

CALVINIST NATURAL LAW AND THE ULTIMATE GOOD

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ABSTRACT

Calvin's natural law theory is premised on the sovereignty of God. In natural law terms, the 'sovereignty of God' doctrine prescribes that the normative standards for positive law originate from God alone. God is the sole measure of the 'good'. This emphasis allows for a sharp separation between normative and descriptive dimensions. In this context, it would be a logical fallacy to maintain that anything humanly appointed can attain the status of self-evidence. However, in recent years, new natural law theorists have been guilty of conflating the normative and descriptive dimensions – a distinction that is critical to the discipline of natural law. This may stretch as far back to Aquinas who set human participation in the goods ('practical reason') as the rightful starting place for natural law. This paper explores Calvin's natural law theory to show how his concept of 'the ultimate good' harnesses the potential to restore natural law theory to its proper order. By postulating a transcendent standard in terms of 'the ultimate good' – God Himself – Calvin's natural law provides a philosophical framework for compelling positive laws in the pursuit of a higher morality.

I INTRODUCTION

“There is but one good; that is God. Everything else is good when it looks to Him and bad when it turns from Him”.

*C S LEWIS, The Great Divorce*¹

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¹ C S Lewis, *The Great Divorce* (HarperCollins, 1946) 106.

“What comes into our minds when we think about God is the most important thing about us”.

*A W TOZER, The Knowledge of the Holy*²

The ‘good’ represents the normative destination for all positive laws. It characteristically bears the potential to compel laws to their legitimate moral ends. The good(s) is a central component of both Calvinist and Thomist accounts of natural law. Nonetheless, once this apparent congruence is stripped back, their conceptions differ considerably. Calvin conceives of the good by reference to two central themes – the *sovereignty of God* and *humanity’s inherent depravity*.³ According to Calvin, moral laws derive their legitimate authority from a proper understanding of the dynamics between these two themes. This follows only from a proper understanding of God and human nature. In this context, only one of these, God or human, can determine what constitutes the good. Calvin’s philosophy does not vacillate on this point. At the outset, he affirms the idea that the latter is only explained by the former; the former transcends explanation. In doing so, he squarely confronts the perennial misconception reflected in statements like the following:

If God were good, He would wish to make His creatures perfectly happy, and if God were almighty He would be able to do what He wished. But the creatures are not happy. Therefore God lacks either goodness, or power, or both.⁴

² A Tozer, *The Knowledge of the Holy* (Authentic Media Publishers, 2013) 1.

³ Better known as the doctrine of ‘total depravity’. The reason for my slight variation of the term was the fact that ‘total depravity’ seemed a misnomer in the sense that depravity is inherent but not complete. As Calvin would himself concede, God left human conscience intact to a limited degree by His grace. However, it is total in the sense that humans are entirely incapable of self-redemption. See John Calvin, *Institutes of the Christian Religion*, II.viii.1.

⁴ C S Lewis, *The Problem of Pain* (HarperCollins, 1940) 16.

From a flawed human perspective, this type of contradiction is ‘reasonable’. Notwithstanding such an obvious contradiction, practical reasoning has become an essential component of natural law theories.⁵ The contradiction is that in the same breath that we demand a transcendent and independent standard of morality, we still attempt to measure it by reference to our own inferior standards. In other words, we reduce the measurement of the good to manageable terms. Whether this type of reasoning is overlooked in natural law scholarship deliberately or carelessly, we must concede that whatever speaks to a flawed *human* condition must first be questioned.

For this reason ‘nothing mattered more to Calvin than the supremacy of God over all things.’⁶ And for this reason, Calvin postulates the self-evident nature of the good in terms of God alone. God is the ‘ultimate good’ because He is the only entity capable of being both the means to the ends and the end in itself. As Novatian puts it, ‘God has no origin’ and this self-existence is what distinguishes God from whatever is not God.⁷ The pursuit of our origin of things must begin with the acceptance that everything was made by a Being who was Himself not made.⁸ The question of self-evidence is only resolvable by such a statement.⁹ In order to work, a moral good must be self-evident.¹⁰ In other words, the basic good(s) must be characteristically *indemonstrable* and *underived*.¹¹ Further to this, the good(s) must be capable of exhaustively

⁵ Vincent Luizzi, ‘Practical Reasoning in Natural Law Theories’ (1982) 3(2) *Vera Lex* 1, 19-20.

⁶ John Piper, *The Legacy of Sovereign Joy* (Good News Publishers, 2005) 115.

⁷ A W Tozer citing Novatian in Tozer, above n 2, 33.

⁸ Ibid 32.

⁹ Jonathan Crowe, *Legal Theory* (Thomson Reuters, 2nd ed, 2014) 74.

¹⁰ Ibid.

¹¹ Ibid.

encompassing the entire stratum of morality.¹² Nothing distinguishes pagan theism as sharply from Christianity as the idea that the good can somehow be derived from the created as opposed to the Creator.¹³ The ‘ultimate good’ involves a process of inquiry which bears this in mind.

Thomist thinkers accept that humans were created by God and yet it is puzzling that they attempt to derive the ‘good’ from human reason.¹⁴ It is true we have an ignoble habit of defining everything in terms of ourselves; the invariable result of which is the conflation of the normative and descriptive dimensions. As a fundamentally ontological discipline, natural law requires a clean separation between the ‘is’ and the ‘ought’.¹⁵ To this extent, grounding the content of moral rules entirely or even substantially on human reason, despite its severe impairment, is to tempt fate. The order of Calvin’s natural law remedies this conflation. Calvin posits that what we devise of as ‘natural’ is substantially impaired by the fall. Accordingly, natural law is only conceivable through common grace. It is by virtue of God’s common grace that all humans retain the ability to discriminate right from wrong.¹⁶ The moral laws written on our hearts are universal and atemporal by virtue of our essential humanity. This also means that the measure of the proper good or the content of moral law exists entirely independent of human reasoning. In this way, the good is first implanted in the sovereign nature of God.

¹² John Finnis, *Natural Law and Natural Rights* (Oxford University Press, 2nd ed, 2011) 97.

¹³ Lewis, *The Problem of Pain*, above n 4, 27; see Anselm, *De Divisione Naturae* (On the Division of Nature) 1, 10: ‘God alone, for only he is understood to create all and yet is himself without any beginning or source.’

¹⁴ Finnis, above n 12, 322.

¹⁵ David Hume, *A Treatise of Human Nature* (1739) III-I § 1.

¹⁶ Irena Backus, ‘Calvin’s Concept of Natural and Roman Law’ [2003] 38 *Calvin Theological Journal* 7, 12; For more comprehensive discussion of Calvin’s views on ‘common grace’ see Herman Kuiper, *Calvin and Common Grace* (Smitten Book Co, 1928).

Conversely, a ‘multiplicity of goods’ exists at the heart of the new natural law discourse.¹⁷ This panoply of goods is in turn derived from ‘practical reasonableness’¹⁸ and by reference to human standards. The *ad hoc* nature of the determination of what constitutes a good is just one out of a range of concerns borne out of this formulation.¹⁹ The greater the diversity of human goods, the greater is the difficulty to sustain the argument for self-evidence, especially when that self-evidence is itself grounded in flawed human reason. This is the vexed question for new natural law. Criticism of Finnis’s basic goods²⁰ frequently centres upon his failure to accommodate for the diverse range of human experiences. This kind of criticism flags a fissure that runs to the very core of the theory. The deeper issue is that new natural law theorists, like their Thomist predecessors, are guilty of ignoring a foundational principle of natural law – its definitional need for a transcendent moral norm. The issue lies in identifying self-evident goods by reference to human participation and then setting them up as the navigational core of natural law. Such a misconception renders new natural law problematic from the moment it leaves the platform to the endpoint for which it departs.

Priority should *not* be afforded to natural law’s potential to capture the oscillation between two points: between the subject and the object; between positive realities and natural norms; between humans’ flawed participation and the perfect good. Rather, I contend that the value of a particular theory of natural law is affirmed by the extent to which it is capable of reflecting how descriptive and normative components constitute vastly different and inherently hierarchical dimensions.

¹⁷ Finnis, above n 12, 23.

¹⁸ Ibid 88.

¹⁹ Luizzi, above n 5, 19-20.

²⁰ Ibid.

Conflation begins before the boundary lines of content are drawn. It begins at the point of the original formulation, where human reason is considered *before* the attributes of God. As far as Aquinas's and Finnis's framing of the goods are concerned, a consideration of 'practical reason' or 'practical reasonableness' precedes divine revelation. In this way, flag-bearers of the Thomist tradition of natural law – including Aquinas and his modern successors, most notably Finnis – are guilty of both downplaying and overlooking God's sovereignty as the basis for natural law.²¹ This method invariably has the effect of conflating normative and descriptive dimensions.²² Indeed, given our natural propensities, if our account of natural law prioritises human reason and sets it up as the starting point, it is bound to fail to be an authoritative source of law.

That is not to say that Aquinas and his followers deny God's sovereignty but the particular way that the Thomist tradition divides the normative realm into distinct fields and then defines them in human terms contrasts sharply with the unity Augustine and Calvin derive from God's supremacy as the source of all norms. If we accept that human beings are united by an intuitive self-love, we must also accept that the Thomist order magnifies the risk of distorting the good. By holding God as the normative ends for a descriptive position that warrants absolute humility, Calvin succeeds in bringing cohesion to all forms of wisdom.²³ In this

²¹ The natural law jurisprudence of Finnis classified substantially the same as that of the Catholic Church: see Peter M Cicchino, 'Reason and the Rule of Law: Should Bare Assertions of 'Public Morality' Qualify as Legitimate Government Interests for the Purposes of Equal Protection Review?' (1998) 87(1) *Georgetown Law Journal* 139, 139, 157, 162, 164.

²² Finnis, who largely elaborated on Aquinas's theory for modern use, also identifies with the weak natural law thesis. Finnis states that laws that fall short of moral standards are precluded from being a law in the technical sense. Immoral laws are still laws; they are just 'defective laws': See Finnis, above n 12, 363-6.

²³ William F Keesecker, *The Law in John Calvin's Ethics in Calvin and Christian Ethics* (Peter De Klerk ed., Calvin Study Society, 1987) 19, 20.

respect, the unity of value originates from God and maintains a clear separation from human reasoning. T.H.L Parker describes this as the:

complete intellectual reversal necessary before [Calvin] could confidently and joyfully understand the knowledge of the relationship between subject and object ... and that the intellect, far from moulding the object, is itself formed to the capacity of the knowledge of the object by the object itself.²⁴

Therefore I will argue in this paper that the great divide between Thomist and Calvinist interpretations of natural law stems fundamentally from the order. In a crude manner of speaking, I attempt to turn natural law on its head. To begin by recognising humanity's inherent depravity as the descriptive position, Calvin derives his first principles solely from the divine attributes of God. Thus by comparing Calvin's approach to Aquinas's, I contend that the order of priority, God or human reason, predetermines the force of natural law norms.

II HUMANITY'S INHERENT DEPRAVITY

Calvin's emphasis on the supremacy of God is fundamental to his understanding of natural law. Like two sides of the same coin, on the flipside of the notion of the supremacy of God is the fact that nature does not possess ontological independence but is always dependent on God's will. This is the critical point at which Calvin departs from the doctrine of his Thomist predecessors. Aquinas adopts the Aristotelian notion of *analogical entis* (the 'analogy of being') which assumes that inherent good remains common to both God and humanity.²⁵ In contrast, Calvin's emphasis on God's supremacy for his natural law invariably foregrounds the contingent reality of the depravity of human nature.

²⁴ T H L Parker, *John Calvin: Biography* (J M Dent & Sons Ltd, 1975) 12.

²⁵ Thomas Aquinas, *Summa Theologica I-II*, q 25, a 3; *Ibid* 237.

Although, in the beginning, God created all things to be good, harmonious and orderly, the result of original sin was to render nature at all times thereafter, in whichever state, irreparably corrupted. Natural law cannot be derived from human standards but is completely measured by and constituted in God's divine character.²⁶ This is the state of affairs on the kingdom of earth. And this is precisely the reason that human nature and reason in their fallen state *ought not* to be conflated with the perfect will of God.²⁷ By following closely in Augustine's footsteps, humanity's inherent depravity has become the cornerstone for Calvin's natural law theory.

A *The Source of Natural Law*

Calvin situated his natural law in the broader context of God's sovereignty. He identified natural law with both God's divine will and the divine attributes of God. Up to this point, Calvinist and Thomist natural law bear substantive semblance. Both appear to have insisted on the inseparability of divine will and the divine attributes. We might call this the *unity principle*.²⁸

However, this is as far as the continuity extends. Unlike Aquinas, Calvin's natural law thesis is fundamentally characterised by the doctrine of inherent depravity based on Romans 3:10-12: 'None is righteous, no, not one: no one understands; no one seeks for God. All have turned aside;

²⁶ Keesecker, above n 23, 19, 20.

²⁷ See Susan E Schreiner, *The Theatre of His Glory: Nature and Natural Order in the Thought of John Calvin* (Labyrinth Press, 1991) 78.

²⁸ 'Therefore since God claims to Himself the right of governing the world, a right unknown to us, let it be our law of modesty and soberness to acquiesce in his supreme authority, regarding his will as our only rule of justice, and the most perfect cause of all things, - not that absolute will, indeed, of which sophists prate, when by a profane and impious divorce, they separate his justice from his power, but that universal overruling Providence from which nothing flows that is not right, though the reasons thereof may be concealed': see Calvin, above n 3, I.XVII.2.

together they have become worthless, no one does good, not even one.’²⁹ Calvin makes clear that the depravity of humanity is extensive, even total in the sense that we are entirely incapable of self-redemption. There are severe limitations on the ‘human ability to correctly interpret natural events and human history.’³⁰ In conceiving human culpability and divine sovereignty as congruent, Calvin openly prefers divine revelation over human reason as the basis for his *lex naturalis*. This means that Calvin, like John Locke,³¹ F. A. Hayek,³² and many other jurists who succeeded him, accepted the severely limited character of human reason as the basic reality shaping legal and political institutions.

In contrast, regardless of humanity’s fall from divine grace, Aquinas retains confidence in the natural abilities of humans to be rational beings with a ‘natural inclination to do good’ (*inclinatio ad bonum*) which he claims to be a proper human attribute.³³ According to Aquinas, humanity’s natural tendency to act according to reason as tethered to the ‘common precepts’ which guide them to virtue together encompass the natural law. Aquinas’s idea of eternal laws – laws governing the universe by which each creature participates with this type of divine wisdom in a way that is befitting its nature³⁴ – is in tension with the idea of the fallen state of nature. The doctrine of imputed righteousness which is foundational to Calvin’s theology is perceptibly absent from Aquinas’s natural law.³⁵ Inherent to Calvin and Luther’s epistemology was the

²⁹ The Holy Bible, English Standard Version (ESV).

³⁰ C Scott Pryor, ‘God’s Bridle: John Calvin’s Application of Natural Law’ (2006/2007) 22(1) *Journal of Law and Religion* 225, 245.

³¹ John Locke, *An Essay Concerning Human Understanding* (1690).

³² F A Hayek, ‘The Use of Knowledge in Society’ (1945) 35 *American Economic Review* 519.

³³ Aquinas, *Summa Theologica I-II*, above n 25, q 93, a 6.

³⁴ Aquinas, *Summa Theologica I-II*, above n 25, q 91, a 2.

³⁵ Charles Raith III, ‘Theology and Interpretation: The Case of Aquinas and Calvin on Romans’ [2011] *International Journal of Systematic Theology* 1, 13-7.

recognition that humanity could only ever become righteous through imputation because righteousness could only emanate from the ultimate and perfect good – God Himself.

The Thomist notion that all human beings have access to eternal law, naturally, by virtue of their rationality, toys with the risk of conflating the descriptive and normative elements of natural law. This conflation may, in turn, culminate in the danger of confusing human reasonableness with divine revelation.

B *Human Nature and Natural Law*

Calvin attributes our residual capacities to *know* and *act upon* the truth by exploring our consciences to God's divine character expressed through common grace.³⁶ By emphasising God's divine character as the source of our consciences, Calvin views the conscience as a means of keeping us universally and ultimately accountable to God. How, then, does Calvin deploy the concept of natural law?

Calvin premises the foundation of natural law on two grounds. Firstly, Calvin asserts that natural law exists naturally. It is derived from human nature as part of God's creation. In deriving natural law from human nature, as afforded to us by God, Calvin does not consider the contingent fact of human sociability as directly relevant to the substance of the natural law. Calvin admits the obvious fact that humans are social beings, but he does not accept the notion that humans can be credited with the creation of natural law simply because they are social. Instead, he declares that God has engraved the natural law upon the hearts of all humans, albeit to an imperfect extent. This aspect of Calvin's theory

³⁶ Calvin, above n 3, II.ii.16; see John Hesselink, *Calvin's Concept of Natural Law* (Pickwick Publications, 1992) 70-1.

therefore contrasts with jurists like Samuel Pufendorf and Lon Fuller who view natural law mainly as a response to the challenge of social coordination.³⁷

Second, natural law is not merely an order in the human mind, but reflects the overall condition of fallen human nature. Rather than restricting natural law to the faculty of human reason, Calvin makes it ‘part and parcel’ with human nature in its entirety³⁸. In other words, Calvinist natural law alludes to a state in which all human beings find themselves. Not only was human reason corrupted when humans fell from grace, but the whole natural order suffered as a result of the fall. ‘Nature suffers the disordering effects of sin and, while reason remains common to all people, it is corrupted... the results of even correct judgments are vitiated by a corrupt will.’³⁹ Calvin therefore identifies the navigational core of human existence primarily with the exercise of the will rather than with the human mind’s participation in divine reason.

Calvin’s emphasis on humanity’s fall from grace leads him to conclude that even where corrupt will results in correct judgment for a single matter, its concupiscence overflows. Natural law for Calvin ultimately functions as God’s bridle for humankind, to curb our descent into bestiality.⁴⁰ According to this postulation, the role of natural law is (loosely) twofold:

³⁷ Samuel Pufendorf, *De jure Naturae et gentium libri octo* (Clarendon Press, 1934) 205; Lon Fuller, *The Morality of Law* (Yale University Press, 1969).

³⁸ Calvin appears to identify the heart more closely with the will. Not only does this mean that natural law encompasses the sentimental capacity of human beings but it also upholds it on equal terms with human rationality (Unlike Aquinas’ emphasis only on human reason). See generally C S Lewis, *The Abolition of Man* (Harper Collins, 1971).

³⁹ Gunther H Haas, *The concept of Equity in Calvin’s Ethics* (Wilfrid Laurier University Press, 1997) 70.

⁴⁰ Pryor, above n 30, 251; Calvin, above n 3, II.iii.3.

1. To restrain humans from descent into bestiality; and,
2. To inspire humans to strive for the transcendent good.

Calvin's primary emphasis therefore falls upon the pursuit of the ultimate transcendent good, whereas all other subsidiary goods are enjoyed incidentally to this process. This contrasts with Aquinas's view, whereby human participation in the several discrete modes of good enables us to progressively develop our understanding of God through the exercise of our natural capacity for reason.

C *Descriptive and Normative Functions of Natural Law*

The emphasis on the inherent depravity of humans in Calvin's natural law theory renders humility the only appropriate response⁴¹. Calvin, quoting Augustine, concludes that '[b]ecause we do not know all the things which God in the best possible order does concerning us, we act solely in good will according to the law'.⁴² Even before addressing the full implications of the fall for the order of the human mind, we can see Calvin turn his attention to the need for God's revealed law. Due to God's common grace, by divine design, a minimal level of order has been provided to the world.

Calvin holds that the human will is extensively impaired but not to the extent that it is reduced to less than animals.⁴³ Though he emphasises the limits of humans' truth-identifying capacity in general, the degree varies significantly with the object of consideration.⁴⁴ With respect to heavenly things, the impact of sin on human reason becomes more pronounced

⁴¹ Calvin, above n 3, II.ii.11.

⁴² Ibid I.xiii.2.

⁴³ Ibid II.ii.17.

⁴⁴ Ibid II.ii.13.

than in regards to earthly things.⁴⁵ The symptom of degenerate human reason is erroneous judgments, but this propensity to error is not the primary reason for futility. Rather, impiety is the main basis of reason's futility.⁴⁶ Depraved consciences when they reason invariably 'divert reason's power of judgment from its divinely appointed end.'⁴⁷ The inherent fallibility of human reason is due to the fallibility of humans themselves and not merely to defects in their reasoning processes. Human reason therefore can only achieve an imperfect understanding of the good.

Calvin, although remaining realistic about the limitations of natural law absent the recognition of God's 'divine grace,'⁴⁸ does not preclude the role of natural law based on common grace.⁴⁹ Though commentators like Hittinger lament the limited force of natural law outside a Christian theological discourse,⁵⁰ this is not necessarily true. A closer look at Calvin's jurisprudence should reveal that civil laws are required to bridle humanity's inherent depravity. Civil laws are thus grounded in natural law in a descriptive sense. This is because civil laws ought to only be valid insofar as they are consistent with the moral requirements of natural law.

The idea of common grace further distinguishes Calvin's natural law tradition from the Thomist tradition. 'God by his providence bridles

⁴⁵ Ibid II.ii.18.

⁴⁶ Pryor, above n 30, 245.

⁴⁷ Ibid; Calvin, above n 3, II.ii.25.

⁴⁸ Calvin, above n 3, II.ii.24.

⁴⁹ R S Clark, 'Calvin on the Lex Naturalis' (1998) 6(1-2) *Stulos Theological Journal* 1-22.

⁵⁰ 'Premises or conclusions even remotely theological (natural or revealed) are unacceptable for public purposes.' See Russell Hittinger, *The First Grace: Rediscovering the Natural Law in a Post-Christian World*, (ISI Books, 2007) xvii-xviii.

perversity of nature that it may not break forth into action; but he does not purge it within.’⁵¹ What Calvin means by this is that the redemptive nature of common grace is subject to obvious limits.⁵² Without paying homage to God, the human instinct of self-preservation is not sufficient to enable us to reach moral perfection.⁵³ In other words, God’s common grace governs the worst of human corruption, acts as the minimal check on human arbitrariness, but does no more. Positive laws, unless they appeal to a higher law, cannot expect to remain morally sound. In this context, natural law has a critical role to play.

Calvin thus defines natural law by its purpose. He draws a clear separation between the descriptive and normative components of natural law. ‘The purpose of natural law is to render men inexcusable. This would not be a bad definition: natural law is that apprehension of conscience which distinguishes between the just and unjust, and which deprives men of the excuse of ignorance, while it proves them guilty by their own testimony’.⁵⁴ The conscience is not the standard by which right and wrong is adjudged but, rather, the instrument by which we may know and pursue justice and the basis which renders all inexcusable from accountability.

Although Thomist and Calvinist approaches to natural law all assert that humans possess consciences by virtue of our nature – ‘the divine law is etched upon human hearts’⁵⁵ – Calvin’s commitment to the depravity doctrine reveals a lack of confidence in the human capacity to know and,

⁵¹ Calvin, above n 3, II.iii.3.

⁵² For more comprehensive discussion of Calvin’s views on ‘common grace’: see Kuiper, above n 16.

⁵³ Calvin, above n 3, II.ii.24.

⁵⁴ Ibid II.ii.22.

⁵⁵ Ibid II.iii.6; see J Budziszewski, *Written on the Heart: The Case for Natural Law* (Intervarsity Press, 1997) 184-6.

therefore, to act upon the truth.⁵⁶ The discontinuity between Thomist and Calvinist approaches to natural law is therefore a matter of degree regarding humanity's potential to capitalise on our natural awareness and understand the precise content of transcendent moral norms. Nonetheless, this slight difference has far-reaching implications.

III AQUINAS'S FIRST PRINCIPLES

Aquinas lays down as the absolutely first principle for his theory on practical reason: 'Good is to be done and pursued, and bad avoided.'⁵⁷ Indeed each of the basic forms of good characterising Aquinas's natural law possess this 'primariness' which Aquinas refers to as 'basic' (*primum*).⁵⁸ The first principles of practical reason identified by Aquinas are marked by both self-evidence (*per se notum*)⁵⁹ and undeducibility (*indemonstrabile*).⁶⁰ Up to this point, Aquinas's theory aligns with Augustine in the extent to which it emphasises the universality of human goods. However, where Augustine emphasises the divine origin of the goods, Aquinas emphasises their self-evidence from the standpoint of human reason. Aquinas's theory therefore has an inherent disposition to foreground human understanding of the 'good' rather than its transcendent origins.

Aquinas further notes that humans may both differ in their understanding of the good and participate in the good in quite different ways. This does not mean that the good as it is normatively is subjective rather than objective. It is not that some goods are more self-evident than others, but it may allow the latitude to suggest that different people may have

⁵⁶ Calvin, above n 3, II.ii.12.

⁵⁷ Thomas Aquinas, *Summa Theologica*, I-II, q 94, a 2.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid I-II, q 94, a 3; Clark, above n 49, 4.

different ways of participating in the goods, notwithstanding their self-evident nature.⁶¹ This point provides a further illustration of how Aquinas emphasises human understanding of the goods as opposed to the ultimate unity of purpose reflected in their transcendent origins.

In this context, we must be mindful of how high the threshold of first principles is. C. S. Lewis⁶² suggests that goods must be self-evident by virtue of the ‘Tao’, functionally equivalent to Aquinas’s first principles. This means that any attempt to ‘debunk’ the ‘basic goods’ requires the assumption that the critics are speaking from a position itself immune from the ‘debunking’ process. The inquirers are thus in no better a position to argue than those they are opposing. When applied to the present issue, if the ‘goods’ in question are derivable from human reason, this would mean that they are not immune from the ‘debunking process’, which is the threshold requirement for attaining the status of a basic norm.

Aquinas’s focus on the human understanding of the ‘basic goods’ shifts the emphasis from the ultimate good to the limited and often flawed human understanding of the good. This is not to say that the Thomist approach refutes the idea of God as the ultimate source of the good, but rather that it has the unavoidable implication of elevating the role that human beings play in the determination of what constitutes natural law.

IV CALVIN’S FIRST PRINCIPLES

In contrast, Calvin begins *The Institutes of the Christian Religion* with the confident declaration that ‘...all wisdom we possess, that is to say, true and sound wisdom, consists of two parts: the knowledge of God and

⁶¹ Thomas Aquinas, *Summa Theologica*, I-II, q 91, a 3.

⁶² Lewis, *The Abolition of Man*, above n 38, ch 1.

[then] of ourselves.’⁶³ At first blush, the difference may appear trivial. But like isolated organisms that multiply at an exponential rate in their habitat, the subtle differences between Calvin and Thomist interpretations of natural law leave lasting impressions when applied in context.

First of all, the obvious difference between the two approaches lies in the order. To Aquinas, God is the end of human participation, whereas for Calvin God is the starting point. Where Aquinas sees God as the ‘unity of all goods’, Calvin sees God as the ‘transcendent good’, the normative means and the ideal end for which we strive. Following from this then is Calvin’s ‘first principle’ of natural law: that everything is derived from a single and paramount good which is God Himself.⁶⁴ The second component, inextricably related to the first, is that this good is sourced in the unity of God’s nature.⁶⁵ Based on this emphasis then is the fundamental natural law idea that all other human laws are necessarily derivatives from a transcendent moral source. According to Calvin, the first component of Christian natural law, that everything is derived from God, asserts God’s omnipotence, while the second component asserts God’s righteousness.

In dealing with the first component, Calvin gives prominence to the will of God. This emphasis is reflected in his theological doctrines of ‘predestination’ and ‘election’. Calvin wrote that ‘[God’s] will is, and rightly ought to be, the cause of all things that are. For if it has any cause,

⁶³ Calvin, above n 3, I.i.1.

⁶⁴ Keesecker, above n 23, 19, 20.

⁶⁵ ‘Therefore since God claims to Himself the right of governing the world, a right unknown to us, let it be our law of modesty and soberness to acquiesce in his supreme authority, regarding his will as our only rule of justice, and the most perfect cause of all things, - not that absolute will, indeed, of which sophists prate, when by a profane and impious divorce, they separate his justice from his power, but that universal overruling Providence from which nothing flows that is not right, though the reasons thereof may be concealed.’ See Calvin, above n 3, I.xvii.2.

something must precede it [and] this is unlawful to imagine.’⁶⁶ Here, Calvin is asserting the eternal nature of God. A sovereign God transcends the limits of time and as such, has no beginning and no end. The name Yahweh by which God makes Himself known to Moses⁶⁷ translates in Hebrew to mean ‘I am who I am’⁶⁸ and represents the transcendence marking the nature of God.⁶⁹ What does this mean for natural law? It means that there is an objective, external standard by which all human beings are to be held accountable. This standard is atemporal, self-evidently powerful and good in and of itself.

V ‘BASIC GOODS’ OR THE ‘ULTIMATE GOOD’?

Aquinas’s conception of realism differs importantly from Calvin’s. The difference in their conceptions is most clearly manifested in Aquinas’s position on the ‘nature of the good’. Aquinas borrowed Aristotle’s ‘nomenclatures of causality’ to argue that the end for which a thing exists is the purpose for which it was built. In other words, everything has been created by God with an in-built *telos* so that, once created, God cannot further redefine ‘what is good for the thing.’⁷⁰ The assumption inherent in this idea is that God’s will for something corresponds with the real nature of the thing. By this categorisation, the Thomist tradition was able to assert a rational universe in which everything possesses the means to

⁶⁶ Ibid III.xiv.21.

⁶⁷ Ibid IV.xx.15.

⁶⁸ Exodus 3:14 (ESV).

⁶⁹ See John Calvin, *Commentary on the Gospel According to John 11-21* (1553) where Calvin writes with respect to Augustine’s realistic epistemology: Augustine, who is excessively addicted to the philosophy of Plato, is carried along, according to custom, to the doctrine of ideas; that before God made the world, he had the form of the whole building conceived in his mind; and so the life of those things which did not yet exist was in Christ, because the creation of the world was appointed in Him. But how widely different this is from the intention of the Evangelist we shall immediately see.

⁷⁰ Charles Taylor, *A Secular Age* (Stanford University Press, 2001) 773.

realise its own perfection. The ultimate source of moral values is the natural state of the good as opposed to the will of God as existing independently of the good.⁷¹

The teleological argument that the existence of the human faculty of reason proves humanity's purpose within a divine scheme is relatively uncontroversial; it represents the common ground between the Thomist and Calvinist approaches. However, to suggest that human reason is an exhaustive reflection of the content of divine law would be taking the argument too far. The faculty of reason or the discomfort of conscience may prove the existence of a higher authority but using it to determine what is mandated by that authority would be a misconceived exercise.

What is backgrounded in the process of overstating the centrality of human goods? The transcendent good loses its status and is reduced to a mere by-product of human reason. Aquinas's exaggeration of the role of humans in their participation with the 'basic goods' bears the potential of shifting the focus from the 'ultimate good' to human participants. By arguing that the goods are a product of human participation, we commit a logical fallacy that may have extensive implications. For in doing so we clearly fail to accept the limitations to human reason. We determine self-evident goods by reference to human interests; we ignore the reality that human nature is inherently corruptible. In claiming that the 'good' is discoverable purely by reference to human reason, we commit the error, according to Hume, of conflating the normative with the descriptive and thereby detracting from the usefulness of natural law as a source of moral authority.

⁷¹ Bemoaning the loss of the 'sacramental perspective' in the modern world, the idea that created objects find their reality and identity in God's word: see Hans Boersma, *Heavenly Participation* (WmB Eerdmans Publishing, 2011) 7.

Once again, the significance is in the order. Aquinas's view upholds God's attributes as the goal which humans may discover by observing the telos of everything else. Augustine and Calvin stand at odds with this position by maintaining that God's will is not discoverable by its conformity to the rational 'ecosystem of natures' but rather exists as an independent and transcendent standard by which the good of everything else may be judged. In essence, Calvin's rejection of Thomist realism is because it contradicts the logos doctrine as revealed in the gospel of John, 'In the beginning, there was the word and the word was with God and the word was God.'⁷²

According to this passage, Christ is not only a divine revelation of God's grace but the self-evident embodiment of God's communication to humanity – His logic, reason, clarity, order, definitions and concepts.⁷³ Reason is therefore God-given and divinely inspired, rather than representing a human path to understanding God and humanity's own nature. In this way, while the Thomistic synthesis places heavy emphasis on the 'proper good', Augustinian scholars promote the transcendence of divine will as sourced in God's righteous nature. Rather than ascribing something to God's will because it is good, Calvin sees God's will and actions as existing independent of an immanent standard of good and flowing from the goodness of His eternal nature.⁷⁴

Calvin's account of natural law stands at odds with at least two main features characterising Aquinas's thought. Firstly, Calvin does not identify natural law with human reason's participation in God's eternal

⁷² John Calvin, *Commentaries on John* 1; John 1:1.

⁷³ 'Every good gift and every perfect gift is from above, coming down from the Father of lights with whom there is no variation or shadow due to change': see James 1:17; Anton-Herman Chroust, 'The Fundamental Ideas in St. Augustine's Philosophy of Law' (1973) 18 *American Journal of Jurisprudence* 57.

⁷⁴ See e.g. Lewis, *The Problem of Pain*, above n 4.

law.⁷⁵ Aquinas, in his eagerness to systemise Augustinian thought maintained that the deliverances of reason and divine revelation were consistent⁷⁶ and therefore frames the relationship between humans and God as one of metaphysical participation. However, according to Calvin, natural law is not the ‘semi-autonomous mediator’ between God and humanity in general⁷⁷ but rather it is the embodiment of God’s merciful nature and an example of common grace provided to all human beings.

VI THE UNITY OF GOD

A second tension between the Thomist and Calvinist conceptions of natural law flows on from the first. Calvin’s natural law does not see divine revelation as the fruit of the faculty of reason.⁷⁸ It is this component of Calvin’s natural law theory – the source of the good in God’s unified transcendence – which explains the difference in emphasis discussed above. It is by God’s merciful nature that we humans may access natural laws as ‘written on our hearts’⁷⁹ regardless of our faith in Christ’s salvation. The natural consequence of sin was to impair human reason. Nonetheless, by God’s mercy, shown through common grace, humanity is given the freedom to access natural law to some extent.

By the same token, this freedom of choice holds humankind accountable to the transcendent laws of God. In this way, by starting with and emphasising God as the supreme source, Calvin’s account of natural law reinforces the universal accountability of humans to a transcendent moral standard. This emphasis on the transcendent nature of normativity also informs Calvin’s conception of God’s nature and, in particular, his

⁷⁵ Thomas Aquinas, *Summa Theologica*, I-II, q 91, a 3-5.

⁷⁶ Calvin, above n 3, 225.

⁷⁷ Backus, above n 16, 12.

⁷⁸ Paul Helm, *John Calvin’s Ideas* (Oxford University Press, 2004) 117.

⁷⁹ John Calvin, *Commentaries on Romans* II:14-5.

rejection of voluntarism. It is impossible for God to act without rule or reason according to the unity of His nature. This inner unity is what ensures that the natural law is consistent not only with the divine will but also with divine wisdom.⁸⁰

The unity of God finds expression in the natural law inscribed on the hearts of humans. This transcendent source of natural law inspires the workings of conscience and human reason. Reason is not the starting point to grasping the natural law, but represents a mechanism which God's common grace grants individuals in order to access natural law. Calvin's rejection of human participation as a model for human understanding of the good is therefore sourced in the notion that God's 'power is always conjoined to His justice.'⁸¹ Calvin maintains in this regard, 'It is easier to dissever the light of the sun from its heat, or for that matter its heat from fire, than to separate God's power from His righteousness.'⁸² It is the omnipotence of God's will reconciled to His righteousness that become the bedrock for His providence.

This emphasis on the 'ultimate good' presupposes human limitation. Calvin's evaluation of the extent of corruption of human's natural capacities reveals that human minds and abilities to reason are not completely incapacitated, but if left unchecked are inclined to invariably go awry. '[E]ven though something of understanding and judgment remains... we shall not call a mind whole and sound that is both weak and plunged into deep darkness.'⁸³ Instead of placing emphasis on individual rights, Calvin's analysis acknowledges the eminence of

⁸⁰ Calvin carefully maintained that in God's superiority to natural law his power is always conjoined with his justice: see Schreiner, above n 27, 78.

⁸¹ Ibid.

⁸² John Calvin, *Concerning the Eternal Predestination of God* (1552) X.12.

⁸³ Ibid II.ii.12.

individual responsibility before God. Such an emphasis overcomes an unhealthy fixation on our own rights by means of self-justification.

Aquinas' emphasis on 'practical reason' and 'the nature of the goods' leads him to focus on the good in human nature.⁸⁴ This effectively marginalises the role of God in determining the content of natural law. On the other hand, Calvin's natural law theory begins with the transcendent nature of God and asserts His supremacy. This means that regardless of the disfigurement to human nature as a consequence of the fall, by God's providence alone we are able to state that human nature remains sufficiently intact to allow for the flourishing of human society.⁸⁵ By virtue of his formulation of God as the 'ultimate good', Calvin is able to maintain the transcendence of an independent moral standard whilst remaining confident about its universal application to all humans at any point in time.

⁸⁴ Thomas Aquinas, *Summa Theologica* I-II, q.91; Calvin, above n 3, 236.

⁸⁵ Ibid 245: 'the flourishing of human society' by reference to the potential to give God the glory; see John Piper, *Desiring God* (Multnomah Books, rev ed, 2011) 17-28.