s special friends.” 62  These types of friendship are not clearly differentiated by Finnis, nor were they by Aquinas. But in his Commentary on Aristotle’s Nicomachean Ethics, Aquinas did draw a distinction between what he called broadly civic friendships and friendships we have with blood relations. 63  Aquinas used the term civic friendship to apply to fellow tribesmen, fellow travelers, friends sailing together, soldiers, and students. 64  Finnis uses the example of students living together in a hostel setting a curfew for themselves as a case of group decision making. 65  Their association would constitute a kind of broadly civic friendship for both Aquinas and Finnis.

The third significant aspect of Finnis’s definition of friendship in Aquinas is that, according to Finnis, the common good of friendship is greater than the sum of the two or more individual goods that make it up. It is good in itself. He says that this is true of the friendship that we can have with the whole human race. But is there a specifically civic friendship that pertains to the political common good for Aquinas? Finnis explains it this way:

61  *Perf.*, chap. 14: “ad diligendum inimicos nihil movere potest nisi solus Deus.”
62  Finnis, p. 117.
63  *Eth.* VIII, lect. 12.
64  *Eth.* VIII, lect. 12, no. 1704. Aquinas most frequently used *amicitia politica* (eleven times), as he did here. He also used *amicitia civilis*, though less frequently (five times).
65  Finnis, pp. 63-64, 68-69.
Civic friendship, and the principle of love of neighbor, and the Golden Rule of fairness, direct one to accept that the law’s directive(s) presumptively settle what one morally should or should not do. For if people do not do what they can to preserve justice and peace by such co-operation in co-ordination, not only will the political community tend towards disintegration and ruin, but one’s fellow citizens—especially the weaker—will be harmed.66

Finnis does not, then, characterize civic friendship as a partnership in virtue, or as desiring another’s good for his own sake, but rather as a partnership in practical reasonableness.67 Put another way, civic friendship “becomes simply a partnership in freely fulfilling the instrumental purposes of the law.”68 For Finnis, there can be no civic friendship that pertains to the specifically political common good, since civic friendship would be a common good that is greater than the sum of individual goods that constitute it and therefore good in itself, or basic.

Finnis identifies societas as the object of legal justice, but as we have seen, in his account, the virtue of legal justice does not exclusively pertain to the specifically political common good; it pertains to any social group.69 Finnis says that justice “covers the same field as friendship,” and for him, the term “civic friendship” can be applied as broadly as the term “legal justice.”70 This suggests that, just as there can be no legal justice that refers exclusively to the specifically political common good, there can be no civic friendship pertaining exclusively to the specifically political common good either. Like legal justice, civic friendship for Finnis is applies broadly to the community of “all human beings.”

Insofar as Aquinas calls justice the object of a natural inclination, Finnis says it is “an

66 Finnis, Aquinas, 271. In his other specific reference to “civic” friendship, Finnis equates it to mutual agreements between students living together in the corridor of a hostel. See 121, n. 89 and 63. See also 114, 220, where he expands friendship to apply between political communities, though he does not call it civic friendship.
67 Wright, 158.
68 Wright, 154.
69 See Finnis, Aquinas, 85, n. 119 for his reference to his Chapter IV.4, n. 80.
70 Ibid., 117.
intrinsic aspect of the basic good of *societas*.”

Justice is ordered to people living in peace with one another, which is the fruit of *societas*.

He says that laws pertaining to contracts and exchange foster friendship, practical reasonableness, and general justice. Aquinas says that offenses against friendship are subject to commutative justice. It is not clear that we can have the basic good of *societas* or friendship without first having the law and justice provided by the political common good. Or at least, it would seem that we could only be sure of friendship with family members and neighbors who are well known to us. If that is so, then the political common good is necessary for the instantiation of the basic good of *societas* and, on Finnis’s terms, is itself a basic good.

Indeed, Aquinas said that “the principle intention of human law is to secure friendship between people.”

The law fosters friendship between citizens by helping them collaborate with one another in pursuit of the good. Aquinas equated political friendship with concord, or agreement about things that it would be useful to do that is not undermined by minor disagreements. Aquinas said that there are goods that are more important to common life, and goods that are less important for it. Disagreement about lesser goods hardly counts as dissension, and is no obstacle to civic peace. What matters is that, in spite of their disagreements, citizens formally intend the common good.

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71 Ibid., 85.
73 Ibid., 197.
74 *ST* III, q. 85, a. 3, ad 3. See Schwartz, 149.
75 *ST* I-II, q. 99, a. 2, co.: “intentio principalis legis humane est ut faciat amicitiam hominum ad invicem.” See also q. 99, a. 1, ad 2.
76 *Eth.* VIII, nn. 1688-89; *DR*, Bk. I, chap. 11, nn. 77-78. Schindler, 151-52.
78 *ST* II-II, q. 29, a. 3, ad 2. Schwartz, 33.
But the central case of civic friendship for Aquinas is the friendship that the subjects have for their ruler, expressed through fidelity and in obedience to just laws: “Each kind of friendship regards chiefly the subject in which we chiefly find the good on the fellowship of which that friendship is based: thus civic friendship regards chiefly the ruler of the political community, on whom the entire common good of the political community depends; hence to him before all, the citizens owe fidelity and obedience.”

Insofar as it is just, the law fosters friendship between citizens and their rulers.

If the good king is a friend to his people, the tyrant is the enemy of his people. In fact, Aquinas argued that tyrants are necessarily the enemies of friendship itself:

Tyrants strive to prevent those of their subjects who have become virtuous from acquiring valor and high spirit in order that they might not want to cast off their iniquitous domination. They also see to it that there be no friendly relations among these so that they may not enjoy the benefits resulting from being on good terms with one another, for as long as one has no confidence in the other, no plot will be set up against the tyrant’s domination. Wherefore they sow discords among the people, foster any that have arisen, and forbid anything which furthers society and cooperation among men, such as marriage, company at table, and anything of like character, through which familiarity and confidence are engendered among men.

In this case, Aquinas was referring to a civic friendship which seeks the political common good. Whereas good kings foster concord and friendship, we see here that tyrants actively promote discord to prevent friendships from forming among citizens. Friendship threatens tyrants

79 ST II-II, q. 26, a. 2, co.: “quod unaquaeque amicitia respicit principaliter illud in quo principaliter invenitur illud bonum super cuius communicatione fundatur, sicut amicitia politica principalius respicit principem civitatis, a quo totum bonum commune civitatis dependet; unde et ei maxime debetur fides et obedientia a civibus.”

80 See Schwartz, 66-68.

81 DR I, chap. 4, n. 27: “tyranni, ne ipsorum subditi virtuosi effecti magnanimitatis concipient spiritum et eorum iniquam dominationem non ferant, ne inter subdito amicitiae foedus firmetur et pacis emulamento ad invicem gaudeant, ut sic dum unus de altero non confidit, contra eorum dominium aliquid moliri non possint. Propter quod inter ipsos discordias seminant, exortas nutriunt, et ea quae ad foederationem hominum pertinent, ut connubia et convivia, prohibent, et caetera huissmodi, per quae inter homines solet familiaritas et fiducia generari.” On the forms of civic association that draw men together, see Aristotle, Politics III, chap. 9.
because it is based on a partnership in virtue, which includes the virtue of justice. Men who love justice and desire each others’ well-being for its own sake will lack the servility that makes good citizens of tyranny. Therefore, the tyrant must undermine the concrete forms of association through which people become friends. While civic friendship seeks the common good, the defining characteristic of the tyrant is that he seeks his own interest. 82

Civic friendship necessarily thinner than other forms of friendship, because it extends to more people. But if, as we have argued, the political community is ordered to the pursuit of virtue, then civic friendship would be based on the pursuit of virtue. Civic friendship would also be good in itself, as would the political common good at which it aims. It is because of the intrinsic goodness of the political common good that friends would risk their well being and lives to preserve it.

Self-Sacrifice for the Common Good

Finnis says that for Aquinas the basic good of friendship requires that we look out for others and protect their intelligible goods. 83 He says that selfishness, or egoism, is bad because it prevents us from recognizing other people as ends in themselves and participating in the basic good of friendship with other people. Since it is contrary to a basic good, egoism is also contrary to practical reasonableness. 84 Finnis makes good arguments about why selfishness is bad, but fails to make good arguments about why its opposite, self-sacrifice, is good. He never squarely addresses the tension between the good of the individual and the common good that arises from

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82 DR I, chap. 4, n. 26.
83 Finnis, Aquinas, 111.
84 Ibid., 112.
occasions when the individual must sacrifice something for the good of another or for the sake of the common good.

This becomes apparent in his treatment of the use of force in self-defense and the defense of others. Finnis says that acts of self-defense should not be such that they would cause the death of people who threaten no harm to one, and that rather than kill an innocent person in self-defense “I ought to forbear, even if my forbearance costs me my life.” This applies both in cases of personal self-defense and defense of the public good. Parenthetically, in a footnote, he says that “we ought all to be ready for this sort of need for self-sacrifice.” But what Finnis specifically refers to in his example is less an act of self-sacrifice for the good of another than choosing one’s own death over having to inflict it on another. His justification for “self-sacrifice” is rather thin, and he never squarely addresses the issue. It is not clear which basic good one participates in when sacrificing one’s life for another. Indeed, it would seem to require that one intentionally act against the basic good of one’s own life.

It is striking that Aquinas’s discussions of self-sacrifice for the political community take place in the context of discussions of the supernatural virtue of charity. If Finnis’s method precludes the possibility of invoking charity in order to defend self-sacrifice for the political common good, and his arguments for self-sacrifice seem weak, then perhaps he does not really

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85 Finnis, Aquinas, 276-77. See also 285, n. 58.
86 Ibid., 277, n. 13. See Finnis’s reference to his Chapter IX.1, nn. 13-14 at 85, n. 119
87 Russell Hittinger has pointed out this difficulty in Finnis’s other writings: “What good does one participate in when one sacrifices oneself for a friend? A eudaimonistic ethics that lacks a notion of the common good, or which does not give a prominent place to what could be called other-regarding virtues, will find itself entangled on this question.” Hittinger, A Critique of the New Natural Law Theory (Notre Dame: University of Notre Dame Press, 1987), 150. The problem is neither resolved nor even addressed in Finnis’s Aquinas. Recall from Chapter 1 above that Adler and Farrell faced a similar difficulty.
think that there are good practical, third order philosophical arguments for sacrificing one’s life for the common good.

Aquinas, however, did not shrink from addressing and resolving this tension between the individual good and sacrifice for the common good. He said people also willingly sacrifice their property for the sake of the political common good.88 Beyond that, they will even risk their lives for it:

The common good of many is more godlike than the good of an individual. Wherefore it is a virtuous action for a man to endanger even his own life, either for the spiritual or the temporal common good of his country. Since therefore men engage together in warlike acts in order to safeguard the common weal, the soldier who with this in view succors his comrade, succors him not as a private individual, but with a view to the welfare of his country as a whole: wherefore it is not a matter for wonder if a stranger be preferred to one who is a blood relation.89

It made sense for Aquinas to make this statement in the context of his discussion of the virtue of charity because, as we have seen, be believed that charity and legal justice were analogous virtues. The act of succoring a fellow soldier could be considered an act of legal justice as well as an act of charity. It is worth noting that Aquinas said a soldier would come to the aid of a fellow soldier before coming to the aid of a family member because the fellow soldier represents the political the common good. This suggests that the political community has, in at least some instances, a greater purchase upon our loyalty than the family. That is because its good is a higher good.

88 ST II-II, q. 26, a. 3, co.
89 ST II-II, q. 31, a. 3, ad 2. “bonum commune multorum divinius est quam bonum unius. Unde pro bono communi reipublicae vel spiritualis vel temporalis virtuosum est quod aliquis etiam propriam vitam exponat periculo. Et ideo, cum communicatio in bellicis ordinetur ad conservationem reipublicae, in hoc miles impendens commilitoni auxilium, non impendit ei tanquam privatae personae, sed sicut totam rempublicam iuvans. Et ideo non est mirum si in hoc praefertur extraneus coniuncto secundum carnem.”
Aquinas said that “The fact that a man forms part of a family causes him to form part of a city, which is composed of many families.”\(^{90}\) This statement makes it sound as though the family is inextricably bound up with the political community. It is also worth nothing that, when Aristotle says that a man who lives outside of a political community is either a beast or a god, he is referring to individuals, not families. When Aquinas looked for examples of godlike men who lived outside of political community, he thought of Saints John the Baptist and Anthony of the Desert, not families or family men.\(^{91}\)

The political common good elicits action over and above the common good of the family because we have a natural inclination to live in political community. As Aquinas said, “the whole that is the political community is superior to all the other wholes that human reason can know or constitute.”\(^{92}\) That is because “the preservation of a city is nobler than the preservation of a family.”\(^{93}\) The reason the political common good is higher than the common good of the family is that it is more universal. The fact that man’s nature as a “conjugal animal” is inferior to his nature as a “political animal” for Aquinas is shown by several statements in which he asserted that, when they are in tension, the demands of the political common good trump those of the family’s common good. It also suggests that man is more a “political” than “social” animal.

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\(^{90}\) Contra Imp., Part II, chap. 2, ad 3: “collegium autem privatum est pars publici collegii, sicut domus est pars civitatis: unde per hoc quod aliquis est de collegio aliquius familiae, hoc ipso est de collegio civitatis, quae ex diversis familiis consituitur.”

\(^{91}\) Pol., I, chap. 1, n. 20.

\(^{92}\) Pol., prol., n. 4: “totum quod est civitas sit principalis omnibus totis, quae ratione humana cognosci et constitui possunt.”

\(^{93}\) Ver. q. 7, a. 6, ad 7: “id quod est communis, est nobilius, ut conservatio civitatis quam conservatio familiae.”
Finnis says that, in a prelapsarian state of innocence, Aquinas believed there would be government, but not specifically political government, and therefore no law.\textsuperscript{94} Here he implicitly returns to his distinction between the political common good and the common good of the political community. Aquinas referred to man as a social animal rather than a political animal in this context, so Finnis concludes that man is naturally a social animal rather than a political animal.\textsuperscript{95} There is a tension, however, between Finnis’s assertion that the central case of law is for social coordination, but that the social coordination that occurs in the state of innocence does come about through acts having the character of law. Specifically political community, which is formed to administer punishment according to Finnis, is a consequence of original sin. Since there is no need for punishment in the state of innocence, the common good of the political community can be achieved through a form of social coordination that has no legal character, according to Finnis.

In spite of the fact that Aquinas called man a social animal in this context, he still said that there would be rule \{dominium\}. He then distinguished between two types of rule, rule over a slaves and rule over free men. The first type of rule would not be present in the state of innocence, but the second would. The man who ruled in the state of innocence would “have the office of governing and directing free men” to their own good or toward the common good.\textsuperscript{96} This kind of rule “is called economic or civil, whereby the superior makes use of his subjects for

\textsuperscript{94} Finnis, \textit{Aquinas}, 248. Compare Finnis, \textit{NLNR}, 231-33. Here there is a faint hint that there might be specifically political authority in “a community free from [selfish] vices.” But Finnis does not approach the problem in the same way, referring more broadly to any community and only to anti-social vices.

\textsuperscript{95} \textit{ST} I, q. 96, a. 4, co.

\textsuperscript{96} \textit{ST} I, q. 96, a. 4, co.: “habet officium gubernandi et dirigendi liberos.”
their own benefit and good.” Finnis would argue that Aquinas calling rule in the state of innocence “economic or civil” mitigates in favor of his claim that there be no specifically political government and law in such a state. But that would not be the case if “civil” rule or man’s nature as a “civil” animal is equivalent to the political, as we shall argue presently.

Since there would still be inequality in knowledge and virtue in the state of innocence, Aquinas said that the wisest and most virtuous person would be made ruler. Though there would be no sin in a state of innocence, there could be disagreement in practical judgments stemming from inequalities of experience, virtue, or wisdom. Aquinas thought that it was even possible to have vigorous disagreements without sinning against charity. After all, Church fathers argued with one another while remaining united in their love of God. Likewise, Aquinas said it was possible for angels to argue about the merits or demerits of the Jewish people without sin, as long as they all desired the fulfillment of divine providence, that is, the eternal law. If there can be vigorous disagreement without sin, then there must be an authority to resolve disagreement, whether it be ecclesiastical authority or the eternal law. Speaking elsewhere of God’s rule through the eternal law, Aquinas said that:

> Just as in every artificer there pre-exists a type of the things that are made by his art, so too in every governor there must pre-exist the type of the order of those things that are to be done by those who are subject to his government. And just as the type of the things yet to be made by an art is called the art or exemplar of the products of that art, so too the type in him who governs the acts of his subjects, bears the character of law.

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97 ST I, q. 92, a. 1, ad 2: “subiecto economica vel civilis, secundum quam praesidens utitur subiectis ad eorum utilitatem et bonum.”
98 ST I, q. 96, a. 3, co.
99 Sent. II, d. 11, q. 2, a. 5. See the discussion in Schwartz, 31-33.
100 ST I-II, q. 93, a. 1, co.: “sicut in quolibet artifici praeeexistit ratio eorum quae constituantur per artem, ita etiam in quolibet gubernante oportet quod praeeexistat ratio ordinis eorum quae agenda sunt per eos qui gubernationi subduntur. Et sicut ratio rerum fiendarum per artem vocatur ars vel exemplar rerum artificiarum, ita etiam ratio gubernantis actus subditorum, rationem legis obtinet.”
Likewise, the human ruler in the state of innocence would be required to authoritatively resolve disputes and problems of social coordination, and his ordinances would have the character of law, even if they were manifested in the form of custom or spoken agreement rather than written law. Thus in the state of innocence, there would be government and law, no matter how minimal or informal. That is because Aquinas believed, as Finnis does, that the fundamental purpose of law is to coordinate the pursuit of the common good rather than punish injustice. In the context of another discussion of the state of innocence, Aquinas compared man’s love for the specifically political common good over his individual good to his loving of God more than himself.\footnote{Quodl. I, q. 4, a. 3. See also Virt. q. 2, a. 2.} This suggests that Aquinas thought there would indeed be a political common good in the state of innocence. It also suggests that Aquinas’s description of man as a “social animal” in his discussion of the state of innocence does not exclude his character as a “political animal.”

\textit{Man as Political Animal}

Finnis asserts that “Contrary to what is often supposed, Aquinas’ many statements that we are ‘naturally political animals’ have nothing particularly to do with \textit{political} community...On the other hand, Aquinas accepts Aristotle’s opinion that we are ‘naturally civil animals’ because we are \textit{naturally} parts of a \textit{civitas}, which stands to other natural communities as an end.”\footnote{Finnis, Aquinas, 245-46.} Finnis claims that, beyond being a conjugal animal, man is a “social” or “civil,” but not political animal. The distinction between saying that man is a “civil animal” as opposed to a “political animal” is not immediately obvious. But Finnis seems to clarify this distinction by
saying that participation in a *civitas* is natural insofar as it is “an indispensible means to instantiating one or more of the basic human goods.”

For Finnis, the “social” and the “civil” in Aquinas are equivalent. The natural inclination to *societas* for Finnis would seem to be a natural inclination to the common good of the political community, i.e., the basic goods of private individuals and families. Perhaps he would equate this with the distinction between civil society and the state. This distinction may be present in inchoate form in Aquinas.

Nevertheless, the terms civil and political are closer to being synonyms than antonyms. The Latin “animal civile” is obviously related to the words “civis” for citizen and “civitas” for city or political community. Finally, in works where Aquinas referred to man as a “civil animal,” he also referred to man as a “political animal.”

The terms are basically equivalent, but the term political animal represents the fullest expression of man’s social nature. Moreover, in commenting on Aristotle, Aquinas explicitly connected the powers that make man a rational animal distinct from other animals to his specifically political nature:

> Nature gives speech to human beings, and speech is directed to human beings communicating with one another regarding the useful and the harmful, the just and the unjust, and the like. Therefore, since nature does nothing in vain, human beings by nature communicate with one another about these things. But communication about these things produces the household and the political community. Therefore, human beings are by nature domestic and political animals.

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103 Ibid., 246.
104 *Contra Impugn.*, Part II, chap. 2. See Kempshall, 124, n. 122.
105 Aquinas called man a political animal (*animal politicum*) 8 times, throughout different works. He called man a civil animal (*animal civile*) 6 times, all in his commentaries on the *Nicomachean Ethics* and *Politics*. He called man a social animal (*animal sociale*) 9 times, all in his *Summa contra Gentiles* and *Summa Theologiae*. Finally, he called man a conjugal animal (*animal coniugale*) 4 times, once in his commentary on the *Sentences*, and three times in his commentary on the *Ethics*. His usage seems to be uniform within each particular work, except in the case of *animal politicum*, which is used in 7 different works, including the ones in which he uses the terms closest to it, *animal civile* and *animal sociale*.
Here human beings uniquely possess the power of speech. That purpose of that power is explicitly identified as deliberation about what is expedient and what is just. The power of speech is relevant to both man’s domestic and political nature. Men deliberate about what is expedient and the inexpedient within both households and political communities. But only political communities are properly concerned with deliberating about what is just and unjust; only political communities have law in its central form.\textsuperscript{107}

As Finnis acknowledges, Aquinas’s terms for describing human action are highly legal or political.\textsuperscript{108} The three acts of the virtue of prudence, which governs practical reason, are called counsel \{consilium\}, judgment \{sententia, iudicum\}, and command \{imperium\}.\textsuperscript{109} Since man is a political animal, the analogy between the way that the political communities deliberate, make decisions, and act clearly struck Aquinas as analogous to the way that individual human beings deliberate, make decisions, and act.

Man’s nature as a political animal is also manifest in what Aquinas called his natural inclination to the political community and its specific common good:

But we see that any part, by a kind of natural inclination, works for the good of the whole, even to its own danger or detriment, for example, when someone exposes his hand to a sword to defend his head on which his whole body’s health depends. So it is natural that any part in its way loves the whole more than itself. And also according to this natural inclination and according to political virtue, the good citizens faces the danger of death for the common good.\textsuperscript{110}

\begin{footnotes}
\item[\textsuperscript{107}] ST II-II, q. 50, a. 3, ad 3.
\item[\textsuperscript{108}] Finnis, Aquinas, 28.
\item[\textsuperscript{109}] ST II-II, q. 47, a. 8, co. See Finnis, Aquinas, 66-69, 76.
\item[\textsuperscript{110}] Quodl. I, q. 4, a. 3: “Videmus autem quod unaquaeque pars naturali quadam inclinatione operatur ad bonum totius, etiam cum periculo aut detrimento proprio: ut patet cum aliquis manum exponit gladio ad defensionem capitis, ex quo dependet salus totius corporis. Unde naturale est ut quaelibet pars suo modo plus amet totum quam seipsam. Unde et secundum hanc naturalem inclinationem, et secundum politicam virtutem, bonus civis mortis periculo se exponit pro bono communi.” See also ST II-II, q. 26, a. 3 co. and ad 2; Suppl., q. 41, a. 1, co.
\end{footnotes}
Note that the inclination to the political common good, and the desire to defend it, applies to the good citizen, i.e., not just a soldier specifically charged with defending the political community.

It seems that the third natural inclination pertains to all of the aspects of man’s nature as a conjugal, social, and political animal. These three aspects of man’s sociability all depend on his reason and power of speech, which Aquinas followed Aristotle in connecting to man’s domestic and political nature. These three aspects of man’s sociability all lead to distinct forms of friendship. Finally, the fact that living in society is connected in the third inclination to knowing the truth concerning God suggests that what is shared between men, and between men and God, involves the communication of goods and result in charitable and civic friendship.

### Political Community and the Virtues

Finnis asserts that politics is for “good actions.”¹¹¹ His translation of the Greek “kalon” used by Aristotle to mean “good” is rather less exalted than the way it is usually translated, as “noble,” so that politics is for “noble actions.” Politics is for noble action because it makes an important contribution to human perfection, steadying men in the practice of the virtues and expanding the range of virtues that they can practice. Man is a political animal because, unless he is a St. John the Baptist or St. Anthony of the Desert, the political community is necessary for his perfection:

For human beings are the best of animals if they have the complete virtue to which nature inclines them. But human beings, if they should be without law and justice, are the worst of animals…And so it is obvious that the one who

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¹¹¹ Finnis, *Aquinas*, 222.
established the political community kept human beings from being the worst and brought them into the condition of being the best in justice and virtues.¹¹²

This suggests that there are virtues which only become possible in political community or whose scope is significantly expanded by it. Indeed, Aquinas said as much: “when man becomes a citizen of a state and is admitted to participating in the good of some state, certain virtues are suitable, necessary even, for doing those things which are a citizen’s duty and for loving the good of the state.”¹¹³ Virtues that man would have independently of political community are expanded in scope, and new virtues with specifically political objects become available for human action. Virtues which are only instantiated in political community, or whose scope is significantly expanded by it include legal justice, regnative and political prudence, temperance, courage, liberality, magnificence, and magnanimity. The practice of these virtues perfects man both as a member of the political community and for his own sake.

The political common good is so important that it is the object of two specific virtues for Aquinas, between which he drew a direct analogy: legal justice and regnative prudence.¹¹⁴ We have already seen how legal justice perfects the individual, so let us discuss prudence. Regnative prudence is the specific form of prudence by which a ruler, or one who participates in rule, governs his community. Aquinas said it is the highest, most perfect form of prudence.¹¹⁵ Subordinate to regnative prudence is military prudence, the prudence of a general, which brings

¹¹² Pol. I, chap. 1, no. 23: “Homo enim est optimum animalium si perficiatur in eo virtus, ad quam habet inclinationem naturalem. Sed si sit sine lege et iustitia, homo est pessimum omnium animalium…Unde manifestum est, quod ille qui civitatem instituit, abstulit hominibus quod essent pessimì, et reduxit eos ad hoc quod essent optima secundum iustitiam et virtutes.” See also no. 21.; he refers to this passage at ST I-II, q. 95, a. 1, co.
¹¹³ Virt. q. 2, a. 2.
¹¹⁴ ST II-II, q. 47, a. 10, ad 1.
¹¹⁵ ST II-II, q. 50, a. 1, co.; a. 2, ad 3.
conduct in war under the rule of the moral virtues. Political prudence is the specific form of prudence by which the ordinary citizen directs his actions toward the political common good. It is the prudence of the good citizen, as distinct from the prudence of the good man, which is prudence simply so called. Natural inclinations are not only ordered to goods, but also to specific virtues, including legal justice and political prudence. This strengthens our claim that human beings must have a natural inclination to live in a specifically political community for Aquinas.

The moral virtues of temperance, courage, and liberality have an expanded scope in a political community. The scope of courage is significantly expanded in a more positive way compared to what it would be outside of the political community. Courage can apply to private affairs within a family or village, but battlefield courage aims at a higher good of defending the whole political community. The scope of temperance is expanded within political community, albeit in a negative way. It is less clear how temperance helps the political community than it is clear that acts of intemperance hurt the community, whether the intemperance pertains to food, drink, or sex. If acts of intemperance cause less harm in a group of families or group of villages, it is because they are smaller and do not aim at as high a common good as a complete political community. Liberality is the suitable giving of external goods—mainly money—to other individuals. It fosters friendships of utility, because it is based on external goods.

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117 ST II-II, q. 50, a. 2, ad 3.
118 ST II-II, q. 108, a. 2, co.
120 ST II-II, q. 123, a. 5, co. See Gregory L. Reichberg, “Aquinas on Battlefield Courage” Thomist 74, no. 3 (July 2010), 337-68.
121 ST II-II, q. 117, a. 4, co.
Liberality is other-regarding, because the liberal man gives money to his friends and to people he does not know, so it is more readily practiced in a political community than it would be outside a political community. Man is more willing to give money to others when his personal property is basically secure because of law, which is provided by the political community.

There are other, greater moral virtues that require community in order for man to practice them, such as magnificence and magnanimity. Liberality may be practiced by any man, but magnificence may only be practiced by the rich. A magnificent man does not principally direct his magnificent actions toward himself, but rather toward others, whether individuals or the community as a whole. Magnificence is great expenditure “directed to the production of some work, for instance in order to honor someone, or in order to do something which will reflect honor on the whole state: as when he brings to effect what the whole state is striving for.”

Aquinas used outfitting a trireme or giving a banquet for the whole community as examples of magnificent acts serving the good of the whole community. Giving gifts, whether on a modest or expansive scale, benefits the receiver. But living in community and having friends also benefits the giver, because their generous inclinations are strengthened and encouraged and their character is perfected.
Aquinas said that magnanimity is a part of fortitude, because it confirms the mind in its decision regarding some difficult matter. It is opposed to the vices of pusillanimity and presumption. The pusillanimous man harms others by omitting to perform great deeds of which he is capable, deeds which could benefit them. Aquinas said it is actually a graver sin than presumption, the vice opposed to magnanimity by way of excess, because through pusillanimity one actually withdraws from good things.

Presumption is the vice by which one attempts to do what is beyond one’s ability and unbecoming. In the De Regno, Aquinas posed the question of whether it is good for any strong men to expose themselves to danger of for the sake of removing a tyrant and setting their countrymen free. He decided that it is safer for the people that a tyrant be removed by those who already exercise public authority, because they are accustomed to the constraints of office. He said that the danger in this is that those who would dare to remove a tyrant might chafe beneath the rule of a good king and remove him too. Their fault, he said, is presumption. Like the presumptuous man, the magnanimous man readily exposes himself to danger in the pursuit of a great deed. But the virtue of magnanimity gives the mean of reason to his high-spirited acts, and helps fit him for life in community.

Magnanimity is the virtue that gives the mean of reason to the pursuit of great honors. Honor is an external good that is the attestation to someone’s virtue or excellence; it is something

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128 ST II-II, q. 129, a. 5, co.
129 ST II-II, q. 133, a. 1, co. and ad 2.
130 ST II-II, q. 133, a. 2, ad 3.
131 ST II-II, q. 130, a. 1, co.; a. 2, co.
132 DR I, chap. 7, nn. 45-47.
133 ST II-II, q. 129, a. 5, ad 2.
134 ST II-II, q. 129, a. 3, co.
conferred on the magnanimous person by others, and therefore social in nature. Keys argues that Aristotle’s magnanimous man was overly preoccupied with honors as a manifestation of his own superiority, failing to refer them to some external good. Aquinas resolved this shortcoming by saying that the magnanimous man’s acts of virtue are referred to things outside of himself: “the whole of his attention is taken up with the goods of the community and God.” The great things that he will expose himself to danger for are “the common welfare, justice, divine worship, and so forth.”

For Aquinas, as Keys shows, the virtue of the magnanimity cannot exclude the acts of the other virtues, and so the magnanimous man’s virtue depends in important ways on parts of virtues like confidence, gratitude, and humility. Each of these serves to correct the magnanimous man’s temptation to admire his own superiority and independence of others. First, Aquinas’s said the magnanimous man needs to have confidence in others, because he needs the service of others to perform great deeds. Second, he must seek to excel in showing gratitude, but needs others with whom to exchange favors. The virtue of gratitude serves to overcome the magnanimous man’s prideful reluctance to be put in another’s debt, and gives grace to his giving and receiving. It actually teaches him to love his benefactor instead of resenting him for burdening him with a needless debt to repay. Third, humility tempers magnanimity by teaching us to recognize the gifts that others have received from God, including the gift of

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135 ST II-II, q. 129, a. 1, co.
136 Eth. IV, lect. 10, n. 779: “tota eius intentio est circa bona communia et divina.”
137 Eth. IV, lect. 10, n. 760: “pro salute communi, pro iustitia, pro culto divino et alis huiusmodi.” See Keys, Promise of the Common Good, 149.
138 ST II-II, q. 129, a. 6, ad 1.
139 ST II-II, q. 106.
140 ST II-II, q. 107, a. 1, ad 3. Keys, Promise of the Common Good, 156-58.
exercising public authority.\footnote{ST II-II, q. 129, a. 3, ad 4. Keys, \textit{Promise of the Common Good}, 165-66, argues that Aquinas’s a magnanimity, tempered by gratitude and humility, transforms that of Aristotle.} It also teaches him to communicate external goods to others less fortunate than himself when they are in need.\footnote{ST II-II, q. 66, a. 2, co. See Keys, \textit{Promise of the Common Good}, 154-56.} Confidence, gratitude, and humility are important social virtues that help one “avoid giving offense to those among whom one has to live.”\footnote{ST I-II, 1. 94, a. 2, co.: “non offendat cum quibus debet conversari.”} Keys sums up the grandeur of magnanimity thus:

Magnanimity rouses the soul to attempt great works, to struggle to bring about great goods in the face of internal or external difficulties. This proper sense of one’s own capacity for virtue, together with a noble longing and daring to attempt to bring about greater goods for oneself, one’s neighbors, and one’s community, and for the glory of God, is an excellence that elicits impressive acts of other virtues, brings them to new heights, and adds to their luster.\footnote{Keys, \textit{Promise of the Common Good}, 153.}

The political community provides a context in which the magnanimous man can know his limitations. It also has the scope to permit him realize his perfections, and benefit others through his great deeds.

The highest natural virtues are those by which we confer benefits on other people. These are only available, or their central cases are only available, in political community. That is one reason why Aquinas frequently calls the political common good “more divine” than the particular good. As we have seen, even the scope of the supernatural virtue of charity is expanded by life in political community. This too suggests that man is a political animal, and that the political common good is good in itself.
Is the Political Common Good a Basic Good?

The political community does not itself instantiate a basic good, according to Finnis. It is rather instrumental to securing human goods that are basic, which are chiefly secured through the family. The only qualification he makes to this assertion, as we have seen, is that individuals and families may need to live in a political community in order to secure themselves against injustice.\textsuperscript{145} Finnis says it could only be good in itself, or a basic good, if it instantiated an otherwise unavailable good.

But is there reason to believe that Aquinas did think that the political common good was good in itself? Aquinas said that:

\begin{quote}
The common good of the realm and the particular good of the individual differ not only in respect of the “many” and the “few,” but also under a formal aspect. For the aspect of the “common” good differs from the aspect of the “individual” good, even as the aspect of “whole” differs from that of “part.” Wherefore the Philosopher says (Polit. I.1) that “they are wrong who maintain that the political community and the home and the like differ only as many and few and not specifically.”\textsuperscript{146}
\end{quote}

This means that the political common good differs specifically from the basic goods of its parts and is greater than the sum of its parts.\textsuperscript{147}

The fact that the political common good is good in itself is suggested by Aquinas’s assertion that crimes committed against persons responsible for the common good are more heinous than similar acts committed against private persons. Aquinas defined respect of persons as conferring an honor or preferment on someone that they do not merit. It is a sin against distributive justice, i.e., the justice that the political community practices toward the individual.

\textsuperscript{145} Finnis, Aquinas, 247.  
\textsuperscript{146} ST II-II, q. 58, a. 7, ad 2. See also Eth. I, lect. 5, n. 62.  
\textsuperscript{147} Maritain, 51-52; Froelich, 53.
But he said that conferring honor on wicked or foolish rulers does not constitute respect of persons because they represent their whole community, and in honoring them, we honor the community.\textsuperscript{148} So much more should we honor wise and virtuous rulers. Those who attack public officials deserve more severe punishments than those who attack private citizens, because “The injury inflicted bears a different proportion to a prince from that which it bears to a private person: wherefore each injury requires to be equalized by vengeance in a different way.”\textsuperscript{149} That must be precisely because in attacking a public official, who represents the whole community, a criminal strikes against the common good. Conversely, someone will risk his own safety in order to save the life of a general or of a ruler because the common good of the army and the whole political community depends on them.\textsuperscript{150} Therefore, the political common good is a \textit{bonum honestum}; it is good in itself, or, in Finnis’s terms, it is a basic good.\textsuperscript{151}

\textit{Conclusion}

According to Aquinas, man is a conjugal and social animal, but he finds his highest perfection as a political animal. These aspects of human sociability are all expressions of the first half of man’s third natural inclination, to live in society. Neither the goods of marriage nor friendship are secure outside of political community, because they both depend in important ways on law. That is not simply because it makes the punishment of evildoers and the securing of property possible, but because important human virtues and perfections are instantiated only

\textsuperscript{148} \textit{ST} II-II, q. 63, a. 3, co. Aquinas said that even rich people are entitled to respect on the basis of their standing in the community, though not on the basis of their wealth itself.  
\textsuperscript{149} \textit{ST} II-II, q. 58, a. 10, ad 3: “iniuria illata alienam proportionem habet ad principem, et alienam ad personam privatam. Et ideo oportet aliter adaequare utramque iniuriam per vindictam. Quod pertinet ad diversitatem rei.” See also II-II, q. 61, a. 2, ad 3; q. 63, a. 4, ad 2.  
\textsuperscript{150} \textit{Virt.} q. 2, a. 4 ad 2; q. 2, a. 9, ad 15.  
\textsuperscript{151} Maritain, 63; Froelich, 53; Dewan, "St. Thomas, John Finnis, and the Political Common Good," 338.
in political community. Unless one is a St. John the Baptist or Anthony of the Desert, life in political community is indispensable for achieving the happiness and fulfillment a human being can have in this life. This would be true even in the state of innocence. Life in political community also expands the range of perfections that human beings can achieve by making it possible for them to do good deeds on a grander scale. The political common good not merely instrumental, but is good in itself, because it makes these goods possible. That is why Aquinas said people naturally sacrifice their physical well-being, even their lives, for the sake of the political community and its representatives.
No topic in St. Thomas Aquinas’s political theory has been more controversial in the last hundred years than the nature of the political common good. Debates over the common good have chiefly been conducted between those who stay close to the letter of Aquinas’s thought and those who seek to integrate aspects of modern philosophy into it and apply them to contemporary politics. Like Jacques Maritain before him, John Finnis has tried to articulate a Thomism suited to modern liberal democracy. Finnis’s Aquinas is one very much at home in contemporary liberal democracy.¹ But it is easier to extract Aquinas’s thought from its context in feudal monarchy than it is to extract it from its context in Aquinas’s metaphysics and theology. Finnis’s attempt to reconstruct and revise the social and political theory of Aquinas fails precisely because his method excludes the metaphysical and theological themes that were central to Aquinas’s thought. When Finnis does address the metaphysical and theological themes in Aquinas in the last chapter of his book, he does so without relating them to the nine previous chapters, from which these considerations are absent. The result is a series of apparent contradictions—or at least, inadequately explained tensions—between the first nine chapters and the last one. Part of the reason Finnis does this is because he clearly wants his study of Aquinas to be a work of philosophical education for readers who are not already Thomists. He hopes that his portrayal of Aquinas’s social and political theory will be attractive enough to make his brief account of Aquinas’s metaphysics and theology seem plausible to the modern secular reader.

¹ This is noted by Wright, 133. See also Paul E. Sigmund, Untitled Review, Philosophical Review 110, no. 1 (January 2001), 129.
Finnis’s separation of the practical and the speculative is symptomatic of a broader trend within Thomistic thought in the last fifty years. Though Thomistic metaphysics fell out of fashion in the 1960s, Thomistic social and political thought endured. As Hittinger says, “The gradual separation of the social doctrine from the overall system of Thomas…began to create the impression that the philosophy of practical reason was free-standing, a kind of prima philosophia having connection to the metaphysical system only by way of dotted lines.”

Finnis’s personal writings on law, social, and political theory and his account of Aquinas exemplify this trend.

Finnis’s approach is more striking when compared to that of earlier Thomists who debated the nature of the common good in the 1940s. They took it for granted that the political common good must be defined in part by reference to the divine common good, God. In their debate about the common good, De Koninck, Eschmann, and Maritain freely deployed metaphysical and theological arguments. Like Finnis, Maritain was concerned to articulate a Thomistic political theory that would be reconcilable with what he thought was valuable in modern philosophy and political developments. But unlike Finnis, that did not prevent him from rooting his political thought in metaphysical and theological principles. Like Finnis, Maritain did not want to identify the political common good with the institutions of the modern state, and so he argued for the instrumentality of the state. But unlike Finnis, Maritain did not claim that the political common good was itself instrumental; he believed it was good in itself.

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Finnis argues that, for Aquinas, the political common good is limited and instrumental to the justice and peace necessary for individuals and families to pursue basic human goods. But in fact, Aquinas believed that the political common good is to make man virtuous, which conduces to happiness and disposes him to contemplation. As we have shown, the scholarly consensus that this is the case is overwhelming. Since the political common good is virtue, there can be no strict separation between private and public good, as Finnis asserts. The centrality of the political common good to Finnis’s whole interpretation of Aquinas requires him to redefine key concepts related to the political common good to make them more consistent with his account, removing their teleological content or any specific reference to the political common good. Perhaps the most significant of these redefinitions is that of legal justice, which Finnis calls general justice. He says that it refers to the common good of any group, when in fact it refers to the specifically political common good in its central case. Finnis’s diminution of the political common good in favor of the good of social groups on the one hand and the international community on the other is consistent with another trend in twentieth century Thomistic thought to use them to hem in the modern state from within and without.4

Finnis’s claim that the political common good is instrumental is complicated by his assertion that individuals and families need the political community to enforce justice. This requires him to qualify his claim by conceding that the political community and its common good might be necessary for punishment. But punishment has much less significance in Aquinas’s political theory than he attributes to it.

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Though human law is instrumental to securing justice and peace, according to Finnis, for Aquinas, it aims at cultivating virtue, albeit indirectly. Again, Finnis has a hard time explaining how law’s aim can be instrumental while promoting the virtues necessary for justice and peace. In order to do that, it must be based on some conception of complete virtue. Man’s need for the coordinative, punitive, and perfective effects of the political common good show that, pace Finnis, Aquinas believed that man is a political animal. That would be true even if Aquinas had not explicitly stated several times that man is a political animal. Finally, this suggests that Aquinas thought that the political common good is good in itself.

Finnis evidently thinks that there is little possibility of the modern state promoting a common good that is more robust than justice and peace instrumental to the individual and familial pursuit of the basic goods. In pointing this out, we do not mean to suggest that the modern state, its bureaucratic apparatus, and laws should be identified with the common good or that the modern state has historically shown itself to be a responsible caretaker of the common good. There is good reason to distinguish between the state, its institutions and laws, and the substance of the political common good. But as Wright has shown, Finnis fails to justify his distinction between the political common good and the common good of the political community or specify the way in which the former might contribute to the latter.

Alasdair MacIntyre is a contemporary Thomist who believes that the political common good is more than the limited and instrumental good that Finnis says it is for Aquinas. But MacIntyre also believes that modern state is incompatible with a properly Thomistic conception of the common good, which he thinks is available only in smaller political communities. This sweeping dismissal of the good that can be achieved by the modern state is exaggerated. Perhaps
it would be better to say, contrary to Finnis and MacIntyre, that the common good that can be had in the modern state is necessarily “thinner” than what can be obtained in smaller communities, but that it is not negligible.⁵

Certainly, the kind of common good that we can expect the political community can achieve will vary according to time and circumstance.⁶ To some extent the differences between Aquinas and Finnis—and MacIntyre, for that matter—stem from the fact that the former was philosophizing about politics in Christendom, while the latter two are doing it in a distinctly post-Christian philosophical and political culture. That is why Aquinas was comfortable moving from theological, to metaphysical, and practical arguments in a way that makes the connections between them appear seamless, while Finnis is not. But Finnis seems to give up on the possibility of achieving any substantive common good in principle, regardless of circumstances of time and place. His interpretation of Aquinas’s understanding of the political common good is misleading, especially for readers who possess a limited knowledge of Aquinas’s thought. But insofar as it has stimulated greater reflection on Aquinas’s political theory, it has performed a valuable service.


⁶ Sherwin puts it best when he says that “Over time, as the exigencies of daily life change, the specific content of the common good will change as well. Yet, everywhere and in every age the common good of a community will be those goods which promote the attainment of the life of virtue among each and every citizen.” See Sherwin, 320; Elders, “The Actuality of St. Thomas Aquinas’s Teaching on the Common Good,” 56; V. Bradley Lewis, “The Common Good in Classical Political Philosophy,” Current Issues in Catholic Higher Education vol. 25, no. 1 (Winter 2006), 35-36.
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