

Natural Law

1 Aquinas

“OBJ 1: It would seem that the law is not always directed to the common good as to its end. For it belongs to law to command and to forbid. But commands are directed to certain individual goods. Therefore the end of the law is not always the common good. ...

I answer that, ... the law belongs to that which is a principle of human acts, because it is their rule and measure. 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 the practical reason, is the last end: and the last end of human life is bliss or happiness 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 a part of the perfect community, the law must needs regard properly the relationship to universal happiness. ...

Now in every genus, that which belongs to it chiefly is the principle of the others, and the others belong to that genus in subordination to that thing: thus fire, which is chief among hot things, is the cause of heat in mixed bodies, and these are said to be hot in so far as they have a share of fire. Consequently, since the law is chiefly ordained to the common good, any other precept in regard to some individual work, must needs be devoid of the nature of a law, save in so far as it regards the common good. Therefore every law is ordained to the common good.” (St. Thomas Aquinas, *Summa Theologiae* (1265-73), I-II Q. 90.)

2 Hume

“In every system of morality which I have hitherto met with, I have always remarked, that the author proceeds for some time in the ordinary way of reasoning, and establishes the being of a God, or makes observations concerning human affairs; when of a sudden I am surprized to find, that instead of the usual copulations of propositions, *is*, and *is not*, I meet with no proposition that is not connected with an *ought*, or an *ought not*. This change is imperceptible; but is, however, of the last consequence. For as this *ought*, or *ought not*, expresses some new relation or affirmation, it is necessary that it should be observed and explained; and at the same time that a reason should be given, for what seems altogether inconceivable, how this new relation can be a deduction from others, which are entirely different from it.” (David Hume, *A Treatise of Human Nature*, III.i.1.)

3 Fuller

“... the attempt to create and maintain a system of legal rules may miscarry in at least eight ways A total failure in any one of these eight directions does not simply result in a bad system of law, it results in something that is not properly called a legal system at all Certainly there can be no rational ground for asserting that a man can have a moral obligation to obey a legal rule that does not exist, or is kept secret from him, or that came into existence only after he had acted, or was unintelligible, or was contradicted by another rule of the same system, or commanded the impossible, or changed every minute. ... there is a kind of reciprocity between government and the citizen ... Government says to the citizen, in effect, “These are the rules we expect you to follow. If you follow them, you have our assurance that they are the rules that will be applied to your conduct”. When this bond of reciprocity is finally and completely ruptured by government, nothing is left on which to ground the citizen’s duty to observe the rules.” (Lon L. Fuller, “Eight Ways to Fail to Make Law,” in *Philosophy of Law*, edited by Feinberg and Coleman, 8th edition (2008), p. 16.)