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## Integral Ecology and Integral Politics. On Law and Nature

 <https://doi.org/10.15633/9788363241032.05>

Pope Francis has rightly called for an integral ecology which would see the interests of human beings and of nature in general as inherently united and not in competition.<sup>2</sup> The theoretical claim here is that it is impossible to pursue the true interests of one without the true interests of the other.

How might such an integral ecology relate to an integral politics, by which I mean specifically a politics that would make no ultimate separation between the concerns of all natural creatures and of human beings, nor between those of human animal nature and human spiritual, grace-endowed existence. This vision centres on the notion of law as understood by Thomas Aquinas.

For Aquinas, law was an analogical concept.<sup>3</sup> Law as such concerns the unity of the way things actually are with the way they should be, since they

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2 Francis, Enc. *Laudato si'*: *On Care For Our Common Home*, Libreria Editrice Vaticana, Vatican City 2015.

3 See M. Bastit, *Naissance de La Loi Moderne*, PUF, Paris 1990, 25–168.

fall under divine government.<sup>4</sup> Every created thing is governed by law because it participates in the eternal law that God the Father utters in his Son or *Logos* and which is identical with that eternal Word. In this respect the angelic doctor shares in a Medieval fluidity of the notions of order, rule and law which could extend all the way from medical regimen and psychological self-control, through knightly codes, feudal obligations and monastic life and liturgy, to the laws governing whole cities, territories and empires.<sup>5</sup>

Within the created order the angelic doctor considers several modes of legality, but they are none of them really separate from each other and form an analogical continuity. All of them lead up to the law of the Gospel or the rule of Charity, which alone restores and fulfils the original law of nature, spoiled by the Fall.<sup>6</sup> Here Thomas is again in keeping with the High Medieval outlook in general, for which the knightly vocation was a quasi-clerical one and assumed an ultimate supernatural ordering, as witnessed both by the Grail legends and the formation of actually religious and celibate military orders.<sup>7</sup>

For Aquinas, the law of the Old Covenant in its ritual mode pointed typologically to the new, evangelical rule. In its political mode, its specific legislations are no longer in force, but it retains an exemplary paradigmatic value as the greatest human civil fulfilment of the sheerly natural law in human history. This notably includes the radical Hebrew measures for the periodic redistribution of property and cancellation of debt, in order to restrict gross inequality.

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4 Thomas Aquinas, *Summa Theologiae*, Treatise on the Divine Government, I. qq. 103–119. Treatise on the Laws, I. II. qq. 90–108; Treatise on Justice, II. II. qq. 57–79.

5 See, for example, Bernard of Clairvaux, *In Praise of the New Knighthood* [*In laude novae militiae*], transl. M. Conrad Greenia o.c.s.o., Cistercian Publications, Collegeville MI 2007; *La Précepte et La Dispense/La Conversion* [*De praecepto/De conversione*], transl. François Callebaut o.c.s.o. et al, Cerf, Paris 2000; R. Lull, *The Book of the Order of Chivalry*, Boydell, Woodbridge, Suffolk 2013; G. Agamben, *The Highest Poverty: Monastic Rules and Form of Life*, transl. Adam Kotsko, Stanford UP, Stanford CA 2013; J. Fried, 'The Triumph of Jurisprudence' in *The Middle Ages*, transl. Peter Lewis, Harvard UP, Cambridge MS 2015, 270–327.

6 This is sadly denied by Bastit in his otherwise crucial work, but this point is admirably corrected by Franco Todescan in his *Lex, Natura, Beatitudo: Il problema delle legge nella Scholastica spagnuola del sec. XVI*, MCEDAM, Milan 2014, and by Jean-François Courtine in his *Nature et empire de la loi*, J. Vrin, Paris 1999.

7 Bernard of Clairvaux, *In Praise of the New Knighthood*, *op. cit.*; R. Lull, *The Book of the Order of Chivalry*, *op. cit.*

Every valid and just human society constantly relives the transition from the Old to the New revealed law: both by incessantly re-calling the ritual and symbolic foretypes of Christ, Church and Sacraments, and by so instituting regrettably necessary coercive laws that they will foment and advance the voluntary and reciprocal life of charity.<sup>8</sup> As for Augustine, for Aquinas the reference of politics to this ecclesial life is the only finally valid measure of justice.<sup>9</sup>

This is the primary framework for Thomas's legal considerations. By grace we are to return to God, naturally and also in correction of the Fall. In some sense for him, although this view was entertained much more strongly by the Greek Fathers, by Eriugena and the Albertine tradition, this return is also the return through human beings of all creatures to God. For the whole world was created in and through the spirits of angels and men, and through humanity especially as the microcosm which contains and sums up all the different modes of created being.<sup>10</sup> All creatures in their own way share in the eternal law and thereby worship God. Human beings consciously fulfil this worship. In one sense then, humans are the end, the goal or *telos* of all other creatures, but in another the whole created world is, as it were, our extended body which we have both to respect and to order. There is a kind of equal double priority – though again still more for the Greek Fathers than for Aquinas.

Other categories of law are related to this general picture of participatory exit from and return to God. The law of nature does not concern primarily what we should do as human beings. It rather means the entire law that all natural creatures ineluctably follow; if they disobey this law then it operates anyway through corrective punishment, which ideally returns them to the right path. It is precisely divine government. Therefore, we share the natural law with all creatures and especially plants and animals. It is natural for us to nourish ourselves and to preserve ourselves and to procreate. Not just necessity or impulse is involved here, but a discernment of the right way to go that is more conscious within us than it is with pure animals. But in the case of human beings, the natural law also concerns our rational discernment of the

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8 Here see also R. Grosseteste, *On the Cessation of the Laws* [*De cessatione legalium*], transl. Stephen M. Hildebrand, CUA Press, Washington DC 2012.

9 See A. W. Jones, *Before Church and State: A Study of Social Order in the Sacramental Kingdom of St Louis IX*, Emmaus Academic, Steubenville OH 2017, 397–454.

10 See Ch. Erismann, *L'Homme Commun: La genèse du réalisme ontologique durant le haut Moyen Âge*, J. Vrin, Paris 2011, 149–292.

best manner to live within civil communities. And in trying to work out our proper natural end we have to be ultimately guided by our relationship to our supernatural end. There is no independent, purely this-worldly, secular and rational natural law in Aquinas, as his *Commentary on Romans* makes particularly clear.<sup>11</sup>

The natural law in the human case is more or less at one with equity or justice and has to be discerned by prudence or practical reason. It is not deduced from any list of abstract principles or sheerly given facts. Moreover, it is always mediated by the *ius gentium*, which means something like the shared and historically developed common sense of the human race and did not at this period as yet mean merely the international law as prevailing between nations, even if that was included. Thus for Aquinas, natural law was not only something we share with animals, but is also something primarily global and humanly universal in geographic terms.<sup>12</sup>

Civil, positive law for Aquinas is only valid insofar as is in keeping with the natural law as mediated by this law of peoples. In consequence for him, no unjust law is properly a law at all. Also, the laws of any country are subordinate to a shared international sense of justice and legality. We only derive law by a sense of our co-belonging first with animals and then with all other human beings.

Nonetheless, this process is dialectical and works also the other way round. We have continuously to discern and enact and in a sense constitute the natural law via positive legislation and its interpretative enactment.<sup>13</sup> Thus precedent matters a great deal for the discernment of natural law or equity, and supremely important here is the precedent of the polity of Ancient Israel.

Aquinas did not inherit only the legacy of the Bible and of Aristotle with regard to politics. He also inherited the legacy of Roman Law and the Christianised code of Justinian. That legacy insisted that law is always about people, things and actions.<sup>14</sup> All legal transactions between people are mediated by 'things' (*res*), by whatever it is that is 'at issue' and possibly in contention,

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11 See J. Milbank, 'A Revisionist Account of Natural Law and Natural Right' in "Church Life Journal", December 6th 2018, and 'The History of Natural Right' in "Church Life Journal", January 18th 2019, online at churchlifejournal.nd.edu.

12 See M. Bastit, *Naissance*, op. cit., 92–142; F. Todescan, *Lex, Natura, Beatitudo*, op. cit., 1–43; J.-F. Courtine, *Nature et empire*, op. cit., 115–161.

13 In this respect, those who see a deep consonance between Aquinas and Edmund Burke are surely not wrong.

14 M. Villey, *Le Droit Romain: Son Actualité*, PUF, Paris 1945.

and these things are both abstract and concrete. This crucial role for things once more shows that Aquinas's mode of personalism did not exclude from consideration also non-human objects and elements. Indeed he thought that we can only interrelate at all *through* them, including those objects that are words.<sup>15</sup>

However, in a gradual process after Aquinas, all this jurisprudential philosophy got wrecked and we still live within its wreckage.<sup>16</sup> To begin with, soon after Aquinas law stopped being seen as analogical and became univocal, with Duns Scotus and others. This meant that law is no longer regarded as a series of real and differently but linked participations in divine goodness, but is now any process of command demanding obedience, whether rooted in reason or in will.

This resulted in a disjoining of the different modes of law. Increasingly it was as if God had just changed his mind and gone a bit soft between the Old and the New Testament law codes. And in either case the only natural element in our legal tie to God was now taken to be our naturally being bound to obey an omnipotent authority. But the actual content of divine law was regarded as either sheerly necessary according to reason, or as sheerly willed by divine fiat.

For one decisive aspect of this intellectual shift was that reason and will got divorced from each other. Once reason ceases to be linked to feeling and affect, and so to any sort of intrinsic 'erotic' lure, it either revolves upon its own formalism, or regards the operations of will from a position of external detachment and lays down laws for them in terms of their merely positive circumstance, aiming thereby to achieve some sort of formal balance. But in either case the ethical is being removed from the core of jurisprudence: reason no longer seeks an inherent good end, will no longer carries as intrinsic intellectual measure. When reason and will were conjoined, their shared measure lay necessarily beyond themselves through their participation in the transcendent, since neither pure reason nor pure willing or desire were regarded as self-sufficient or self-regulating. But one they were prised apart, each relied purely upon its own immanent access and each became its own ultimate self-justification, whether as sheer logic or the sheer imposition of prevailing force.<sup>17</sup>

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15 See M. Bastit, *Naissance*, op. cit., 25–45, 123–156; M. Villey, *Le Droit Romain*, op. cit., 7–95.

16 M. Bastit, *Naissance*, op. cit., 171–376.

17 See Th. Pfau, *Minding the Modern: Human Agency, Intellectual Traditions and Responsible Knowledge*, Notre Dame UP, Notre Dame IN 2015.

Natural law accordingly becomes very reduced in character: it now means whatever agrees with formal reason and this tends to encourage both a contract theory in politics, ignoring the common good and the notion that law (*lex*) is subordinate to right (*ius*), which means that justice as relational distribution becomes subordinate to the granting of supposedly absolute individually founded as well as individually possessed subjective rights. Justice and the common good in this perspective get reduced to the simply pragmatic concern with keeping some sort of peace between differing, competing and inherently unmediable wills. And no longer do these natural concerns with life in this world have anything to do with our salvation: for that derives from obedience to a different, extrinsically arriving set of decrees.<sup>18</sup>

What is more, natural law is now taken to be ‘founded’ on supposedly *theoretical* principles.<sup>19</sup> It has thereby been in reality *denatured* insofar as it thereby ceases to be located within *practical jurisprudential* science which can only access the rational thing to do by a tactful attention to circumstance and the exercise of a feeling-imbued judgement.<sup>20</sup>

A further undoing of Thomist integral unity arises in the early modern period and especially amongst Spanish scholastics.<sup>21</sup> The discovery of the new world and of non-Christian civilisations caused great confusion and gave rise to debates of a complexity which cannot here be even summarised. But with thinkers like Francisco de Vitoria OP and still more Francisco Suarez SJ, the eventual upshot was a total shift in the meaning of the *ius gentium* and of its relationship to the natural law and to the civil law. Now, the laws of individual countries were more seen as having a direct relationship to the natural law, and as being fully legitimate in terms of pure nature without reference to grace. The natural law itself remained rather distorted in the late mediaeval

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18 F. Todescan, *Lex, Natura, Beatitudo*, op. cit., 58–310; J.-F. Courtine *Nature et Empire*, op. cit., 115–161.

19 P. Manent, *La loi naturelle et les droits de l’homme*, PUF, Paris 2018, 23–27.

20 I might remark in passing that this role for a more disciplined and reflective feeling in the direction of practical reason seems to me to be played down by Alasdair Macintyre in terms of an excessive reaction against ‘emotivism’, which causes him after all to over-theorize practical reason by surreptitiously assimilating its processes to the rational ones of a Hegelian/Marxist dialectic.

21 M. Bastit, *Naissance*, op. cit., 307–376; F. Todescan, *Lex, Natura, Beatitudo*, op. cit., 58–310; J.-F. Courtine, *Nature et Empire*, op. cit., 115–161.

ways which I have just described, even if the Iberian Dominican Thomists somewhat qualified this.

But after them, with Gabriel Vasquez, natural law becomes a matter of deduction from formal principles; for his fellow Jesuit Suarez it is a matter of obeying whoever has legitimate authority. In both cases the mediating role of *things* has dropped out of the picture. Law has now become all too human. Equally, natural law is no longer something shared with animals: instead of informed instinct showing us the right paths along with other creatures, their modes of survival and pleasure are reduced to mere automatic necessity. On the other hand, the animal dimensions of our own human natural legality are subjected to strictly rational calculations.

The long term consequences of all these shifts are overwhelmingly drastic. Human beings are now corralled within their own heads. No longer do they think of themselves in their moral and political life as naturally and immediately following a divine order shared with other creatures. No longer do they suppose that they are pursuing inherent teleological goals alongside them, so that from the rushing of a river or the growth of a tree to the beatific visions is one long analogical continuity. No longer do they suppose that all our handling things is somewhat sacramental and that things must be treated with respect if we are also to respect each other. It is no more clearly seen that things are also spiritual and that spirits are also only manifested as such through their symbolic dispositions of the concrete.

Instead, our lives become only about controlling things and merely tolerating the whims of others. Without any notions of inherent natural ends, freedom itself is abolished. It now means, as with Hobbes and Locke, merely the non-blockage of natural impulses of which we are scarcely in control. And then, ironically, this pseudo-freedom, this naturalised and materialised unconstrained determinism becomes the site of a new holy cult of liberty, the one remaining goddess.

And what can politics now be based upon? What can it any longer be about? To be universal and just, it must still be based upon nature. But nature no longer in modernity means 'essence' or 'kind', having its own proper mode of being and purpose. There is now only a single flattened 'nature' in the landscape-background to our artificially urgent human doings, because there are no longer many natures or kinds in analogical continuity between humans and animals and other creatures. Nature is now falsely set over-against culture and denotes sheer blind necessity. If it is nonetheless as such the only

objective point of reference, then human culture, taken to be lacking in any intrinsic nature, must bizarrely seek its norms outside its self in a pure realm of bleached concretion.

Thus humans are now held all to be equal, as the possessors of supposedly given natural rights, rooted in the pre-cultural and the pre-political. But this must mean merely equal in power and force and so these absolute rights are inherently and fatally open-ended. They can only be coordinated and constrained by the still more mighty force of Leviathan, the sovereign state, which has no inherent purpose other than its own strength and the pursuit of conglomerated control. We are all too aware of the outcome. Mainly this sheer, unqualified power has to be proved by a still further domination and desecration of nature, but it is always turned upon human natures in the end. The fate of humans, animals and of all things falls finally together.

The reduction of the human essence to freedom and equality has not then rendered us freer or more equal in reality. This is because genuine freedom and equality are predicated upon natural *inequality*.<sup>22</sup> Every free, practical action necessarily involves some submission and command, whether this be the regulation of the body and passions by reason, the child obeying his parents, the student being guided by his teacher, citizens observing the laws laid down by their government or nature submitting to human modification.<sup>23</sup> Of course in every case responsible rule involves various modes and degrees of reversal: reason must also be attentive to physical states and be discerning of emotions; the parent must be to a degree guided by the needs and disposition of the child; at a certain point the student will have learned enough to instruct her teacher in turn; legitimate government must enjoy the consent of the governed and periodically and ultimately submit to their judgement; nature can only be mastered by us if we acknowledge her contextually all-surrounding command, as we now realise all too well.

Yet all these reversals retain dialectically an asymmetry; they do not abandon the inherent command-obedience structure of practical reason for a flattened and symmetrical observation of supposed arithmetic equality, which

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22 P. Manent, *La loi naturelle*, op. cit., esp. 126–131.

23 As Manent observes, the modern pretence that politics is not primarily an obedience/command structure results in the most monstrous and unrestricted versions of this structure in terms of state (and one can add market) control of human lives.

is a luxury afforded only by *theoretical* reason, as Pierre Manent points out.<sup>24</sup> Thus the observation of the natural law commences with this always already-begun participation in the hierarchies of divine government and not with the merely contemplated abstract fantasy of an equal formal possession of identical human rights of subjective exercise. To substitute the latter for the former is to abandon specifically *political* reason.

Thus outside of natural law, outside of divine government as understood by Aquinas, there can be no possibility of order. Now that pagan idolatries and detailed religious law-codes have been exposed as historically provisional, we have no shared human purpose if we do not seek for a purely human unity with God through the God-Man, a unity that includes the whole anthropically-ordered cosmos.

All we are left with otherwise is competing positivisms: an endless assertion of new individual rights with no way of adjudicating competing claims; an unlimited assertion of the aggregated will of people in democratic populism; the rival claim of formal law to override democracy in the name of capitalist contract and privatised rights, as now so beloved of liberals. And of course nature is now taken to be both absolute as the only persisting norm, and yet as not absolute at all because it only yields the will endlessly to alter it. When does the one norm apply and when the other? That is arbitrary: but modernity tends to favour the most perverse decisions in this respect – thus, for example, sexual orientation is increasingly taken to be just natural and ineluctably given, whereas gender is regarded as purely a cultural construct and a matter of whimsical preference. We can no longer hear the amazed laughter of our ancestors...

In our strange current times, we have people on one side of politics, supposed 'conservees', critical of such dubious inversions, who yet disingenuously deny the realities of ecological crisis. On the other, 'liberal' side, we have people happy to accept them, while claiming to defend the planet from its now dire human-imposed peril. But the latter group are incoherent as to how to do so. Purporting to extend rights to non-humans pathetically and fictionally grants to passive natural victims, whose inherent natural agency has been fatally depleted, the very active individualism that has led to their despoliation. Likewise, advocating the hybridity of humans with machines and the

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24 P. Manent, *La loi naturelle*, op. cit., 23–27, 73–131.

altering of our biology in the name of non-anthropocentricity merely perpetuates the loss of a sense of natures as kinds and their limits (which, however, must be endlessly re-discerned) with a single and blank block of 'nature' that means nothing in itself and can be endlessly manipulated. Foregoing in theory the role of humans as the foci and stewards of Creation thereby abandons it in practice to a loss of our necessary care and to victimage at the hands of our only alternative role, which will be that of despoilers.

For we cannot really unimagine our human nature as though it could really be lacking in intrinsic purpose and goals. If we deny these, then our anti-goal becomes empty freedom which means nihilistic power.

So in order to save nature we must also save ourselves: and recover our sense of our genuine human nature which means finally our pursuit of supernatural union with God, bringing the cosmos long with us. In the meantime, it means quite simply the pursuit of beauty: both civic and natural beauty – the beauty of cultivation in every sense – for our own delectation and the peace and satisfaction of all God's creatures.

