

II.1 Custom Is King

HERODOTUS

In this brief passage from his *Histories*, Herodotus (485–430 B.C.), a Greek and the first Western historian, illustrates cultural relativism and may suggest that ethical relativism is the better view.

Thus it appears certain to me, by a great variety of proofs, that Cambyses was raving mad; he would not else have set himself to make a mock of holy rites and long-established usages. For if one were to offer men to choose out of all the customs in the world such as seemed to them the best, they would examine the whole number, and end by preferring their own; so convinced are they that their own usages far surpass those of all others. Unless, therefore, a man was mad, it is not likely that he would make sport of such matters. That people have this feeling about their laws may be seen by very many

proofs: among others, by the following. Darius, after he had got the kingdom, called into his presence certain Greeks who were at hand, and asked—“What he should pay them to eat the bodies of their fathers when they died?” To which they answered, that there was no sum that would tempt them to do such a thing. He then sent for certain Indians, of the race called Callatians, men who eat their fathers, and asked them, while the Greeks stood by, and knew by the help of an interpreter all that was said—“What he should give them to burn the bodies of their fathers at their decease?” The Indians exclaimed aloud, and bade him forbear such language. Such is men’s wont herein; and Pindar was right, in my judgment, when he said, “Custom is the king o’er all.”

Excerpted from the *History of Herodotus*, Book 3, Chapter 38, translated by George Rawlinson (D. Appleton and Co., 1859–1861).

II.2 Objectivism: Natural Law

THOMAS AQUINAS

The Roman Catholic Dominican monk Thomas Aquinas (1225–1274) is considered by many to be the greatest philosopher of religion and theologian in Western thought. He was born near the Italian town of Aquino, the son of the Count Aquino. While at the University of Naples, much to the

horror of his aristocratic parents, he decided to join the Dominicans, a mendicant (begging) order of monks, considered by many to be a hotbed of religious fanatics. He was stubborn, deliberate, methodical, slow, and portly, and his fellow students thought him stupid and unkindly and gave him the nickname "The Dumb Ox." His teacher Albert Magnus, however, saw great promise in the youth and declared, "You call him a Dumb Ox; I tell you the Dumb Ox will bellow so loud his bellowing will fill the world." Among his great works are *Summa Contra Gentiles* (On the Truth of the Catholic Faith Against the Gentiles) and *Summa Theologica* (Summation of Theology), from which the present selection is taken.

In this selection Aquinas argues that true Law, *Natural Law*, is universal, morally binding on all human beings, because it is based on reason, which is possessed by all human beings, and is the basis of all valid positive law—what legislatures enact. The purpose of this Natural or *Moral Law* is to promote the common good. The first principle of Natural Law is that "good should be done and promoted, and evil is to be avoided." All other principles are based on this basic principle. Unjust positive "laws," being immoral, are not true laws, so that civil disobedience is warranted.

Aquinas's method, called "dialectical," proceeds by (1) asking a question, (2) stating the opponent's objections to his thesis, (3) generally stating Aquinas's position (beginning with the phrase "*On the contrary*" and "*I answer*," and finally (4) replying to the objections raised. When Aquinas refers to the "Philosopher," he means Aristotle, by the "Apostle," St. Paul. Biblical references are to the Latin Vulgate translation.

Question 90

On the Essence of Law

We have now to consider the extrinsic principle of acts. Now the extrinsic principle inclining to evil is the devil, of whose temptations we have spoken. But the extrinsic principle moving to good is God, Who both instructs us by means of His Law, and assists us by His Grace. Therefore, in the first place, we must speak of law; in the second place of grace.

Concerning law, we must consider (1) law itself in general; (2) its parts. Concerning law in general three points offer themselves for our consideration: (1) its essence, (2) the different kinds of law, (3) the effects of law.

Under the first head there are four points of inquiry: (1) Whether law is something pertaining to reason? (2) Concerning the end of law. (3) Its cause. (4) The promulgation of law.

First Article

Whether Law Is Something Pertaining to Reason?

We proceed thus to the First Article:— . . .

Objection 2. [I]n the reason there is nothing else but power, habit and act. But law is not the power itself of reason. In like manner, neither is it a habit of reason, because the habits of reason are the intellectual virtues, of which we have spoken above. Nor again is it an act of reason, because then law would cease when the act of reason ceases, for instance, while we are asleep. Therefore law is nothing pertaining to reason.

Obj. 3. Further, the law moves those who are subject to it to act rightly. But it belongs properly

to the will to move to act, as is evident from what has been said above. Therefore law pertains, not to the reason, but to the will, according to the words of the Jurist: *Whatsoever pleases the sovereign has the force of law.*

On the contrary, It belongs to the law to command and to forbid. But it belongs to reason to command, as was stated above. Therefore law is something pertaining to reason.

I answer that, Law is a rule and measure of acts, whereby man is induced to act or is restrained from acting; for *lex* [law] is derived from *ligare* [to bind], because it binds one to act. Now the rule and measure of human acts is the reason, which is the first principle of human acts, as is evident from what has been stated above. For it belongs to the reason to direct to the end, which is the first principle in all matters of action, according to the Philosopher [Aristotle]. Now that which in the principle in any genus is the rule and measure of that genus: for instance, unity in the genus of numbers, and the first movement in the genus of movements. Consequently, it follows that law is something pertaining to reason. . . .

Reply Obj. 2. Just as, in external acts, we may consider the work and the work done, for instance, the work of building and the house built, so in the acts of reason, we may consider the act itself of reason, i.e., to understand and to reason, and something produced by this act. With regard to the speculative reason, this is first of all the definition; secondly, the proposition; thirdly, the syllogism or argument. And since the practical reason also makes use of the syllogism in operable matters, as we have stated above and as the Philosopher teaches, hence we find in the practical reason something that holds the same position in regard to operations as, in the speculative reason, the proposition holds in regard to conclusions. Such universal propositions of the practical reason that are directed to operations have the nature of law. And these propositions are sometimes under our actual consideration, while sometimes they are retained in the reason by means of a habit.

Reply Obj. 3. Reason has its power of moving from the will, as was stated above; for it is due to the fact that one wills the end, that the reason issues its commands as regards things ordained to the end. But in order that the volition of what is commanded may have the nature of law, it needs

to be in accord with some rule of reason. [It is] in this sense [that we should understand] the saying that the will of the sovereign has the force of law; or otherwise the sovereign's will would savor of lawlessness rather than of law.

Second Article

Whether Law Is Always Directed to the Common Good?

Objection 1. It would seem that 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 law is not always the common good.

Obj. 2. Further, law directs man in his actions. But human actions are concerned with particular matters. Therefore law is directed to some particular good.

Obj. 3. Further, Isidore says: *If law is based on reason, whatever is based on reason will be a law.* But reason is the foundation not only of what is ordained to the common good, but also of that which is directed to private good. Therefore law is not directed only to the good of all, but also to the private good of an individual.

On the contrary, Isidore says that *laws are enacted for no private profit, but for the common benefit of the citizens.*

I answer that, As we have stated above, 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. Hence 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 happiness or beatitude. . . . Consequently, law must needs concern itself mainly with the order that is in beatitude. Moreover, since every part is ordained to the whole as the imperfect to the perfect, and since one man is a part of the perfect community, law must needs concern itself properly with the order directed to universal happiness. Therefore the Philosopher, in the above definition of legal

matters, mentions both happiness and the body politic, since he says that we call those legal matters *just which are adapted to produce and preserve happiness and its parts for the body politic* [*Ethics* V.1]. For the state is a perfect community, as he says in *Politics* I.

Now, in every genus, that which belongs to it chiefly is the principle of the others, and the others belong to that genus according to some order towards 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 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.

Reply Obj. 1. A command denotes the application of a law to matters regulated by law. Now the order to the common good, at which law aims, is applicable to particular ends. And in this way commands are given even concerning particular matters.

Reply Obj. 2. Actions are indeed concerned with particular matters, but those particular matters are referable to the common good, not as to a common genus or species, but as to a common final cause, according as the common good is said to be the common end.

Reply Obj. 3. Just as nothing stands firm with regard to the speculative reason except that which is traced back to the first indemonstrable principles, so nothing stands firm with regard to the practical reason, unless it be directed to the last end which is the common good. Now whatever stands to reason in this sense has the nature of a law.

Third Article

Whether the Reason of Any Man Is Competent to Make Laws?

Objection 1. It would seem that the reason of any man is competent to make laws. For the Apostle [Paul] says (Rom 2:14) that *when the Gentiles, who have not the law, do by nature those things that are of the law, . . . they are a law to themselves*. Now he says this of all in general. Therefore anyone can make a law for himself.

Obj. 2. Further, as the Philosopher says, *the intention of the lawgiver is to lead men to virtue*. But every man can lead another to virtue. Therefore the reason of any man is competent to make laws. . . .

On the contrary, Isidore says, . . . *A law is an ordinance of the people, whereby something is sanctioned by the Elders together with the Commonality*. Therefore not everyone can make laws.

I answer that, A law, properly speaking, regards first and foremost the order to the common good. Now to order anything to the common good belongs either to the whole people, or to someone who is the representative of the whole people. Hence the making of a law belongs either to the whole people or to a public personage who has care of the whole people; for in all other matters the directing of anything to the end concerns him to whom the end belongs.

Reply Obj. 1. [A] law is in a person not only as in one that rules, but also, by participation, as in one that is ruled. In the latter way, each one is a law to himself, in so far as he shares the direction that he receives from one who rules him. Hence the same text goes on: *Who show the work of the law written in their hearts* (Rom 2:15).

Reply Obj. 2. A private person cannot lead another to virtue efficaciously; for he can only advise, and if his advice be not taken, it has no coercive power, such as the law should have, in order to prove an efficacious inducement to virtue, as the Philosopher says. But this coercive power is vested in the whole people or in some public personage, to whom it belongs to inflict penalties. . . . Therefore the framing of laws belongs to him alone.

Question 91

On the Various Kinds of Law (In Six Articles)

We must now consider the various kinds of law, under which head there are six points of inquiry: (1) Whether there is an eternal law? (2) Whether there is a natural law? (3) Whether there is a human law? (4) Whether there is a divine law? (5) Whether there is one divine law, or several? (6) Whether there is a law of sin?

*First Article**Whether There Is an Eternal Law?*

We proceed thus to the First Article:—

Objection 1. It would seem that there is no eternal law. For every law is imposed on someone. But there was not someone from eternity on whom a law could be imposed, since God alone was from eternity. Therefore no law is eternal.

Obj. 2. Further, promulgation is essential to law. But promulgation could not be from eternity, because there was no one to whom it could be promulgated from eternity. Therefore no law can be eternal.

Obj. 3. Further, law implies order to an end. But nothing ordained to an end is eternal, for the last end alone is eternal. Therefore no law is eternal.

On the contrary, Augustine says: *That Law which is the Supreme Reason cannot be understood to be otherwise than unchangeable and eternal.*

I answer that, As we have stated above, law is nothing else but a dictate of practical reason emanating from the ruler who governs a perfect community. Now it is evident, granted that the world is ruled by divine providence, as was stated in the First Part, that the whole community of the universe is governed by the divine reason. Therefore the very notion of the government of things in God, the ruler of the universe, has the nature of a law. And since the divine reason's conception of things is not subject to time, but is eternal, according to *Prov. viii. 23*, therefore it is that this kind of law must be called eternal.

Reply Obj. 1. Those things that do not exist in themselves exist in God, inasmuch as they are known and preordained by Him, according to *Rom. iv. 17*: *Who calls those things that are not, as those that are.* Accordingly, the eternal concept of the divine law bears the character of an eternal law in so far as it is ordained by God to the government of things foreknown by Him.

Reply Obj. 2. Promulgation is made by word of mouth or in writing, and in both ways the eternal law is promulgated, because both the divine Word and the writing of the Book of Life are eternal. But the promulgation cannot be from eternity on the part of the creature that hears or reads.

Reply Obj. 3. Law implies order to the end actively, namely, in so far as it directs certain things to the end; but not passively,—that is to say, the law itself is not ordained to the end, except

accidentally, in a governor whose end is extrinsic to him, and to which end his law must needs be ordained. But the end of the divine government is God Himself, and His law is not something other than Himself. Therefore the eternal law is not ordained to another end.

*Second Article**Whether There Is in Us a Natural Law?*

We proceed thus to the Second Article:—

Objection 1. It would seem that there is no natural law in us. For man is governed sufficiently by the eternal law, since Augustine says that *the eternal law is that by which it is right that all things should be most orderly.* But nature does not abound in superfluities as neither does she fail in necessities. Therefore man has no natural law.

Obj. 2. Further, by the law man is directed, in his acts, to the end, as was stated above. But the directing of human acts to their end is not a function of nature, as is the case in irrational creatures, which act for an end solely by their natural appetite; whereas man acts for an end by his reason and will. Therefore man has no natural law.

Obj. 3. Further, the more a man is free, the less is he under the law. But man is freer than all the animals because of his free choice, with which he is endowed in distinction from all other animals. Since, therefore, other animals are not subject to a natural law, neither is man subject to a natural law.

On the contrary, The Gloss on *Rom. ii. 14* (*When the Gentiles, who have not the law, do by nature those things that are of the law*) comments as follows: *Although they have no written law, yet they have the natural law, whereby each one knows, and is conscious of, what is good and what is evil.*

I answer that, As we have stated above, law, being a rule and measure, can be in a person in two ways: in one way, as in him that rules and measures; in another way, as in that which is ruled and measured, since a thing is ruled and measured in so far as it partakes of the rule or measure. Therefore, since all things subject to divine providence are ruled and measured by the eternal law, as was stated above, it is evident that all things partake in some way in the eternal law, in so far as, namely, from its being imprinted on them, they derive their respective inclinations to their proper

acts and ends. Now among all others, the rational creature is subject to divine providence in a more excellent way, in so far as it itself partakes of a share of providence, by being provident both for itself and for others. Therefore it has a share of the eternal reason, whereby it has a natural inclination to its proper act and end; and this participation of the eternal law in the rational creature is called the natural law. Hence the Psalmist, after saying (*Ps. iv. 6*): *Offer up the sacrifice of justice*, as though someone asked what the works of justice are, adds: *Many say, Who showeth us good things?* in answer to which question he says: *The light of Thy countenance, O Lord, is signed upon us.* He thus implies that the light of natural reason, whereby we discern what is good and what is evil, which is the function of the natural law, is nothing else than an imprint on us of the divine light. It is therefore evident that the natural law is nothing else than the rational creature's participation of the eternal law.

Reply Obj. 1. This argument would hold if the natural law were something different from the eternal law; whereas it is nothing but a participation thereof, as we have stated above.

Reply Obj. 2. Every act of reason and will in us is based on that which is according to nature, as was stated above. For every act of reasoning is based on principles that are known naturally, and every act of appetite in respect of the means is derived from the natural appetite in respect of the last end. Accordingly, the first direction of our acts to their end must needs be through the natural law.

Reply Obj. 3. Even irrational animals partake in their own way of the eternal reason, just as the rational creature does. But because the rational creature partakes thereof in an intellectual and rational manner, therefore the participation of the eternal law in the rational creature is properly called a law, since a law is something pertaining to reason, as was stated above. Irrational creatures, however, do not partake thereof in a rational manner, and therefore there is no participation of the eternal law in them, except by way of likeness.

Third Article

Whether There Is a Human Law?

We proceed thus to the Third Article:—

Objection 1. It would seem that there is not a human law. For the natural law is a participation

of the eternal law, as was stated above. Now through the eternal law *all things are most orderly*, as Augustine states. Therefore the natural law suffices for the ordering of all human affairs. Consequently there is no need for a human law.

Obj. 2. Further, law has the character of a measure, as was stated above. But human reason is not a measure of things, but *vice versa*, as is stated in *Metaph. x*. Therefore no law can emanate from the human reason.

Obj. 3. Further, a measure should be most certain, as is stated in *Metaph. x*. But the dictates of the human reason in matters of conduct are uncertain, according to *Wis. ix. 14*: *The thoughts of mortal men are fearful, and our counsels uncertain.* Therefore no law can emanate from the human reason.

On the contrary, Augustine distinguishes two kinds of law, the one eternal, the other temporal, which he calls human.

I answer that, As we have stated above, a law is a dictate of the practical reason. Now it is to be observed that the same procedure takes place in the practical and in the speculative reason, for each proceeds from principles to conclusions, as was stated above. Accordingly, we conclude that, just as in the speculative reason, from naturally known indemonstrable principles we draw the conclusions of the various sciences, the knowledge of which is not imparted to us by nature, but acquired by the efforts of reason, so too it is that from the precepts of the natural law, as from common and indemonstrable principles, the human reason needs to proceed to the more particular determination of certain matters. These particular determinations, devised by human reason, are called human laws, provided that the other essential conditions of law be observed, as was stated above. Therefore Tully says in his *Rhetoric* that *justice has its source in nature; thence certain things came into custom by reason of their utility; afterwards these things which emanated from nature, and were approved by custom, were sanctioned by fear and reverence for the law.*

Reply Obj. 1. The human reason cannot have a full participation of the dictate of the divine reason, but according to its own mode, and imperfectly. Consequently, just as on the part of the speculative reason, by a natural participation of divine wisdom, there is in us the knowledge of certain common

principles, but not a proper knowledge of each single truth, such as that contained in the divine wisdom, so, too, on the part of the practical reason, man has a natural participation of the eternal law, according to certain common principles, but not as regards the particular determinations of individual cases, which are, however, contained in the eternal law. Hence the need for human reason to proceed further to sanction them by law.

Reply Obj. 2. Human reason is not, of itself, the rule of things. But the principles impressed on it by nature are the general rules and measures of all things relating to human conduct, of which the natural reason is the rule and measure, although it is not the measure of things that are from nature.

Reply Obj. 3. The practical reason is concerned with operable matters, which are singular and contingent, but not with necessary things, with which the speculative reason is concerned. Therefore human laws cannot have that inerrancy that belongs to the demonstrated conclusions of the sciences. Nor is it necessary for every measure to be altogether unerring and certain, but according as it is possible in its own particular genus.

Fourth Article

Whether There Was Any Need For a Divine Law?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that there was no need for a divine law. For, as was stated above, the natural law is a participation in us of the eternal law. But the eternal law is the divine law, as was stated above. Therefore there is no need for a divine law in addition to the natural law and to human laws derived therefrom.

Obj. 2. Further, it is written (*Ecclus. xv. 14*) that *God left man in the hand of his own counsel*. Now counsel is an act of reason, as was stated above. Therefore man was left to the direction of his reason. But a dictate of human reason is a human law, as was stated above. Therefore there is no need for man to be governed also by a divine law. . . .

On the contrary, David prayed God to set His law before him, saying (*Ps. cxviii. 33*): *Set before me for a law the way of Thy justifications, O Lord.*

I answer that, Besides the natural and the human law it was necessary for the directing of human conduct to have a divine law. And this for four reasons. First, because it is by law that man is directed how to perform his proper acts in view of his last end. Now if man were ordained to no other end than that which is proportionate to his natural ability, there would be no need for man to have any further direction, on the part of his reason, in addition to the natural law and humanly devised law which is derived from it. But since man is ordained to an end of eternal happiness which exceeds man's natural ability, as we have stated above, therefore it was necessary that, in addition to the natural and the human law, man should be directed to his end by a law given by God.

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

Thirdly, because man can make laws in those matters of which he is competent to judge. But man is not competent to judge of interior movements, that are hidden, but only of exterior acts which are observable; and yet for the perfection of virtue it is necessary for man to conduct himself rightly in both kinds of acts. Consequently, human law could not sufficiently curb and direct interior acts, and it was necessary for this purpose that a divine law should supervene.

Fourthly, because, as Augustine says, human law cannot punish or forbid all evil deeds, since, while aiming at doing away with all evils, it would do away with many good things, and would hinder the advance of the common good, which is necessary for human living. In order, therefore, that no evil might remain unforbidden and unpunished, it was necessary for the divine law to supervene, whereby all sins are forbidden.

And these four causes are touched upon in *Ps. cxviii*, where it is said: *The law of the Lord is unspotted, i.e., allowing no foulness of sin; converting souls*, because it directs not only exterior, but also interior, acts; *the testimony of the Lord is faithful*, because of the certainty of what is true and right;

giving wisdom to little ones, by directing man to an end supernatural and divine.

Reply Obj. 1. By the natural law the eternal law is participated proportionately to the capacity of human nature. But to his supernatural end man needs to be directed in a yet higher way. Hence the additional law given by God, whereby man shares more perfectly in the eternal law.

Reply Obj. 2. Counsel is a kind of inquiry, and hence must proceed from some principles. Nor is it enough for it to proceed from principles imparted by nature, which are the precepts of the natural law, for the reasons given above; but there is need for certain additional principles, namely the precepts of the divine law. . . .

Question 94. The Natural Law

First Article

Whether the Natural Law Is a Habit?

We proceed thus to the First Article:—

Objection 1. It would seem that the natural law is a habit. For, as the Philosopher says, *there are three things in the soul, power, habit and passion*. But the natural law is not one of the soul's powers, nor is it one of the passions, as we may see by going through them one by one. Therefore the natural law is a habit.

Obj. 2. Further, Basil says that the *conscience or synderesis is the law of our mind*, which can apply only to the natural law. But *synderesis* is a habit, as was shown in the First Part. Therefore the natural law is a habit.

Obj. 3. Further, the natural law abides in man always, as will be shown further on. But man's reason, which the law regards, does not always think about the natural law. Therefore the natural law is not an act, but a habit.

On the contrary, Augustine says that *a habit is that whereby something is done when necessary*. But such is not the natural law, since it is in infants and in the damned who cannot act by it. Therefore the natural law is not a habit.

I answer that, 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*. 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. So, too, in speculative matters, the indemonstrable principles are not the habit itself whereby we hold these principles; they are rather the principles of which we possess the habit.

Reply Obj. 1. The Philosopher proposes there to discover the genus of virtue; and since it is evident that virtue is a principle of action, he mentions only those things which are principles of human acts, viz., powers, habits and passions. But there are other things in the soul besides these three: *e.g.*, acts, as *to will* is in the one that wills; again, there are things known in the knower; moreover its own natural properties are in the soul, such as immortality and the like.

Reply Obj. 2. *Synderesis* is said to be the law of our intellect because it is a habit containing the precepts of the natural law, which are the first principles of human actions.

Reply Obj. 3. This argument proves that the natural law is held habitually; and this is granted.

To the argument advanced to the contrary sense we reply that sometimes a man is unable to make use of that which is in him habitually, because of some impediment. Thus, because of sleep, a man is unable to use the habit of science. In like manner, through the deficiency of his age, a child cannot use the habit of the understanding of principles, or the natural law, which is in him habitually.

Second Article

Whether the Natural Law Contains Several Precepts, or Only One?

We proceed thus to the Second Article:—

Objection 1. It would seem that the natural law contains, not several precepts, but only one. For law is a kind of precept, as was stated above.

If therefore there were many precepts of the natural law, it would follow that there are also many natural laws.

Obj. 2. Further, the natural law is consequent upon human nature. But human nature, as a whole, is one, though, as to its parts, it is manifold. Therefore, either there is but one precept of the law of nature because of the unity of nature as a whole, or there are many by reason of the number of parts of human nature. The result would be that even things relating to the inclination of the concupiscible power would belong to the natural law.

Obj. 3. Further, law is something pertaining to reason, as was stated above. Now reason is but one in man. Therefore there is only one precept of the natural law.

On the contrary, The precepts of the natural law in man stand in relation to operable matters as first principles do to matters of demonstration. But there are several first indemonstrable principles. Therefore there are also several precepts of the natural law.

I answer that, As was stated above, the precepts of the natural law are to the practical reason what the first principles of demonstrations are to the speculative reason, because both are self-evident principles. Now a thing is said to be self-evident in two ways: first, in itself; secondly, in relation to us. Any proposition is said to be self-evident in itself, if its predicate is contained in the notion of the subject; even though it may happen that to one who does not know the definition of the subject, such a proposition is not self-evident. For instance, this proposition, *Man is a rational being*, is, in its very nature, self-evident, since he who says *man* says a *rational being*; and yet to one who does not know what a man is, this proposition is not self-evident. Hence it is that, as Boethius says, certain axioms or propositions are universally self-evident to all; and such are the propositions whose terms are known to all, as, *Every whole is greater than its part*, and, *Things equal to one and the same are equal to one another*. But some propositions are self-evident only to the wise, who understand the meaning of the terms of such propositions. Thus to one who understands that an angel is not a body, it is self-evident that an angel is not circumscriptively in a place. But this is not evident to the unlearned, for they cannot grasp it.

Now a certain order is to be found in those things that are apprehended by men. For that which first falls under apprehension is *being*, the understanding of which is included in all things whatsoever a man apprehends. Therefore the first indemonstrable principle is that *the same thing cannot be affirmed and denied at the same time*, which is based on the notion of *being* and *not-being*; and on this principle all others are based, as is stated in *Metaph. iv.* Now as *being* is the first thing that falls under the apprehension absolutely, so *good* is the first thing that falls under the apprehension of the practical reason, which is directed to action (since every agent acts for an end, which has the nature of good). Consequently, the first principle in the practical reason is one founded on the nature of good, viz., that *good is that which all things seek after*. Hence this is the first precept of law, that *good is to be done and promoted, and evil is to be avoided*. All other precepts of the natural law are based upon this; so that all the things which the practical reason naturally apprehends as man's good belong to the precepts of the natural law under the form of things to be done or avoided.

Since, however, good has the nature of an end, and evil, the nature of the contrary, hence it is that all those things to which man has a natural inclination are naturally apprehended by reason as being good, and consequently as objects of pursuit, and their contraries as evil, and objects of avoidance. Therefore, the order of the precepts of the natural law is according to the order of natural inclinations. For there is in man, first of all, an inclination to good in accordance with the nature which he has in common with all substances, inasmuch, namely, as every substance seeks the preservation of its own being, according to its nature; and by reason of this inclination, whatever is a means of preserving human life, and of warding off its obstacles, belongs to the natural law. Secondly, there is in man an inclination to things that pertain to him more specially, according to that nature which he has in common with other animals; and in virtue of this inclination, those things are said to belong to the natural law *which nature has taught to all animals*, such as sexual intercourse, the education of offspring and so forth. Thirdly, there is in man an inclination to good according to the nature of his reason, which nature is proper to him. Thus man has a natural

inclination to know the truth about God, and to live in society; and in this respect, whatever pertains to this inclination belongs to the natural law: *e.g.*, to shun ignorance, to avoid offending those among whom one has to live, and other such things regarding the above inclination.

Reply Obj. 1. All these precepts of the law of nature have the character of one natural law, inasmuch as they flow from one first precept.

Reply Obj. 2. All the inclinations of any parts whatsoever of human nature, *e.g.*, of the concupiscible and irascible parts, in so far as they are ruled by reason, belong to the natural law, and are reduced to one first precept, as was stated above. And thus the precepts of the natural law are many in themselves, but they are based on one common foundation.

Reply Obj. 3. Although reason is one in itself, yet it directs all things regarding man; so that whatever can be ruled by reason is contained under the law of reason. . . .

Fourth Article

Whether the Natural Law Is the Same in All Men?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that the natural law is not the same in all. For it is stated in the *Decretals* that *the natural law is that which is contained in the Law and the Gospel*. But this is not common to all men, because, as it is written (*Rom. x. 16*), *all do not obey the gospel*. Therefore the natural law is not the same in all men.

Obj. 2. Further, *Things which are according to the law are said to be just*, as is stated in *Ethics v.* But it is stated in the same book that nothing is so just for all as not to be subject to change in regard to some men. Therefore even the natural law is not the same in all men.

Obj. 3. Further, as was stated above, to the natural law belongs everything to which a man is inclined according to his nature. Now different men are naturally inclined to different things,—some to the desire of pleasures, others to the desire of honors, and other men to other things. Therefore, there is not one natural law for all.

On the contrary, Isidore says: *The natural law is common to all nations.*

I answer that, As we have stated above, to the natural law belong those things to which a man is inclined naturally; and among these it is proper to man to be inclined to act according to reason. Now it belongs to the reason to proceed from what is common to what is proper, as is stated in *Physics i.* The speculative reason, however, is differently situated, in this matter, from the practical reason. For, since the speculative reason is concerned chiefly with necessary things, which cannot be otherwise than they are, its proper conclusions, like the universal principles, contain the truth without fail. The practical reason, on the other hand, is concerned with contingent matters, which is the domain of human actions; and, consequently, although there is necessity in the common principles, the more we descend towards the particular, the more frequently we encounter defects. Accordingly, then, in speculative matters truth is the same in all men, both as to principles and as to conclusions; although the truth is not known to all as regards the conclusions, but only as regards the principles which are called *common notions*. But in matters of action, truth or practical rectitude is not the same for all as to what is particular, but only as to the common principles; and where there is the same rectitude in relation to particulars, it is not equally known to all.

It is therefore evident that, as regards the common principles whether of speculative or of practical reason, truth or rectitude is the same for all, and is equally known by all. But as to the proper conclusions of the speculative reason, the truth is the same for all, but it is not equally known to all. Thus, it is true for all that the three angles of a triangle are together equal to two right angles, although it is not known to all. But as to the proper conclusions of the practical reason, neither is the truth or rectitude the same for all, nor, where it is the same, is it equally known by all. Thus, it is right and true for all to act according to reason, and from this principle it follows, as a proper conclusion, that goods entrusted to another should be restored to their owner. Now this is true for the majority of cases. But it may happen in a particular case that it would be injurious, and therefore unreasonable, to restore goods held in trust; for instance, if they are claimed for the purpose of fighting against one's country. And this principle will be found to fail the more, according as we descend further towards the

particular, *e.g.*, if one were to say that goods held in trust should be restored with such and such a guarantee, or in such and such a way; because the greater the number of conditions added, the greater the number of ways in which the principle may fail, so that it be not right to restore or not to restore.

Consequently, we must say that the natural law, as to the first common principles, is the same for all, both as to rectitude and as to knowledge. But as to certain more particular aspects, which are conclusions, as it were, of those common principles, it is the same for all in the majority of cases, both as to rectitude and as to knowledge; and yet in some few cases it may fail, both as to rectitude, by reason of certain obstacles (just as natures subject to generation and corruption fail in some few cases because of some obstacle), and as to knowledge, since in some the reason is perverted by passion, or evil habit, or an evil disposition of nature. Thus at one time theft, although it is expressly contrary to the natural law, was not considered wrong among the Germans as Julius Caesar relates.

Reply Obj. 1. The meaning of the sentence quoted is not that whatever is contained in the Law and the Gospel belongs to the natural law, since they contain many things that are above nature; but that whatever belongs to the natural law is fully contained in them. Therefore Gratian, after saying that *the natural law is what is contained in the Law and the Gospel*, adds at once, by way of example, *by which everyone is commanded to do to others as he would be done by*.

Reply Obj. 2. The saying of the Philosopher is to be understood of things that are naturally just, not as common principles, but as conclusions drawn from them, having rectitude in the majority of cases, but failing in a few.

Reply Obj. 3. Just as in man reason rules and commands the other powers, so all the natural inclinations belonging to the other powers must needs be directed according to reason. Therefore it is universally right for all men that all their inclinations should be directed according to reason.

Fifth Article

Whether the Natural Law Can Be Changed?

We proceed thus to the Fifth Article:—

Objection 1. It would seem that the natural law can be changed. For on *Ecclus. xvii. 9* (*He gave them instructions, and the law of life*) the *Gloss* says: *He wished the law of the letter to be written, in order to correct the law of nature*. But that which is corrected is changed. Therefore the natural law can be changed.

Obj. 2. Further, the slaying of the innocent, adultery and theft are against the natural law. But we find these things changed by God: as when God commanded Abraham to slay his innocent son (*Gen. xxii. 2*); and when He ordered the Jews to borrow and purloin the vessels of the Egyptians (*Exod. xii. 35*); and when He commanded Osee to take to himself *a wife of fornications* (*Osee i. 2*). Therefore the natural law can be changed.

Obj. 3. Further, Isidore says that *the possession of all things in common, and universal freedom, are matters of natural law*. But these things are seen to be changed by human laws. Therefore it seems that the natural law is subject to change.

On the contrary, It is said in the *Decretals: The natural law dates from the creation of the rational creature. It does not vary according to time, but remains unchangeable*.

I answer that, A change in the natural law may be understood in two ways. First, by way of addition. In this sense, nothing hinders the natural law from being changed, since many things for the benefit of Human life have been added over and above the natural law, both by the divine law and by human laws.

Secondly, a change in the natural law may be understood by way of subtraction, so that what previously was according to the natural law, ceases to be so. In this sense, the natural law is altogether unchangeable in its first principles. But in its secondary principles, which, as we have said, are certain detailed proximate conclusions drawn from the first principles, the natural law is not changed so that what it prescribes be not right in most cases. But it may be changed in some particular cases of rare occurrence, through some special causes hindering the observance of such precepts, as was stated above.

Reply Obj. 1. The written law is said to be given for the correction of the natural law, either because it supplies what was wanting to the natural law, or because the natural law was so perverted in the hearts of some men, as to certain matters,

that they esteemed those things good which are naturally evil; which perversion stood in need of correction.

Reply Obj. 2. All men alike, both guilty and innocent, die the death of nature; which death of nature is inflicted by the power of God because of original sin, according to *1 Kings* ii. 6: *The Lord killeth and maketh alive*. Consequently, by the command of God, death can be inflicted on any man, guilty or innocent, without any injustice whatever.—In like manner, adultery is intercourse with another's wife; who is allotted to him by the law emanating from God. Consequently intercourse with any woman, by the command of God, is neither adultery nor fornication.—The same applies to theft, which is the taking of another's property. For whatever is taken by the command of God, to Whom all things belong, is not taken against the will of its owner, whereas it is in this that theft consists.—Nor is it only in human things that whatever is commanded by God is right; but also in natural things, whatever is done by God is, in some way, natural, as was stated in the First Part.

Reply Obj. 3. A thing is said to belong to the natural law in two ways. First, because nature inclines thereto: *e.g.*, that one should not do harm to another. Secondly, because nature did not bring with it the contrary. Thus, we might say that for man to be naked is of the natural law, because nature did not give him clothes, but art invented them. In this sense, *the possession of all things in common and universal freedom* are said to be of the natural law, because, namely, the distinction of possessions and slavery were not brought in by nature, but devised by human reason for the benefit of human life. Accordingly, the law of nature was not changed in this respect, except by addition. . . .

of every law is that man be made good thereby, as was stated above. But men are more to be induced to be good willingly by means of admonitions, than against their will, by means of laws. Therefore there was no need to frame laws.

Obj. 2. Further, As the Philosopher says, *men have recourse to a judge as to animate justice*. But animate justice is better than inanimate justice, which is contained in laws. Therefore it would have been better for the execution of justice to be entrusted to the decision of judges than to frame laws in addition.

Obj. 3. Further, every law is framed for the direction of human actions, as is evident from what has been stated above. But since human actions are about singulars, which are infinite in number, matters pertaining to the direction of human actions cannot be taken into sufficient consideration except by a wise man, who looks into each one of them. Therefore it would have been better for human acts to be directed by the judgment of wise men, than by the framing of laws. Therefore there was no need of human laws.

On the contrary, Isidore says: *Laws were made that in fear thereof human audacity might be held in check, that innocence might be safeguarded in the midst of wickedness, and that the dread of punishment might prevent the wicked from doing harm*. But these things are most necessary to mankind. Therefore it was necessary that human laws should be made.

I answer that, As we have stated above, man has a natural aptitude for virtue; but the perfection of virtue must be acquired by man by means of some kind of training. Thus we observe that a man is helped by diligence in his necessities, for instance, in food and clothing. Certain beginnings of these he has from nature, *viz.*, his reason and his hands; but he has not the full complement, as other animals have, to whom nature has given sufficiently of clothing and food. Now it is difficult to see how man could suffice for himself in the matter of this training, since the perfection of virtue consists chiefly in withdrawing man from undue pleasures, to which above all man is inclined, and especially the young, who are more capable of being trained. Consequently a man needs to receive this training from another, whereby to arrive at the perfection of virtue. And as to those young people who are inclined to acts of virtue by

Question 95. Human Law

First Article

Whether It Was Useful for Laws to Be Framed by Men?

We proceed thus to the First Article:—

Objection 1. It would seem that it was not useful for laws to be framed by men. For the purpose

their good natural disposition, or by custom, or rather by the gift of God, paternal training suffices, which is by admonitions. But since some are found to be dissolute and prone to vice, and not easily amenable to words, it was necessary for such to be restrained from evil by force and fear, in order that, at least, they might desist from evil-doing, and leave others in peace, and that they themselves, by being habituated in this way, might be brought to do willingly what hitherto they did from fear, and thus become virtuous. Now this kind of training, which compels through fear of punishment, is the discipline of laws. Therefore, in order that man might have peace and virtue, it was necessary for laws to be framed; for, as the Philosopher says, *as man is the most noble of animals if he be perfect in virtue, so he is the lowest of all, if he be severed from law and justice*. For man can use his reason to devise means of satisfying his lusts and evil passions, which other animals are unable to do.

Reply Obj. 1. Men who are well disposed are led willingly to virtue by being admonished better than by coercion; but men whose disposition is evil are not led to virtue unless they are compelled.

Reply Obj. 2. As the Philosopher says, *it is better that all things be regulated by law, than left to be decided by judges*. And this for three reasons. First, because it is easier to find a few wise men competent to frame right laws, than to find the many who would be necessary to judge rightly of each single case.—Secondly, because those who make laws consider long beforehand what laws to make, whereas judgment on each single case has to be pronounced as soon as it arises; and it is easier for man to see what is right, by taking many instances into consideration, than by considering one solitary instance.—Thirdly, because lawgivers judge universally and about future events, whereas those who sit in judgment judge of things present, towards which they are affected by love, hatred, or some kind of cupidity, and thus their judgment becomes perverted.

Since, then, the animated justice of the judge is not found in every man, and since it can be bent, therefore it was necessary, whenever possible, for the law to determine how to judge, and for very few matters to be left to the decision of men.

Reply Obj. 3. Certain individual facts which cannot be covered by the law *have necessarily to be*

committed to judges, as the Philosopher says in the same passage: *e.g., concerning something that has happened or not happened*, and the like.

Second Article

Whether Every Human Law Is Derived from the Natural Law?

We proceed thus to the Second Article:—

Objection 1. It would seem that not every human law is derived from the natural law. For the Philosopher says that *the legal just is that which originally was a matter of indifference*. But those things which arise from the natural law are not matters of indifference. Therefore the enactments of human laws are not all derived from the natural law.

Obj. 2. Further, positive law is divided against natural law, as is stated by Isidore and the Philosopher. But those things which flow as conclusions from the common principles of the natural law belong to the natural law, as was stated above. Therefore that which is established by human law is not derived from the natural law.

Obj. 3. Further, the law of nature is the same for all, since the Philosopher says that *the natural just is that which is equally valid everywhere*. If therefore human laws were derived from the natural law, it would follow that they too are the same for all; which is clearly false.

Obj. 4. Further, it is possible to give a reason for things which are derived from the natural law. But *it is not possible to give the reason for all the legal enactments of the lawgivers*, as the Jurist says. Therefore not all human laws are derived from the natural law.

On the contrary, Tully says: *Things which emanated from nature, and were approved by custom, were sanctioned by fear and reverence for the laws*.

I answer that, As Augustine says, *that which is not just seems to be no law at all*. Hence the force of a law depends on the extent of its justice. Now in human affairs a thing is said to be just from being right, according to the rule of reason. But the first rule of reason is the law of nature, as is clear from what has been stated above. Consequently, every human law has just so much of the nature of law

as it is derived from the law of nature. But if in any point it departs from the law of nature, it is no longer a law but a perversion of law.

But it must be noted that something may be derived from the natural law in two ways: first, as a conclusion from principles; secondly, by way of a determination of certain common notions. The first way is like to that by which, in the sciences, demonstrated conclusions are drawn from the principles; while the second is likened to that whereby, in the arts, common forms are determined to some particular. Thus, the craftsman needs to determine the common form of a house to the shape of this or that particular house. Some things are therefore derived from the common principles of the natural law by way of conclusions: *e.g.*, that one must not kill may be derived as a conclusion from the principle that one should do harm to no man; while some are derived therefrom by way of determination: *e.g.*, the law of nature has it that the evil-doer should be punished, but that he be punished in this or that way is a determination of the law of nature.

Accordingly, both modes of derivation are found in the human law. But those things which are derived in the first way are contained in human law, not as emanating therefrom

exclusively, but as having some force from the natural law also. But those things which are derived in the second way have no other force than that of human law.

Reply Obj. 1. The Philosopher is speaking of those enactments which are by way of determination or specification of the precepts of the natural law.

Reply Obj. 2. This argument holds for those things that are derived from the natural law by way of conclusion.

Reply Obj. 3. The common principles of the natural law cannot be applied to all men in the same way because of the great variety of human affairs; and hence arises the diversity of positive laws among various people.

Reply Obj. 4. These words of the Jurist are to be understood as referring to the decisions of rulers in determining particular points of the natural law; and to these determinations the judgment of expert and prudent men is related as to its principles, in so far, namely, as they see at once what is the best thing to decide. Hence the Philosopher says that, in such matters, we ought to pay as much attention to the undemonstrated sayings and opinions of persons who surpass us in experience, age and prudence, as to their demonstrations.

II.3 A Defense of Ethical Relativism

RUTH BENEDICT

Ruth Benedict (1887–1948) was an anthropologist who is best known for her book *Patterns of Culture* (1935). Benedict views morality as dependent on the varying histories and environments of different cultures. In this essay she assembles an impressive amount of data from which she draws her conclusion that conventionalism is the correct view of moral principles.