

The Human Intellect as the Natural Herald of a Natural Divine Institution

ANGEL PEREZ-LOPEZ
Saint John Vianney Theological Seminary
Denver, CO

Introduction

THE LAST CENTURY has witnessed an anti-metaphysical trend to eliminate (natural or revealed) theology from our understanding of the natural law.¹ Its epistemological and anthropological “dimensions” have eclipsed, as it were, its inherent metaphysical character as a divine institution.² This trend made its way into Catholic moral theology. It was very patent during the times of *Humanae Vitae* and before *Veritatis Splendor* (VS).

To remedy this problem, Pope Saint John Paul II made great efforts to lead us to a Christocentric moral theology, capable of harmonizing its biblical and metaphysical foundations, and proposing an integral view of the human person created in God’s image and likeness.³ Hence, in *Fides*

¹ I am extremely grateful to Stephen Brock for his very helpful review and comments on a previous version of this paper. Brock does not address in his writings the explicit concern of this paper with respect to *Veritatis Splendor*. Yet the whole of my argument is highly indebted to my reading his works, especially, Stephen Brock, *The Light that Binds: A Study in Thomas Aquinas’s Metaphysics of Natural Law* (Eugene, OR: Pickwick, 2020). That said, obviously, whatever limitations or errors are present, they remain my own responsibility.

² Yves R. Simon is famous for identifying these three foci for the natural law: order in nature, order in the human mind, and order in the divine mind (*Tradition of Natural Law* [New York: Fordham University Press, 1992], 129).

³ For Karol Wojtyła’s philosophical integral view of the human person, see Angel Perez-Lopez, *De la experiencia de la integración a la visión integral de la persona: Estudio histórico analítico de ‘Persona y Acción’ de Karol Wojtyła* (Valencia, Spain: Edicep, 2012).

et Ratio, he explained that “in order to fulfill its mission, moral theology must turn to a philosophical ethics which looks to the truth of the good, to an ethics which is neither subjectivist nor utilitarian. Such an ethics implies and presupposes a philosophical anthropology and a metaphysics of the good.”⁴

Nevertheless, the same anti-metaphysical tendency aforementioned seems to be resurging nowadays. This rebirth has taken place, especially, during the debates concerning the right interpretation of *Amoris Laetitia* (*AL*). It was reposed, predominantly, by those who were sympathetic to proportionalism and celebrated an alleged discontinuity between Pope Francis’ document and *VS*.⁵

Within the context of this revival, *VS* §42 can be an unexpectedly challenging text to interpret. Who is the promulgator of the natural law according to the encyclical letter? This text could be read as proposing that the natural law is promulgated by the human intellect as an *opus rationis*, and that consequently, the natural law is a human institution. This view would imply that the natural law is an *ordinatio* or command of human reason and that the latter is the legislator.

Yet, the other extreme—namely, the denial of any promulgating role to the human intellect—would contradict the letter of *VS*. It would also jeopardize the natural character of the natural law. It would compromise the compatibility of these two truths: (1) our intellect, from the moment of birth, is like a tabula rasa, on which nothing is written; and (2) the natural law is naturally known to all men (*naturaliter nota*).

One does not need to endorse proportionalism to be comfortable with the view of human reason as legislator of the natural law. One would be uncomfortable with it if, following Aquinas, one understands the natural law as a *natural divine law*, upholding the natural law’s full legal character as well as its being natural.

⁴ Pope John Paul II, *Fides et Ratio* (1998), §99. All magisterial texts are taken from the official Vatican webpage. For how the question concerning an ontology of the good is reopening within ethics, see Stephen Brock, “Metafisica ed Etica: La Riapertura della Questione Dell’Ontologia del Bene,” *Acta Philosophica* 19 (2010): 37–58.

⁵ See Angel Perez-Lopez, “*Veritatis Splendor* and *Amoris Laetitia*: Neither Lamented nor Celebrated Discontinuity,” *Nova et Vetera* (English) 16, no. 4 (2018): 1183–214. For a more detailed answer to those who claimed that John Paul II had not offered a true theology of love, see Angel Perez-Lopez, *Procreation and the Spousal Meaning of the Body: A Thomistic Argument Grounded in Vatican II* (Eugene, OR: Pickwick, 2017). For how this autonomous morality is making a comeback, see Charles J. Chaput, “The Splendor of Truth in 2017,” *First Things*, October 2017, firstthings.com/article/2017/10/the-splendor-of-truth-in-2017.

Besides proportionalists, other authors who think that the natural law is only a law in a qualified sense, such as Dom Odon Lottin, Germain Grisez, or John Finnis, would be more comfortable with the position. They may even endorse it.⁶ I do not discuss their views here, partly because it has already been done, and partly because *VS* reacts against proportionalism and not against them.⁷ Still, without a doubt, this is a scholarly fascinating but highly unclear issue. Elizabeth Anscombe, for instance, would raise her voice against anyone upholding that human reason is the legislator of the natural law. In her customary blunt and clear way of expressing her ideas, she would say: “That legislation can be ‘for oneself’ I reject as *absurd*.”⁸

My thesis in this paper is that the way to overcome this challenge and to shed some light onto this controversy lies in the metaphysical doctrine of the subordination of causes and in its application in understanding the human intellect as a natural herald, which *instrumentally* promulgates the natural law. Such an understanding elucidates that, according to John Paul II, the natural law is, in reality, a natural divine institution.⁹

I will proceed to prove my thesis in four steps. I will first explain the metaphor of the herald and the benefits of its controlled imprecision. Second, I will introduce the text from *VS* §42, pointing out some potential open questions concerning its interpretation. Third, I will evaluate the interpretation of human reason as legislator of the natural law. I will show that such a view contradicts the internal logic of *VS*, its reading of Aquinas against proportionalism, previous magisterial pronouncements, and the

⁶ See, for instance, John Finnis, *Aquinas: Moral, Political, and Legal Theory* (Oxford: Oxford University Press, 1998), 258.

⁷ See Brock, *Light that Binds*, 5–11. See also Steven Jensen, *Knowing the Natural Law: From Precepts and Inclinations to Deriving Oughts* (Washington, DC: Catholic University of America Press, 2015).

⁸ Elizabeth Anscombe, *Ethics, Religion and Politics: Collected Philosophical Papers*, vol. 3 (Oxford: Basil Blackwell, 1981), 37 (emphasis added). See also Robert A. Gahl Jr., “Who Made the Law? God, Ethics, and the Law of Nature,” in *Virtue’s End: God in the Moral Philosophy of Aristotle and Aquinas*, ed. Fulvio di Blasi, Joshua P. Hochschild, and Jeffrey Langan (South Bend, IN: Saint Augustine Press, 2008), 113–23.

⁹ For a succinct exposition on Thomas’s doctrine on the subordination of causes, see Reginald Garrigou-Lagrange, *The Order of Things: The Realism of the Principle of Finality*, trans. Matthew Minerd (Steubenville, OH: Emmaus Academic, 2020), 125–28. Some important contextualization for the relevance of my position in the contemporary scholarly debate concerning the natural law can be found in Matthew Levering, *Biblical Natural Law: A Theocentric and Teleological Approach* (Oxford: Oxford University Press, 2008). For many important insights into the correct understanding of *Veritatis Splendor* on the natural law, see Russell Hittinger, *The First Grace: Rediscovering the Natural Law in a Post-Christian World* (Wilmington, DE: ISI Books, 2003).

philosophical opinion of Karol Wojtyła. Fourth, I will offer an alternative interpretation of the passage, which solves the difficulties of the view of human reason as legislator of the natural law.

The Metaphor of the Herald

In ancient times, heralds were messengers sent by monarchs and noblemen to convey messages or proclamations. They would make the monarch's law known. Yet, their job description, as it were, included things not pertinent to my argument. They were part of fighting tournaments and cheerleaders for knights. Moreover, their mission changed and expanded over the centuries.¹⁰

What interests me here about heralds is that they were subordinates to their lord; to proclaim the laws of the monarch, they had to be literate; their job conferred a certain nobility on them; they represented their lord, and they were able to convey messages or proclamations on his behalf.

There are elements of similarity and dissimilarity in the relation existing between the herald and his lord as a lawgiver, on the one hand, and the relation existing between the human intellect and God as Lawgiver. Like a herald, the human intellect is subordinated to God. The intellectual nature of human reason resembles a herald's capacity to be literate. Such an intellectual nature also manifests its nobility or dignity. The human person is created *ad imaginem Dei*.¹¹ Moreover, human reason also represents God and "speaks" on his behalf.

Of course, metaphors like this one always entail a level of imprecision. The heralds just described are not natural. Humans do not have the capacity to make such a thing. Only God can. Our artifacts do not have a nature as natural substances do by virtue of their substantial forms.¹² Only God can direct us to our own end, by giving us a rational nature, an intellect that "speaks" on his behalf, as it were.

Moreover, heralds carry out their mission toward those listening to them within the context of positive promulgation. Both the herald and his listeners need to know that the former is speaking on behalf of their lord. The human intellect, instead, is inserted within a different context,

¹⁰ See Rodney Dennys, *Heraldry and the Heralds* (London: Jonathan Cape, 1982), and Clarence Gabriel Moran, *The Heralds of the Law* (London: Stevens & Sons, 1948).

¹¹ See Ignatius Hübscher, *De Imagine Dei in Homine Viatore secundum Doctrinam S. Thomae Aquinatis* (Leuven, Belgium: F. Ceuterick, 1932).

¹² See Stephen Brock, *The Philosophy of Saint Thomas Aquinas: A Sketch* (Eugene: Cascade Books, 2015), 25–50.

namely, that of natural promulgation. It speaks, as it were, on behalf of God the Lawgiver, even when his existence has not yet come to be known by our minds.¹³

Another element of potential dissimilarity to be considered is that the subordination of the intellect to God, in acting as a natural herald, does not entail a violation of human dignity. Put in Wojtylean terms: this instrumentality is not a transgression of the “personalistic norm.”¹⁴ It does not violate the dignity of being rational agents created in God’s image and likeness. On the contrary, it is an affirmation of such a dignity. Indeed, in the visible world, we are the only creatures that can receive such a natural promulgation of the eternal law.

God is able to move the spiritual faculties of the human person from within and in accordance to their rational nature. He can do so, since he is their (efficient and final) cause. Our collaboration with divine providence is a good example to dispel the phobia of words like “subordination” or “instrumental,” characteristic of a personalistic sensitivity with little foundation in the metaphysics of the good. In contrast to that sensitivity, the Thomistic personalism of Wojtyła affirms that “the ‘personalistic norm’ may be said to have its fullest justification and its ultimate origin in the relationship between God and man.”¹⁵

Human providence is included under divine providence as a particular cause under a universal cause.¹⁶ This collaboration between God and man is real. Yet, such a collaboration does not make us equal to God. It is not a coordination, but rather a subordination. He remains the Lord of the

¹³ For an analysis of the knowledge of God most men could attain in Aquinas, see Stephen Brock, “Can Atheism Be Rational?” *Acta Philosophica* 11 (2002): 215–38. For the related topic on the force of law or obligation inherent in the precepts of the natural law and the knowledge of God, see Brock, *Light that Binds*, 180–214, 245–49. Some context for this claim can also be found in Walter Farrell, *The Natural Law According to Aquinas and Suarez*, ed. Cajetan Cuddy (Providence, RI: Cluny Media, 2019), 141–42.

¹⁴ See my discussion of the personalistic norm as different from Kant’s second formulation of the categorical imperative in Angel Perez-Lopez, “Immanuel Kant y el Mandamiento del Amor a la Luz de *Veritatis Splendor*,” *Scripta Fulgentina* 55 (2018): 117–35.

¹⁵ Karol Wojtyła, *Love and Responsibility*, trans. H. Willets (San Francisco: Ignatius Press, 1993), 245–46.

¹⁶ See Aquinas, *Summa theologiae* [ST] I, q. 22, a. 2, ad 4. All citations from ST are taken from the Latin–English edition of the Works of St. Thomas Aquinas, vols. 13–20, ed. J. Mortensen and E. Alarcón (Lander, WY: The Aquinas Institute, 2012). The other works from Aquinas are taken from Enrique Alarcón’s *corpus thomisticum* (corpus-thomisticum.org), and unless otherwise indicated, the translations are mine.

universe. We are his ministers. We are made in his image. But, we are not him. We can rightfully lord over creation and have dominion over it only *in the Lord*.¹⁷

I do not intend to say that the entire role of human reason with respect to the natural law is exhausted by this one metaphor. For example, other than being like a herald, who publicly declares or proclaims, human reason is also like a judge, who applies laws made by a superior, as we can experience in the forum of conscience.

Despite the imprecision of the herald metaphor, the risk is worth taking. The clarity that the metaphor can afford surpasses its controlled imprecision. This metaphor can be useful in clarifying how, according to *VS*, the monarch of the natural law is God himself, and how the human intellect is not its institutor or legislator, but only its herald. Therein lies the authentic and probably the most original role of practical reason with respect to the natural law, emphasized in the last century in dispute with proportionalism.¹⁸ However, we also find in that role a very important limit, a very fine line of demarcation between faithful and unfaithful interpretations of *VS*, on who makes or institutes the natural law.

Presentation of the Text

It is time now to take a closer look at *VS* §42. I will leave untranslated what I consider to be a challenging subordinate clause.

In his journey towards God, the One who “alone is good,” man must freely do good and avoid evil. But in order to accomplish this, he must be able to distinguish good from evil. And this takes place, above all, thanks to the light of natural reason, the reflection in man of the splendor of God’s countenance. Thus Saint Thomas, commenting on a verse of Psalm 4, writes: “After saying: Offer right

¹⁷ See Aquinas, *Summa contra gentiles* [SCG] III, ch. 113; Vatican II, *Lumen Gentium*, §36; John Paul II, General Audience of October 31, 1979, §3, in *Man and Woman He Created Them: A Theology of the Body*, trans. Michael Waldstein with introduction and index (Boston: Pauline, 2006), 154–55.

¹⁸ See Martin Rhonheimer, *Natural Law and Practical Reason: A Thomist View of Moral Autonomy*, trans. Gerald Malsbary (New York: Fordham University Press, 2000). For a helpful historical review of the postconciliar *status questionis* concerning the natural law in moral theology, see Livio Melina, José Noriega, and Juan José Perez-Soba, *Caminar a la luz del Amor: Los Fundamentos de la Moral Cristiana* (Madrid: Ediciones Palabra, 2007), 295–317; Christopher Kaczor, *Proportionalism and the Natural Law Tradition* (Washington, DC: Catholic University of America Press, 2002).

sacrifices (Ps 4:5), as if some had then asked him what right works were, the Psalmist adds: There are many who say: Who will make us see good? And in reply to the question he says: The light of your face, Lord, is signed upon us, thereby implying that the light of natural reason whereby we discern good from evil, which is the function of the natural law, is nothing else but an imprint on us of the divine light.” It also becomes clear why this law is called the natural law: it receives this name not because it refers to the nature of irrational beings but because *ratio promulgans propria est humanae naturae*.¹⁹

The last sentence is drawing a conclusion from *Summa theologiae* [ST] I–II, q. 91, a. 2, corp. The passage from *VS* explains why the natural law is called “natural.” It is not so because the natural law refers to the nature of irrational beings. The answer provided is “because *ratio promulgans propria est humanae naturae*.”

The last two affirmations, however, do not deny the moral significance of the principle “art imitates nature.” To appreciate it, we need to adopt a *metaphysical* perspective, which points to the divine pedagogy. In this way, we can dispel any fear of physicalism. God is the Author of the natures of irrational beings. Understanding how he guides them to their end is a good lesson for us to learn how to conduct ourselves to our own due acts and end. We learn best, after all, from the nature of material things. Since they are the proper object of the human intellect, they are very suitable pedagogical tools used by the divine teacher.²⁰

With this clarification, let us come back to the Latin text: “*ratio promulgans propria est humanae naturae*.” As is known, promulgation is part of the classical definition of law. Some authors view it as constitutive of its essence. Others, instead, consider it a *proprium* or essential property.²¹ Be that as it may, this Latin clause raises some questions: is the natural law natural because it is promulgated to human reason by God, or is it natural because it is promulgated by human reason to human reason? Is the natural law natural because human reason is the origin of the binding force of the natural law, or because the human intellect is like a herald, who makes it known to the intellect itself, but without conferring such a force?

Is the human intellect the institutor of the natural law like Christ

¹⁹ Pope John Paul II, *Veritatis Splendor* [VS] (1993), §42.

²⁰ See Brock, *Light that Binds*, 141–79.

²¹ See ST I–II, q. 90, a. 4. See also Walter Farrell, O.P., *The Natural Law According to Aquinas and Suarez*, ed. Cajetan Cuddy, O.P., with introduction (Providence, RI: Cluny Media, 2019), 15–16.

institutes the New Law, or does the human intellect more resemble Moses and the prophets, in their promulgating role of the Old Law, as well as the Apostles, in their own role in promulgating the New Law? Is this text advocating in favor of an anthropocentric account of the natural law? Should we consider the moral order as a creature of divine providence, or is the latter something added on to an already autonomous human jurisdiction over the realm of morality?²²

The interpretation in favor of the autonomy of the natural law, or in favor of the sovereignty of the human intellect over the natural law, would render the text: "because the promulgating reason is proper to human nature." Linguistically, the translation is absolutely correct. The issue we are dealing with has to do, mainly, with its interpretation, since one could easily read into this text that human reason is not the herald or the judge who applies the law, but rather its author, the promulgator who takes care of the community and its common good.

Prima facie, this interpretation would be warranted by *ST* I-II, q. 94, a. 1, where the Angelic Doctor explicitly affirms that the natural law is a work of human reason, an *opus rationis*. I will discuss the exact meaning of this text later. For the moment, I will show strong indications that this interpretation is philosophically and theologically unsound.

Inconsistencies within *Veritatis Splendor*

The anthropocentric interpretation entails serious problems within the document and its clear purpose of presenting the teachings of Thomas Aquinas against proportionalism. The goal of *VS*, as we know, was to remedy a problematic situation within the Catholic Church. The issue consisted in a systematic calling into question of traditional moral doctrine regarding the natural law, based on the deformation of human freedom in its dependence on the truth for both its origin and its fulfillment.²³

The anthropocentric interpretation of *VS* §42 would undermine that same traditional doctrine. In fact, it presents at least five problems of internal coherence within the encyclical letter: (1) it contradicts the formal definition of the natural law as the participation of the rational creature in the eternal law affirmed in the document; (2) it contradicts John Paul II's teachings on the natural law being beyond the power of man's will; (3) against the explicit teaching of *VS*, it could easily place the natural

²² For this last question, see Hittinger, *First Grace*, 26.

²³ See *VS* §4.

law, even its negative precepts, under the virtue of *epikeia*; (4) it places an impossible responsibility upon the human person to fulfill, and (5) it ends up upholding the proportionalist views of Joseph Fuchs, which *VS* explicitly refutes.

The Eternal Law Impressed in the Soul

Veritatis Splendor explains that the natural law is infused by God in man. Citing Aquinas, John Paul II explains that the natural law is “nothing other than the light of understanding infused in us by God, whereby we understand what must be done and what must be avoided. God gave this light and this law to man at creation.”²⁴

This infusion or impression, as well as its natural result, is what Aquinas identifies as the natural promulgation of the natural law: “The natural law is promulgated by the very fact that God instilled it into man’s mind so as to be known by him naturally.”²⁵

According to this last text, the natural law is promulgated to human reason by God. He instilled the natural law in man’s mind. But if we pay close attention, we will realize that Thomas also accepts here a role of the human intellect in this promulgation. The natural law is, to a certain extent, promulgated by human reason to human reason, insofar as it is known naturally by the human mind.

Thomas seems to imply here that the intellect is *instrumental* in God’s natural promulgation of the natural law.²⁶ The agent intellect is the light infused by God in us. This same light enlightens the truths of the natural law, which are thus instrumentally promulgated.²⁷ Yet, as Russel Hittinger acutely points out, “in the case of the natural law, Thomas defines the law from the standpoint of its causal origin (that is, what makes it a law), not

²⁴ *VS* §12. See also *In II sent.*, d. 42, q. 1, a. 4, ad 3; *De veritate*, q. 16, a. 3; *SCG* III, ch. 114–15; *ST* I, q. 88, a. 3; I-II, q. 109, a. 1, ad 2.

²⁵ *ST* I-II, q. 90, a. 4, ad 1.

²⁶ See Brock, *Light that Binds*, 50.

²⁷ See *ST* I, q. 79, aa. 3–4. This way of presenting things does not make the knowledge of the natural law a wholly *passive* matter. It is a perception, a sort of active seeing through the mind’s own light. As Brock explains: “The light by which the mind sees these truths is primarily the mind’s own. It is the light of the ‘agent intellect,’ which is the soul’s power to abstract the intelligible forms of things from the matter represented in their sensible images. The abstracted forms themselves also ‘illuminate;’ it is through them that the mind discerns the truth about the things that they are the forms of. But it is only by the agent intellect’s abstracting the forms from matter that the illuminating power of the forms is actualized” (“Natural Law, the Understanding of Principles, and Universal Good,” *Nova et Vetera* [English] 9, no. 3 [2011]: 671–706, at 681).

in terms of a secondary order of causality through which it is discovered (the human intellect).²⁸

In another place, Aquinas explains why moral conscience is binding, following this same notion of natural promulgation. Our conscience is not the natural law, but rather a witness to the latter: "Man does not make the [natural moral] law for himself, but through the act of his knowledge, by which he knows a law made by someone else, he is bound to fulfill the law."²⁹

This same idea is present in *VS*. Citing Saint Bonaventure, John Paul II appeals to the very metaphor of the herald we are invoking to clarify the way the human intellect instrumentally promulgates the natural law. In the forum of conscience, man has a dialogue, not only with himself, but also with God as the Author of the moral law: "Saint Bonaventure teaches that 'conscience is like God's herald and messenger; it does not command things on its own authority, but commands them as coming from God's authority, like a herald when he proclaims the edict of the king. This is why conscience has binding force.'"³⁰

Since conscience is nothing but an act of the human intellect,³¹ this whole teaching echoes that the natural law is *not a different law* from the eternal law, but only a *participation* in it. In fact, Aquinas places an objection to the existence of the natural law in man, saying that, if that were the case, man would be ruled by more laws than the irrational creatures, who are ruled by the eternal law only. That extra law (the natural law) would be, according to the objection, superfluous. Thomas answers: "This argument would hold, if the natural law were something different from the eternal law: whereas it is nothing but a participation thereof."³²

John Paul II also upholds Aquinas's explicit teaching concerning the definition of the natural law as "the participation in the eternal law of the rational creature."³³ The Polish Pope remarks that "the natural law enters here as *the human expression* of God's eternal law."³⁴ That is not something said of all laws. They all have a connection with the eternal law. But only

²⁸ Hittinger, *First Grace*, 9.

²⁹ *De veritate*, q. 17, a. 3, ad 1.

³⁰ *VS* §58. See Saint Bonaventure, *In II Sent.*, d. 39, a. 1, q. 3, conclusion. The metaphor of the herald squares very well also with Vatican II's teaching on moral conscience; see *Gaudium et Spes* §16.

³¹ See *ST* I, q. 79, a. 13.

³² *ST* I-II, q. 92, a. 1, ad 1.

³³ See *ST* I-II, q. 91, a. 2, corp.

³⁴ *VS* §43 (emphasis added).

the natural law is *formally* defined as “the participation in the eternal law of the rational creature.”

Veritatis Splendor finds a scriptural warrant for Aquinas’s formal definition in Genesis 2:16–17. In fact, this text was considered by the Fathers of the Church as a primary theological locus for the natural law.³⁵ Commenting on God’s command not to eat from the tree of the knowledge of good and evil, John Paul II affirms:

Revelation teaches that the power to decide what is good and what is evil does not belong to man, but to God alone. The man is certainly free, inasmuch as he can understand and accept God’s commands. And he possesses an extremely far-reaching freedom, since he can eat “of every tree of the garden.” But his freedom is not unlimited: it must halt before the “tree of the knowledge of good and evil,” for it is *called to accept the moral law given by God*. In fact, human freedom finds its authentic and complete fulfillment precisely in the acceptance of that law.³⁶

If the natural law is formally a participation in the eternal law, it is not a completely different self-standing law, totally independent from God. The natural law is a law only in relationship with the eternal law. Otherwise, it is very unclear how it could fulfill its being an ordinance of reason directed to the common good, promulgated by him who takes care of the community.³⁷

If according to *VS* human reason made or instituted the natural law, the document would contradict itself. It would uphold that human reason does not receive it from God. Natural law would be a law in its own right. It would be a different law from the eternal law. But these things are patently denied by John Paul II. As he clearly explains, “the moral law has its origin in God and always finds its source in him: at the same time, by virtue of natural reason, which derives from divine wisdom, it is a properly human law.”³⁸

Beyond the Power of Man’s Will

Were human reason the promulgator of the natural law as its maker or institutor, a great deal of the natural law would be subject to man’s will, like

³⁵ See Hittinger, *First Grace*, 41.

³⁶ *VS* §35 (emphasis added).

³⁷ *ST* I-II, q. 90, a. 4, corp.

³⁸ *VS* §40.

speed limits are subject to the will of the legislator of that human positive law. Indeed, every law is an *ordinatio rationis*, that is, a command (*imperium*), which presupposes an act of choice (*electio*).³⁹ Were the natural law an *ordinatio* of human reason, it would be preceded by a free choice from man. It would not be beyond the power of man's will, but rather under its control and dominion.

However, John Paul II opposes that view. He explicitly rejects that sort of human dominion. The moral law is beyond the power of man's will. Man can understand and accept it. Yet, the human intellect cannot be the king of the natural law, its institutor, or its legislator—he who makes it binding. That would make “freedom self-defining and a phenomenon creative of itself and its values. Indeed, when all is said and done *man would not even have a nature*; he would be his own personal life-project. Man would be nothing more than his own freedom!”⁴⁰

But, we do have a rational nature. It is given by God to us in order to direct us to our due acts and end. The natural law is natural to us. In that sense, it is truly human. Yet, for that very reason, the natural law is also beyond our control. Our providence, unlike God's, does not extend to natural things, precisely because we are not the Author of nature.⁴¹ Consequently, *VS* cannot be saying, without falling into a great contradiction, that we are the authors of the *natural* law.

Under the Virtue of Epikeia?

If the human intellect would be the promulgator of the natural law as its maker, one could argue that the virtue of *epikeia* has ample room here, even within the realm of its negative precepts. If the human intellect makes the natural law, the latter would share in the imperfections of the former, also in the case of precepts such as “not to commit adultery.”

Then, we should recourse to a benevolent but just interpretation of “the letter of the law” in some cases, whose circumstances were not foreseen by the limited and ignorant legislator. We would have to argue that, if the legislator could have foreknown such circumstances, he would have excluded the strict application of the letter of the law in such a particular

³⁹ See *ST I*, q. 17, a. 1. See also Jacobus Ramirez, *De actibus humanis* (Madrid: Instituto de Filosofía Luis Vives, 1972), 397–468, and Daniel Westberg, *Right Practical Reason: Aristotle, Action, and Prudence in Aquinas* (Oxford: Clarendon, 1994).

⁴⁰ *VS* §46.

⁴¹ See *ST I*, q. 22, a. 2, ad 3.

case.⁴² This position is very close to that of some authors who celebrated the alleged discontinuity between *AL* and *VS*.

John Paul II clearly reacts *against* this view. He decidedly explains that the negative precepts of the natural law, such as not to commit adultery, are exceptionless. They are binding always and everywhere:

The negative precepts of the natural law are universally valid. They oblige each and every individual, always and in every circumstance. It is a matter of prohibitions which forbid a given action *semper et pro semper*, without exception, because the choice of this kind of behavior is in no case compatible with the goodness of the will of the acting person, with his vocation to life with God and to communion with his neighbor. It is prohibited—to everyone and in every case—to violate these precepts. They oblige everyone, regardless of the cost, never to offend in anyone, beginning with oneself, the personal dignity common to all.⁴³

As Aquinas also clarifies, not even God can dispense from these precepts of the natural law: “God cannot dispense a man so that it be lawful for him not to direct himself to God, or not to be subject to His justice, even in those matters in which men are directed to one another.”⁴⁴

An Impossible Responsibility

Another problem with the view of the intellect as the maker of the natural law is the tremendous responsibility this institution would impose on the human person. To appreciate this problem, we need to keep in mind two clear affirmations from Aquinas: (1) the natural law is not a self-standing and different law from the eternal law; and (2) the natural law retains its full legal character, for above all, it fulfills the *ratio legis*—namely, its being

⁴² Cardinal Cajetan, not Thomas Aquinas, is the one who explicitly asks, for the first time, the question concerning the possibility of *epikeia* correcting the natural law. His answer is radically different from what we have described. It is a qualified “yes,” which would oppose the position just presented. According to Cajetan, *human* laws contain two kinds of elements of the natural moral law. First, they contain elements that can never fail to apply, which correspond to intrinsic evil acts. Herein, according to Cajetan, *epikeia* has no room whatsoever. Second, human laws can contain another element from the natural moral law such as the positive command to return what one has borrowed. In this kind of element, *epikeia* has some room to preserve the virtuous character of the action to be performed. For more on this topic, see Angel Rodríguez Luño, “La virtù dell’epicheia. Teoria, storia e applicazione (I): Dalla Grecia classica fino a F. Suárez,” *Acta Philosophica* 6 (1997): 197–236.

⁴³ *VS* §52.

⁴⁴ *ST* I-II, q. 100, a. 8, ad 2.

an ordinance of reason for the common good, promulgated by he who takes care of the community.

We have already seen the truth of the first affirmation.⁴⁵ The second one, in turn, can be easily deduced from the way Aquinas handles the following objection: "It would seem that promulgation is not essential to a law. *For the natural law above all has the character of law.* But, the natural law needs no promulgation. Therefore, it is not essential to a law that it be promulgated."⁴⁶ His answer leaves untouched the assertion that "the natural law above all has the character of law." That affirmation is absolutely valid and true for Thomas. Thus, the Angelic Doctor answers with a text which we already cited above: "The natural law is promulgated by the very fact that God instilled it into man's mind so as to be known by him naturally."⁴⁷

Keeping these two affirmations in mind, the common good of the natural law must be the natural ordination of the whole universe to God. Yet, if the natural law is not infused and given by God, but is rather made by human reason, the human person would be obliged to take care of this common good.⁴⁸ That would be his responsibility, given to man by a non-paternalistic God, a God beyond anthropomorphisms.

Fuchs would smile and nod at this reasoning. He would certainly be pleased by it. Take a close look at his own proposal:

Theologically understood, the realization of the world is the task given to human beings through the gift of their environment. For this reason, one must hold as theologically suspect any position in which God appears somehow to be alongside the human (therefore to be categorical) whenever a question arises concerning the right realization of the world, that is, the right behavior of human beings in their world. Some instances of this suspect approach are the imposition of commandments, the requirement of particular rights, and disjointed interventions in the historical process and emerging order of the world.⁴⁹

After reading this text, an objection comes immediately to mind. It is directed not only against Fuchs's view, but also against the interpretation

⁴⁵ See *ST* I-II, q. 92, a. 1, ad 1.

⁴⁶ *ST* I-II, q. 90, a. 4, obj. 1 (emphasis added).

⁴⁷ *ST* I-II, q. 90, a. 4, ad 1.

⁴⁸ See *ST* I-II, q. 90, a. 4, corp.

⁴⁹ Joseph Fuchs, *Christian Morality*, trans. Brian McNeil (Washington, DC: Georgetown University Press, 1987), 28.

of *VS* §42 in an autonomous key, which we are evaluating. How could the part take care of the whole, if the whole is greater than the part? Only an all-knowing and all-powerful being, who has made the universe and is not part of it, can take care of its *immanent* common good (the good of each part and of all of them as a whole) and direct it to its *transcendent* common good (his own glory).⁵⁰ We call that being God! Aquinas explains:

The good of the whole universe is that which is apprehended by God, Who is the Maker and Governor of all things: hence whatever He wills, He wills it under the aspect of the common good; this is His own Goodness, which is the good of the whole universe.⁵¹

Since the law is made only by him who takes care of the community, the natural law would have to be promulgated by God as its maker, and not by man's reason. The latter cannot be the king, but only the herald of the natural law. We find further confirmation of this view in John Paul's rejection of Fuchs's position.

The Refutation of Proportionalism

If the anthropocentric interpretation of *VS* §42 would be correct, John Paul II would be allowing, through the back door, the very view of autonomous morality that he explicitly repudiates. That would be most absurd!

We have to conclude that *VS*'s explicit rejection of the sovereignty of reason in the domain of moral norms is not only an explicit rejection of proportionalism but also an implicit rejection of the autonomous position we are evaluating. Consider the following affirmations in light of the quote from Fuchs presented above:

Some people, however, disregarding the *dependence* of human reason on Divine Wisdom and the need, given the present state of fallen nature, for Divine Revelation as an effective means for knowing moral truths, even those of the natural order, have actually posited *a complete sovereignty of reason in the domain of moral norms regarding the right ordering of life in this world*. Such norms would constitute the boundaries for a merely "human" morality; they would be the expression of a law which man in an autonomous manner lays down

⁵⁰ See Lawrence Dewan, *Wisdom, Law, and Virtue: Essays in Thomistic Ethics* (New York: Fordham University Press, 2008), 7–31.

⁵¹ *ST* I-II, q. 19, a. 10, corp.

for himself and *which has its source exclusively in human reason*. In no way could God be considered the Author of this law, except in the sense that human reason exercises its autonomy in setting down laws by virtue of a primordial and total mandate given to man by God. These trends of thought have led to a denial, in opposition to Sacred Scripture (cf. Mt 15:3-6) and the Church's constant teaching, of the fact that *the natural moral law has God as its author*, and that man, by the use of reason, participates in the eternal law, which it is *not for him to establish*.⁵²

The text could not be clearer. It is against the Church's constant teaching to deny that the natural law has God as its Author. It is against the magisterium to affirm that the natural law is a human institution. It is not for man to establish!

To explain some foundational aspects of Fuchs's moral theology will help underscore, even more, the antithesis that exists between the internal logic of *VS* and the interpretation we are now evaluating. Fuchs experienced a radical change of mind during his advising of Pope Paul VI regarding the morality of the contraceptive pill. He turned to the writings of Karl Rahner and utilized his transcendental anthropology to ground a more "personalistic" and less "naturalistic" morality.⁵³

In consonance with the view we are evaluating, Fuchs argues that even if the natural law results from participating in God, it is nevertheless *man-made*, something created by the human person. As Hittinger acutely unveiled, in Fuchs' opinion, "while God creates, he does not govern the human mind."⁵⁴ We see in this affirmation a clear and frontal denial of the subordination of causes, which we are proposing with the metaphor of the herald.

In Fuchs's opinion, man-made natural law formulations must accept their limitations and even their failings. Natural law judgments, such as

⁵² *VS* §36 (emphasis added).

⁵³ Some commentators refer to this line of demarcation by speaking of a pre-conversion and a post-conversion Fuchs. See Mark E. Graham, *Joseph Fuchs on the Natural Law* (Washington, DC: Georgetown University Press, 2002). For a summary of Rahner's views on morality (his so-called existential ethics), see Daniel M. Nelson, "Karl Rahner's Existential Ethics: A Critique based on Thomas Aquinas's Understanding of Prudence," *The Thomist* 51, no. 3 (1987): 461–79. A splendid and definitive Thomistic refutation of Rahner can be found in Israel Pérez López, "Los fundamentos rahnerianos del teorema de la opción fundamental: Un discernimiento desde el pensamiento de Tomas de Aquino," *Scripta Fulgentina* 48 (2014): 46–67.

⁵⁴ Hittinger, *First Grace*, 23.

“sexual intercourse outside of marriage is fornication,” are too rigid. They are too human and very imprecise. We would have to distinguish, for instance, between extramarital sexual activity among people who love each other and are planning to marry and extramarital sexual activity as found in a one-night stand. The moral law, according to Fuchs, should be gradual.

To be sure, Christians should have good attitudes, biblically guided. Yet, for worldly decisions regarding right and wrong, the biblical orientation requires the autonomy and sovereignty of reason in its own realm.⁵⁵ Reason helps the biblical orientation to become concrete and particular. The biblical orientation is too universal and abstract to effectively guide incarnated actions. The latter exist in a rich multiplicity of circumstances not captured by abstract indications.⁵⁶ Only human reason, in its rightful autonomy, does so by the following process:

Norms and judgments of morally right behavior require an evaluation and a comparison of the good/ills or values/nonvalues implied by particular conduct in the human world; for responsible behavior must strive to augment human goods and values. . . . One should interpret this position neither as simple utilitarianism nor as calculating consequentialism; for in such an endeavor to explain right behavior it is not the case that either means alone or consequences alone are considered in isolation; rather, the entire reality of a moral act is taken into account—its own meaningfulness as seen within the context of the meaningfulness which the entire act and its result represent and signify. Proportionalism, a term customary today chiefly in America, is, therefore a better name for this process of comparative evaluation.⁵⁷

Fuchs warns against an anthropomorphic image of God. Such a view would make God guilty of not keeping within his own transcendence, where goodness belongs, and of not respecting man's rightful autonomy and sovereignty in the categorial realm, where rightness is found. If we purify our concept of God from anthropomorphisms, we would see how God left man in the hands of his own counsel with respect to the right

⁵⁵ A development, according to Fuchs' principles, of the notions of right and wrong, as different from being morally good or bad is found in James Keenan, *Goodness and Rightness in Thomas Aquinas's Summa Theologiae* (Washington, DC: Georgetown University Press, 1992).

⁵⁶ See Fuchs, *Christian Morality*, 15.

⁵⁷ Fuchs, *Christian Morality*, 16.

development of the world, at the risk of allowing some mistakes, which are to be viewed in light of the graduality of the law.

Yet, all this is exactly what *VS* is explicitly and rigorously refuting with great vigor:

In their desire, however, to keep the moral life in a Christian context, certain moral theologians have introduced a sharp distinction, *contrary to Catholic doctrine*, between an ethical order, which would be *human in origin* and of value for this world alone, and an order of salvation, for which only certain intentions and interior attitudes regarding God and neighbor would be significant.⁵⁸

Therefore, the correct interpretation of *VS* §42 cannot betray the internal logic of the *whole* document. To avoid such a betrayal, the interpretation of *VS* §42 cannot present a view of the human person as institutor or maker of the natural law, promulgating laws about the realization of the categorical realm, thanks to the exercise of his autonomous reason.

Inconsistencies with Previous Magisterial Pronouncements

We can now explore more in depth why the anthropocentric interpretation of *VS* §42 would entail a view “contrary to Catholic doctrine.” The teachings of this encyclical letter are to be interpreted in light of previous magisterial pronouncements concerning the natural law. Wojtyła explains this hermeneutical principle, which he calls the principle of “integration,” in his commentary on Vatican II. Such a principle consists in

an *organic* cohesion expressing itself simultaneously in the *thought* and *action* of the Church as a community of believers. It expresses itself, that is, in such a way that on the one hand *we can rediscover and, as it were, re-read the Magisterium of the last Council in the whole previous Magisterium of the Church, while on the other we can rediscover and re-read the whole preceding Magisterium in that of the last Council*.⁵⁹

⁵⁸ *VS* §37 (emphasis added).

⁵⁹ Karol Wojtyła, *Sources of Renewal: The Implementation of the Second Vatican Council*, trans. P. S. Falla (San Francisco: Harper & Row, 1980), 40–41 (emphasis added). Pope Benedict XVI expressed a very similar principle when he argued in favor of the hermeneutic of “reform and renewal” over and against the hermeneutic of discontinuity and rupture (Address to the Members of the Roman Curia, December 22, 2005).

This principle can help us in our own reading of *VS* §42. The correct interpretation should help us rediscover and re-read the teachings of *VS* in the previous magisterial teachings on the natural law and its relationship with the eternal law. In turn, such an interpretation should also aid us in rediscovering and re-reading all of those affirmations in *VS*.

Out of the different pronouncements found in the magisterium concerning the natural law, I will concentrate on only one key text from Pope Leo XIII, which provides a very metaphysical view of the natural law, a sapiential understanding most pertinent to our discussion.⁶⁰ In his encyclical letter *Libertas*, on the nature of human freedom, Pope Leo XIII explains:

Foremost in this office [of guiding man's actions] comes the *natural law*, which is written and engraved in the soul of every man [scripta est et insculpta in hominum animis singulorum]; and this is nothing but our reason, commanding us to do right and forbidding sin. Nevertheless, all prescriptions of human reason can have force of law only inasmuch as they are the voice and the interpreters of some higher power on which our reason and liberty necessarily depend. For, since the force of law consists in the imposing of obligations and the granting of rights, authority is the one and only foundation of all law—the power, that is, of fixing duties and defining rights, as also of assigning the necessary sanctions of reward and chastisement to each and all of its commands. But all this, clearly, cannot be found in man, if, as his own supreme legislator, he is to be the rule of his own actions. It follows, therefore, that the law of nature *is the same thing as the eternal law*, implanted in rational creatures, and inclining them to their right action and end; *and can be nothing else but the eternal reason of God*, the Creator and Ruler of all the world.⁶¹

The context of these affirmations is Leo XIII reacting against some views on human freedom, influenced by what he understands as “liberalism” and autonomy.⁶² Although the term “autonomy” does not appear

⁶⁰ In the magisterium, we find an uninterrupted or continuous way of understanding the natural law in a sapiential or metaphysical way, that is, alongside the teaching on the eternal law and divine providence. Other than Leo XIII, one could also appeal to other examples, such as Pius XI, *Casti Connubii* (1930), §§49, 80, 94–95, 103, 105, or Paul VI, *Humanae Vitae* (1968), §§4, 18, 23.

⁶¹ Pope Leo XIII, *Libertas* (1888), §8.

⁶² See Leo XIII, *Libertas*, §17.

explicitly in the document, *Libertas* explains its content under the notion of “rationalism.”

The fundamental doctrine of rationalism is the supremacy of the human reason, which, *refusing due submission to the divine and eternal reason*, proclaims its own independence, and constitutes itself the supreme principle and source and judge of truth.⁶³

Against these views, Leo XIII establishes three fundamental truths about the essence of the natural law. They establish a landmark in other magisterial pronouncements and include an application of the metaphysical principle of the subordination of causes to the question of the natural law. To avoid the error of rationalism, human reason must acknowledge its due submission or subordination to the divine and eternal reason.

Firstly, natural law is our reason. Yet, the natural law is not something reason makes. Human reason does not have that kind of supremacy. Remember, Leo XIII frontally opposes independent morality.⁶⁴ Yet, because human reason is dependent on God and receives its nature from him, its exercise is such that “the end, or object, both of the rational will and of its liberty is that good only which is in conformity with reason.”⁶⁵ As he says in another place: “Reason prescribes to the will what it should seek after or shun, in order to the eventual attainment of man’s last end, for the sake of which all his actions ought to be performed.”⁶⁶

In reality, Leo XIII is thus applying Thomas’s teachings on the dependence of the goodness of the will on the eternal law and on human reason. Aquinas explains it, appealing to the same metaphysical principle we hold to be the key to understand the human intellect as a herald. Note how he speaks of the human intellect as *subordinated* to divine reason:

Wherever a number of causes are *subordinate to one another*, the effect depends more on the first than on the second cause: since the second cause acts only in virtue of the first. Now it is from the eternal law, which is the Divine Reason, that human reason is the rule of the human will. . . . It is therefore evident that the goodness

⁶³ Leo XIII, *Libertas*, §15 (emphasis added).

⁶⁴ See Leo XIII, *Libertas*, §15.

⁶⁵ Leo XIII, *Libertas*, §5.

⁶⁶ Leo XIII, *Libertas*, §7.

of the human will depends on the eternal law much more than on human reason.⁶⁷

An immediate objection to Thomas's position would be that the eternal law is unknown to us. How could something unknown be the measure of the goodness of human action? Aquinas answers, hinting at the role of the human intellect as a herald, who represents his master: "Although the eternal law is unknown to us according as it is in the Divine Mind: nevertheless, it becomes known to us somewhat, either *by natural reason which is derived therefrom as its proper image*; or by some sort of additional revelation."⁶⁸

Secondly, *Libertas* argues that natural law is morally binding for man precisely because its origin is not man, but someone higher than him. The text from Leo XIII clearly implies the authority of God. The nature of our very reason and will depend on him: "All prescriptions of human reason can have force of law only inasmuch as they are *the voice and the interpreters of some higher power* on which our reason and liberty necessarily depend."⁶⁹

We see in these affirmations the implicit idea that we are proposing as the key to read *VS* §42: human reason is like an instrument or delegate which makes known or announces a law that is instituted by God. It is like a herald who declares or publicly announces the law instituted by the true king of the universe by divine reason.

Thirdly, and as a sort of conclusion from the two previous points, *Libertas* unveils the essence of the natural law only in relationship with God. The natural law is, according to Leo XIII, the eternal law implanted in the rational creature, inclining him to his due end. Note the powerful identifications made by the text: (1) the natural law *is* the eternal law implanted in man; and (2) the natural law *is* God's eternal reason as Creator and Ruler of all the world. Hence, much in accordance with Aquinas, Pope Leo affirms: "The eternal law of God is the sole standard and rule of human liberty."⁷⁰

If one were to interpret *VS* §42 in an anthropocentric sense, as if human reason would make the natural law, it would be very difficult to maintain that the natural law is the eternal law implanted in the rational creature, and that the natural law's binding force comes from God. Instead, we would be opening the door to rationalism and to the very independent morality

⁶⁷ *ST* I-II, q. 19, a. 4, corp (emphasis added). See also Farrell, *Natural Law*, 140–42.

⁶⁸ *ST* I-II, q. 19, a. 4, ad 3 (emphasis added).

⁶⁹ Leo XIII, *Libertas*, §8.

⁷⁰ Leo XIII, *Libertas*, §10.

which Leo XIII so adamantly opposes.⁷¹ Additionally, we would be violating the principle of integration in the hermeneutics of magisterial texts.

Inconsistent with Karol Wojtyła

The position we are evaluating would also contradict the philosophical opinion of Karol Wojtyła. In a very rich passage from *Love and Responsibility*, the Polish philosopher explains, in his own terms, why the human intellect cannot be the legislator and ultimate source of the natural law.

Man is just towards God the Creator when he *recognizes* the order of nature and conforms to it in his actions. . . . Man, *by understanding the order of nature* and conforming to it in his actions, *participates in the thought of God*, becomes *particeps Creatoris*, has a share in the law which God bestowed on the world when He created it at the beginning of time. This participation is an end in itself. . . . Man, being a reasonable creature, is just towards the Creator by striving in all his activities to achieve this specifically human value, by behaving as *particeps Creatoris*. The antithesis of this belief is autonomism, which holds that man most fully asserts his value when he is *his own legislator*, when he feels himself to be the *source of all law* and all justice (Kant). This is *erroneous*: man could only be his own ultimate lawgiver if, instead of being a creature, he were his own first cause. . . . The value of the *created* person is most fully exhibited by participation in the thought of the Creator, by acting as *particeps Creatoris* in thought and in action.⁷²

Wojtyła's position is clearly Thomistic. It opposes Kant and his views of practical reason binding itself to unconditional laws, with no grounding in any extrinsic authority.⁷³ Moreover, it clearly distinguishes between God

⁷¹ That interpretation will also contradict Leo XIII's classical explanation about the origin of many human laws in the natural and the eternal law: "Laws come before men live together in society, and have their origin *in the natural, and consequently in the eternal, law*. The precepts, therefore, of the natural law, contained bodily in the laws of men, have not merely the force of human law, but they possess that higher and more august sanction which belongs to the law of nature and the eternal law" (*Libertas*, §9; emphasis added).

⁷² Wojtyła, *Love and Responsibility*, 246–47.

⁷³ Wojtyła also critiqued the alleged opposition between person and natural law, upheld by those who dissented with *Humanae Vitae*. He clarified, as early as 1970, that the problem resided in an incapacity to understand the *metaphysical* meaning of nature. See

and man as a creature, asserting the dependence or subordination of the second on the first. Man's reason participates in God's mind. But man is not the legislator of the moral law. His reason remains subordinated to the Lord. In fact, much in accordance with Aquinas, Pope John Paul II considers the opposite—namely, the rebellion against this subordination as the key to understanding original sin and the loss of original innocence.⁷⁴

Hence, Wojtyła's position is also contrary to the autonomous view of the natural law inherent in the interpretation of *VS* §42 that we are evaluating. Such a view is *unsound*, above all, because it is *a-metaphysical*. In that a-metaphysical milieu, the rational nature of the human person has lost its "metaphysical transparency," its capacity to disclose the intelligibility and language of the Creator.⁷⁵

Therefore, the interpretation of *VS* §42 which envisions human reason as the legislator of the natural law entails a contradiction within the document, a rejection of the previous magisterial teachings on the natural law, a contradiction to the texts from Saint Thomas that it attempts to explain, and also a frontal denial of Wojtyła's philosophical views on the natural law.

The Human Intellect as Natural Herald

Another way of understanding *VS* §42 is by appealing to the principle of integration and to Leo XIII's metaphysical insights, understanding them under the Thomistic principle according to which the promulgation of the natural law carried out by God and by the human intellect entails a certain *subordination*: "Above all, in relation to God, the First Cause, we cannot hold that it is a question of created activity being a kind of activity coordinated with God's. Instead, created activity is a subordinate form of activity."⁷⁶

Consequently, we need to make a distinction between promulgation and institution. Moreover, we also need to acknowledge a certain sense in

Karol Wojtyła, *Person and Community: Selected Essays*, trans. Theresa Sandok (New York: Peter Lang, 1993), 181–85; Paul Kucharski, "Pope John Paul II and Natural Law," in *Karol Wojtyła's Philosophical Legacy*, ed. N. Mardas, A. Curry, and G. McLean (Washington, DC: Council of Research in Values and Philosophy, 2008), 111–24.

⁷⁴ See Perez-Lopez, *Procreation*, 147–54, 192–98; *ST* I, q. 95, a. 1; q. 97, a. 1; II-II, q. 164, a. 1, corp.

⁷⁵ See Joseph Ratzinger, "Il rinnovamento della teologia morale: prospettive del Vaticano II e di *Veritatis Splendor*," in *Camminare nella luce: Prospettive della teologia morale a partire da Veritatis Splendor*, ed. Livio Melina, and Jose Noriega (Rome: Lateran University Press, 2004), 41.

⁷⁶ Garrigou-Lagrange, *Order of Things*, 126–27.

which the human intellect can be the *instrumental* promulgator or herald of the natural law. To do so, we could also find some support in the Polish version of *VS*.

Although the normative text is the Latin, it is no secret that in recent decades, Latin texts are produced at the Vatican *after* the redaction in the vernacular most comfortable for the pope in question is finished. Hence, it seems reasonable to take a look at the Latin normative text in light of its Polish predecessor. The sentence we are interpreting reads in Polish: “ze rozum, który to prawo ogłasza, należy do ludzkiej natury.”

The key word here is *ogłasza*, from the verb *ogłaszać*. It literally means to announce, to declare, to make public, or to publish. One could render it in Latin as *promulgare*. Similarly to this Latin verb, *ogłaszać*, in and of itself, does not entail the acts of instituting and of making something binding. It does not imply authority over the subjects of the law, to order them to their common good.⁷⁷

John Paul II is not saying here that human reason makes the natural law, as if it were its institutor, as if natural law had its primary seat in the human intellect. Rather, he is thinking about it in the sense of making a public declaration, like the one a herald can do for his lord. The verb *ogłaszać* presents human reason more like the herald, who announces or declares the law, than like the king, who institutes it and gives it its original binding force.

Promulgation has to do with setting something before the public, with “provulgating,” so to speak. But, to promulgate is not only the solemn public notification or proclamation of a law. It can also entail its imposition in the mode of a rule or measure. Reason is our first inner principle of action. Hence, this imposition takes place thanks to a kind of knowledge which wins our assent and inclines us to judge the law as something obligatory.⁷⁸

Although God is the primary promulgator of the natural law, Aquinas would admit a subordinated and instrumental role of reason in this same natural promulgation. We have some important indications, for instance, when he explains how the Apostles did not institute the New Law of the Gospel. Yet, they promulgated it.⁷⁹ They even let us know about the sacraments instituted by Christ.⁸⁰

⁷⁷ The Polish version of the *Summa theologiae* does not render *promulgatio* in this way. Instead, it uses another term: *obwieszczenie*. Nevertheless, Św. Tomasz z Akwinu, the Polish translator of *ST I-II*, q. 90, a. 4, on promulgation, has a similar expression, often qualifying it with the adjective *publiczne* (*Suma Teologiczna, I-II, q. 90–105: Prawo [Law]*, vol. 13, ed. and trans. by P. Belch, O.P. [London: Veritas, 1986], 8).

⁷⁸ See Brock, *Light that Binds*, 46–47.

⁷⁹ See *ST I-II*, q. 108, a. 3, corp.

⁸⁰ See *In IV sent.*, d. 17, q. 3, a. 1, qc. 5, ad 2; d. 23, q. 1, a. 1, qc. 3, corp.

Another example of instrumental promulgation in the manner of a herald is the angels. They promulgated (but did not institute) the Old Law: "It is for the sovereign alone to make a law by his own authority; but sometimes after making a law, he promulgates it through others. Thus, God made the Law by His own authority, but He promulgated it through the angels."⁸¹

Additionally, the written word can also be considered as another instance of instrumental promulgation: "The promulgation that takes place now, extends to future time by reason of the durability of written characters, by which means it is continually promulgated."⁸² Indeed, "those who are not present when a law is promulgated, are bound to observe the law, in so far as it is notified or can be notified to them by others, after it has been promulgated."⁸³ For this reason, Stephen Brock explains Aquinas's views in the following manner:

The rule of a community according to law can be accomplished by its governor either immediately or through mediators or instruments. Consequently, if the term *promulgation* names the act through which the rule of law is initiated, nothing prevents attributing promulgation not only to the governor, as to the primary agent, but also to any instruments that he uses to complete the imposition of the law upon its subjects. The initial promulgation, or the institution, of law must be an action of the governor himself, since the law is issued from his own mind and finds its principal seat there. But the process by which it comes to exist in the minds of his subjects may involve certain further, intermediate acts of promulgation or publication on the part of his ministers. . . . What can be concluded from the twofold existence of law, then, is that a distinction in promulgations need not entail a diversity in the thing promulgated. It does not imply that a new order has been instituted. One and the same law can have several promulgations, although they must all be ordered to one primary promulgation, by which the law first issues from the mind of the governor. The secondary promulgations do not establish the law as something by which the lawgiver rules. They only distribute it to the subjects, as something by which they are ruled.⁸⁴

⁸¹ *ST* I-II, q. 98, a. 3, ad 3.

⁸² *ST* I-II, q. 90, a. 4, ad 3.

⁸³ *ST* I-II, q. 90, a. 4, ad 2.

⁸⁴ Brock, *Light that Binds*, 50–51. See also *In I sent.*, d. 39, q. 2, a. 2, ad 4; *In III sent.*, d. 37, q. 1, a. 3; *In IV sent.*, d. 33, q. 1, a. 1; *SCG* III, ch. 78.

Keeping these considerations and the Polish text in mind, the Latin version of *VS* §42 could be seen as saying “ratio promulgans [instrumentaliter] propria est humanae naturae.” In this way, the natural law is said to be natural not in relation to the nature of irrational beings, but because “the (instrumentally) promulgating reason is proper to human nature.” It seems that this qualification of the Latin text would be in complete consonance with the internal logic of *VS*, with the previous magisterium on the natural law, with the teachings of Aquinas concerning promulgation, and with Wojtyła’s philosophical views.

Only human nature is a suitable recipient of God’s naturally promulgating the eternal law. Irrational creatures cannot be said to have received the promulgation of the eternal law in a natural manner, even though they are ruled by divine providence. They do not have the proper receptivity to receive it *as law*.⁸⁵ They are not intellectual, and by definition, law is an act of reason, an *imperium*, an *ordinatio rationis*. That is one of the senses of the contrast which the text from *VS* is making between irrational and rational nature, with respect to the notion of promulgation. Another sense is that the human intellect naturally experiences the imposition or binding force of the divine precepts. Thus, human reason declares and applies but does not legislate the natural law.

As Thomas said, “the natural law is promulgated by the very fact that God instilled it into man’s mind so as to be known by him naturally.”⁸⁶ Thus, God is the King who makes the natural law, and man’s mind is the natural herald that makes it known. The human person is the only creature in this visible world having the necessary receptivity or potentiality to be the subject of a *natural* promulgation. That is the kind of promulgation which makes the natural law to be a *species* of law, that is to say, to be natural. Without this kind of promulgation from God to man, it would not be possible to distinguish human positive law from the natural law.

Natural Law as *Opus Rationis*

It is time now to ask whether our position squares with *ST* I–II, q. 94, a. 1, and its teaching on the natural law as an *opus rationis*. The proponents of the anthropocentric view of the natural law may be quick to point out that this entire question does not mention once the eternal law. Hence, Thomas would seem to be more in favor of their view. In reality, the answer

⁸⁵ See *ST* I–II, q. 91, a. 2, ad 3.

⁸⁶ *ST* I–II, q. 90, a. 4, ad 1.

to this objection concerns the very sense of the question posed in *ST* I-II, q. 94, a. 1.⁸⁷

At this point of the *Summa theologiae*, Aquinas has already dealt with what makes the natural law to be a law as a participation in the eternal law of the rational creature in *ST* I-II, q. 91, a. 2. For this reason, he thus begins to ask about what is specific about the natural law as something natural to man as a rational animal. Hence, the question asked in *ST* I-II, q. 94, a. 1, could be expressed in two steps: which kind of perfection of the human intellect is the natural law? Is it a habit? The answer will be “no.” Yet, there is a clarification to be made about the natural law as *opus rationis*. Allow me to analyze the response in some detail:

A thing may be called a habit in two ways. First, properly and essentially: and thus the natural law is not a habit. For it has been stated above that the natural law is something appointed by reason, just as a proposition is a work of reason. Now that which a man does is not the same as that whereby he does it: for he makes a becoming speech by the habit of grammar. Since then a habit is that by which we act, a law cannot be a habit properly and essentially.

Secondly, the term habit may be applied to that which we hold by a habit: thus faith may mean that which we hold by faith. And accordingly, since the precepts of the natural law are sometimes considered by reason actually, while sometimes they are in the reason only habitually, in this way the natural law may be called a habit. Thus, in speculative matters, the indemonstrable principles are not the habit itself whereby we hold those principles, but are the principles the habit of which we possess.⁸⁸

Thomas begins by reminding the readers of something already explained, when dealing with the definition of law in general as an *ordinatio rationis*. Aquinas distinguished in the acts of the intellect between the *operationem* and the *operatum*.

In the speculative intellect, we have different operations: understanding, judgment, and reasoning. Each one of these operations has a different *operatum*, namely, the definition, the proposition, and the syllogism. The natural law is an *operatum* of practical reason. It is a set of universal propositions

⁸⁷ See Brock, *Light that Binds*, 63–68.

⁸⁸ *ST* I-II, q. 94, a. 1, corp.

directed to actions. At times, these propositions are considered in actuality. Other times, they are contained by means of a certain habit.⁸⁹

If we keep this distinction in mind, we will understand why, strictly speaking, the natural law is not a habit itself but is contained in a certain habit called “synderesis”: “Synderesis is said to be the law of our mind, because it is a habit *containing* the precepts of the natural law, which are the first principles of human actions.”⁹⁰

The natural law is constituted by reason in the way a proposition is constituted by the human intellect. In writing this paper, for example, the habit of grammar aids me in composing full and correct sentences. It is that through which I can make them. Now, the sentence stands in this example for the *opus* or *operatum*. Natural law is something like it. Hence, it cannot be a habit. It cannot be that through which the *opus* is attained, because the natural law is the *opus* or the *operatum* itself.

Yet, in another way, Thomas explains that the natural law can be said to be contained in the natural habit of synderesis. The latter is compared with the habit of *intellectus*, and the principles of the natural law with the first indemonstrable principles of speculative reasoning. Let us think, for instance, about the principle “the whole is greater than the part.” That is a proposition; it is an affirmation, a judgment. The habit of *intellectus* is the habitual way of containing that proposition and others like it, which are formed through contact with experience. For example, we may have understood that the whole is greater than the part when we were children. It may have happened the first time we realized we wanted the whole bag of candy but our parents told us we could have only part of it.

We could even say that the habit of *intellectus* is the knowledge of this principle and others like it known through the light of reason. Once known, that first principle is in the intellect, even if the intellect is not actually considering it. It is habitually there, contained in the habit of *intellectus*. We can find a pertinent text on this issue in Thomas’s commentary on Aristotle’s *Nichomachean Ethics*:

Understanding is not taken here for the intellect itself but for a certain [*quodam*] habit by which a man, in virtue of the light of the agent intellect, naturally knows indemonstrable principles. The name is suitable enough. Principles of this kind are immediately understood from a knowledge of their terms. Once we know what a

⁸⁹ ST I-II, q. 90, a. 1, ad 2.

⁹⁰ ST I-II, q. 94, a. 1, ad 2.

whole and what a part is, we grasp immediately that every whole is greater than its part. It is called understanding [*intellectus*] because it reads [*legit*] within, observing the essence of a thing. Hence, in his third book *De Anima*, Aristotle says that the proper object of the intellect is the essence of a thing. So the knowledge of principles, which immediately become known when the essence of the thing is understood, is suitably called “intellect” or understanding [*intellectus*].⁹¹

With these clarifications at hand, we can establish a similar relationship between the first indemonstrable principles and the habit of *intellectus*, on the one hand, and the natural law and the habit of synderesis, on the other. But in this relationship, it is also important to distinguish the knowledge every man has of the first indemonstrable principles from the metaphysical theory which defends them. Similarly, we have to distinguish the knowledge we have of the precepts of the natural law from its metaphysical theory.

Through experience, practical reason manages to attain the work we call natural law, namely, first practical propositions. The latter are contained in a habitual manner in synderesis. As a perfection of the intellect that is the work of reason, the natural law is not practical judging or practical reasoning. Natural law is not an *operationem*, but an *operatum*, contained habitually in our practical intellect. To be sure, it would not be very beneficial to completely disassociate the contents of the act from the act itself. Yet, the distinction stands, and it is important.⁹²

We can appeal to the example provided by Aquinas. To have faith can refer to the act of believing. But, we can also refer to the content or object of the act of believing with the word “faith.” For instance, we often say that, “I want to know my faith better.”⁹³

In this last expression, the faith stands not for the *operationem* of believing, but for the *operatum*, namely, for the propositions of the Creed that we want to further explore. We know the truth through composing and dividing. The thing known is in the knower according to the mode of the knower. For this reason, the object of faith, although simple in itself, is complex *for us*. It is in us as a proposition (*per modum enuntiabilis*).⁹⁴

The natural law is also in us, insofar as it is a work of reason, as a

⁹¹ *In VI eth.*, lec. 5, no. 1179.

⁹² See *De veritate*, q. 16, a. 1, ad 14; *In II sent.*, d. 24, q. 2, a. 3. See also Farrell, *Natural Law*, 143–44.

⁹³ See *ST I-II*, q. 55, a. 1, ad 1.

⁹⁴ See *ST II-II*, q. 1, a. 2, corp.

proposition. Yet, at the same time, the natural law has an *extrinsic* origin, namely, God. The example of faith continues to shed light on this point. We may come up with a propositional formulation of the faith such as “*consubstantialem Patri*.” But the revealed data of faith is divine in its origin.

Similarly, God’s *imperium* intimates an order or a command into our own minds. He does so in such a way that he configures our intellect to naturally understand the precepts of the natural law. We receive our participation in the eternal law according to the mode of the receiver. It is complex *for us*. We are able to formulate its precepts in different propositions.

As it happens with faith, the natural properties of the natural law are understood according to the mode of the knower. A derivation of the eternal law exists in us through the *natural instrumentality* of our intellect. Such a derivation is a certain perfection of our minds. It is not a habit, strictly speaking, but the object of synderesis.

As Brock clarifies, Aquinas

does not say that the precepts are instituted by reason, as though reason were their legislator. . . . He only says that they are considered by it. That is how they are its work. Propositions, whether practical or speculative, exist only through reason’s consideration; more precisely, through its act of judging, “composing and dividing.” But this does not mean that reason has any control over their validity, or even its own assent to them.⁹⁵

If human reason were the legislator of the natural law, the latter would not be naturally known and we would have control over its validity and assent to it. To interpret Thomas in this way would contradict him on the formal definition of the natural law as a participation of the rational creature in the eternal law. It would exalt human reason beyond its proper dignity of being the natural instrument through which the natural law is promulgated.

Conclusion

Every law that is fully a law must be an *ordinatio rationis*. The natural law—for Thomas Aquinas, for *Veritatis Splendor*, for previous magisterial pronouncements, and for Karol Wojtyła—is *not made or instituted by human reason* as its legislator. It is not an *ordinatio* or *imperium* made

⁹⁵ Brock, *Light that Binds*, 67.

binding by human reason. Rather, the natural law is an ordinance of divine reason, directed to the common good of the universe, promulgated by God (that is, the One who takes care of this common good) to man, in the creation of his rational nature, conferring on him a participation of God's divine light through man's created reason.⁹⁶

Consequently, the challenge found in the interpretation of *VS* §42 finds its solution in the metaphysical view of the subordination of causes. Such a view allows us to understand the human intellect as a natural herald of the natural law. The text should be read as saying that the natural law is natural because "the (instrumentally) promulgating reason is proper to human nature."

Precisely because human reason is a light that shares in the divine light, in God's light we see light (Ps 36:9). Human reason is a *medium*, an instrument, through which the natural law is promulgated by God to man. The natural law is an *opus rationis* in the sense that it is a work (*operatum* or *opus*) of man's natural and God-given reason, not because human reason rules over the natural law, but because it is natural to it.

Human reason is not the legislator, but the natural herald of the natural law. The latter is not a human but a natural *divine* institution. The preceptive judgments of human reason transmit or communicate the binding force of the natural law, a force that we experience in the *forum* of our conscience *ex ratione boni*, and which comes from above.

Looking at the "signs of our times," we have an opportunity to rediscover the metaphysical perspective in our study of the natural law. Hopefully, the reader can better appreciate, after these pages, that John Paul II can still help us to better formulate a Thomistic Christocentric moral theology capable of harmonizing its biblical and metaphysical foundations, thanks to an integral view of the human person created in God's image and likeness. N.V.

⁹⁶ See Brock, *Light that Binds*, 61.