

UGHTS AND ENDS: AN EXPLORATION OF OBLIGATION  
AND VIRTUE IN FOOT AND AQUINAS

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UGHTS AND ENDS: AN EXPLORATION OF OBLIGATION

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AND VIRTUE IN FOOT AND AQUINAS

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## TABLE OF CONTENTS

1. INTRODUCTION	1
2. SCOPE OF WORK	3
3. PROJECT ORGANIZATION	11
4. PROJECT SCHEDULE	34
5. CONCLUSION	43

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## TABLE OF CONTENTS

1. INTRODUCTION .....	1
2. FOOT'S THESIS .....	3
3. AQUINAS AND FOOT'S THESIS .....	11
4. OBLIGATION AS THE FAILURE TO ACT FROM CHARITY .....	34
5. CONCLUSION .....	43



## 1. Introduction

Bernard Williams, in his essay, "Morality: The Peculiar Institution" notes that for modern ethical theory, *moral* obligation is the essence of morality. Moral obligation is a "peculiar" kind of obligation. While we recognize all sorts of obligations in human life, moral obligation is an unconditional obligation that "goes all the way down."<sup>1</sup> On the modern picture of morality, only obligation can trump another obligation. But why is it that *obligation* is taken to be central to morality? Why is it that morality must be ultimately grounded in moral obligation? Obligation is the essence of morality because the content of morality is generally taken to be categorical imperatives. Categorical imperatives are distinguished from hypothetical imperatives in that categorical imperatives need no justifying condition for them to be binding on an agent. They universally bind an agent just in virtue of being categorical imperatives. The sense of a uniquely *moral* obligation comes from this feature of categorical imperatives.

Philippa Foot, in her 1972 Essay, "Morality As a System of Hypothetical Imperatives" challenges the thesis that morality is a system of categorical imperatives, and by extension, then, that obligation is central to morality.<sup>2</sup> On her account, morality is a system of hypothetical imperatives, similar to the imperatives of etiquette or of club rules. The necessity or universality that we associate with moral imperatives, the feeling of *moral* obligation, is simply a consequence of the way morality is taught and of the stringency with which moral imperatives are enforced. Obligation, then, is not the

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<sup>1</sup> Bernard Williams, *Ethics and the Limits Of Philosophy* (Cambridge, MA: Harvard University Press, 1985), 188.

<sup>2</sup> Philippa Foot, "Morality As a System of Hypothetical Imperatives," *Philosophical Review* 81, no. 3 (Jul. 1972), 305-316.

essence of morality. Moral obligation is an accidental consequence of the way morality is taught and enforced. A major criticism of her thesis is her conclusion about the accidental nature of obligation. Even philosophers friendly to the overall direction of her project argue that there is still more to the notion of obligation than Foot recognizes.<sup>3</sup>

In this thesis, I want to explore what D.Z Phillips calls Foot's "fugitive thought,"<sup>4</sup> the claim that obligation is merely an accident of the way morality is taught and enforced. I will argue that Foot is right to challenge the claim that morality is a system of categorical imperatives. Furthermore, she may be right to claim that the extent to which we experience the feeling of force of moral obligation is at least partly a result of the sociological conditions under which morality is taught and enforced. However, her analysis of the nature of obligation is incomplete. I will use the thought of Thomas Aquinas to offer a somewhat different picture of the nature and place of obligation in the moral life. My conclusion will be first that moral imperatives present themselves to us as necessary and universal, obligatory, because of the natural fact that humans always, in virtue of acting intentionally, pursue the good. Second, I will argue that obligation itself arises from a failure of the agent to act from the theological virtue of charity. On my analysis, obligation is indeed *not* the essence of morality. However, this is not because obligation is merely an accident of the way morality is taught and enforced. It is rather

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<sup>3</sup> See, for instance, Winston Nesbitt, "Categorical Imperatives--A Defense," *The Philosophical Review* 86, no. 2 (Apr. 1977), 217-225; Lawrence C. Becker, "The Finality of Moral Judgments: A Reply to Mrs. Foot," *The Philosophical Review* 82, no. 3 (Jul. 1973), 364-370; D. Z. Phillips, "In Search of the Moral 'Must': Mrs. Foot's Fugitive Thought," *Philosophical Quarterly* 27, no. 107 (Apr. 1977), 140-157.

<sup>4</sup> Phillips, 140.



because obligation *ends* when the virtues are present; or, perhaps better, obligation does not *begin* unless there is a failure in virtue.

To accomplish this task, I will first outline Foot's challenge to the claim that morality consists of categorical imperatives. I will then briefly outline the structure of Aquinas's moral theory. After describing the eudaimonistic and teleological thrust of his moral theory and how that accounts for the feeling of necessity and universality, I will discuss the relationship between virtue and law in Aquinas. This will be important since it will setup the context in which moral imperatives arise. Finally, I will outline John Hem's claim that obligation is a failure in love, and show how this claim needs to be altered in light of Aquinas's account.

## 2. Foot's Thesis

The modern distinction between categorical and hypothetical imperatives comes from Kant. For Kant, the difference between these two kinds of imperatives is the signal feature of what distinguishes morality from anything else. Hypothetical imperatives are imperatives which hold only in relation to some given desire or goal. The force of the imperative is lost if the relation does not hold. Hypothetical imperatives are, in Kant's terms, "good to some purpose."<sup>5</sup> Hypothetical imperatives are conditional since they only hold if the antecedent obtains. Categorical imperatives, on the other hand, need no justifying end precisely because they are ends in themselves. Categorical imperatives are not conditioned upon anything; they need no justifying goal or desire to obtain. The imperative *do not murder* is not an imperative that only has 'force' if in fact one has a

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<sup>5</sup> Immanuel Kant, *Foundations of the Metaphysics of Morals*, trans. L. W. Beck, quoted in Foot, 306.

relevant desire. The imperative cannot properly be put into a conditional form: "if (you do not want to get hanged), then *do not murder*." Certainly, the fear of punishment may be a reason that one does not murder, but the imperative itself does not rely on any such condition for its applicability. It is a binding imperative on all regardless of one's desires or purposes. On Kant's account, moral imperatives, as categorical imperatives, are of a different *kind* than hypothetical imperatives precisely because they need no justifying reason. It is this distinction between categorical imperatives and hypothetical imperatives that on the modern view distinguishes morality from anything else.

But morality as a system composed of categorical imperatives goes further than claiming merely that any *one* imperative needs no justifying reason. Morality *as a system* needs no further justification beyond itself. The reason one ought to follow the imperative *do not murder* is not because some conditional has been met, i.e., the person has the relevant desire or goal. The reason one ought to obey the imperative *do not murder* is because it is a *moral* imperative. But of course, one may well ask, "what reason do I have to follow *any* moral imperative?" On Kant's account, the answer to this cannot be "because you care about moral considerations." If this were the case, then any moral imperative would be conditional—it ought only to be followed if one in fact cares about moral considerations. The justification for morality as a system is not that one in fact takes moral considerations seriously; for this would be a hypothetical system. The justification is something internal to the moral system itself. For Kant, the form of the moral imperative was central. Though few continue to follow Kant in arguing that the very form of moral imperatives is what makes moral imperatives universally binding, morality nonetheless is generally cashed out as a system that does not consist of



conditionals.<sup>6</sup> It does not rely on any desire or project external to the system of imperatives itself. When we say that one ought to be moral, then, following the legacy of Kant, for it to be truly moral we've thought that we must mean it in the strictly categorical sense—that is, the system as a whole needs no further justification.

Perhaps because of the special kind of system we traditionally have taken morality to be, moral imperatives have a different 'force' than hypothetical imperatives. The force or bindingness of hypothetical imperatives depends wholly upon the connection between the imperative and the desired end or goal. If the connection fails, then the binding of the imperative gives way. But for moral imperatives, the force is much different. It is generally taken to be something special—necessary and inescapable.<sup>7</sup> Moral imperatives have a special "dignity and necessity" which hypothetical imperatives lack.<sup>8</sup> By dignity and necessity we mean that the bindingness of moral imperatives does not arise from the connection moral imperatives have to any of our desires or ends. Rather, the bindingness arises from the imperative itself—it is an imperative which presents itself as holding an action "as of itself objectively necessary, without any regard to any other end."<sup>9</sup> So, what distinguishes morality from anything else is that morality is a system of categorical imperatives. It is this assumption that Foot criticizes.

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<sup>6</sup> Foot, 305.

<sup>7</sup> Ibid., 308; 311-312; 315.

<sup>8</sup> Ibid., 308.

<sup>9</sup> Kant, quoted in Foot, 306.

Foot recognizes that we use "should" in different ways. Sometimes when we give an imperative, we mean for the bindingness of the imperative to depend wholly upon its connection with a particular end—a hypothetical imperative. Other times, when we use 'should' we intend the imperative to hold without any connection to an end or a goal—a categorical imperative. But, Foot asks, is this the only option for this second use of 'should,' that it is *categorical*? Foot thinks not and her reasons why are the substance of her essay.

Contemporary ethical theory inherited from Kant an important assumption: not only is morality composed of categorical imperatives, as we've noted already, but also hypothetical and categorical imperatives are the *only* kinds of imperatives.

Consequently, if an imperative is not hypothetical, then, given the assumption, it must be categorical. With this assumption in mind, Foot asks us to consider some imperatives that she thinks are clearly non-hypothetical. First, she says we find this non-hypothetical use of 'should' with respect to rules of etiquette.<sup>10</sup> It is a general given that one should follow the rules of etiquette regardless of one's desires. For example, whatever ones desires and goals, it is a rule of etiquette not to place one's elbows on the table while eating. The rule does not fail to apply to a person even though the person thinks it a silly rule. We likewise find this non-hypothetical use of 'should' with respect to club rules.<sup>11</sup> Club rules apply to all regardless of one's desires. The club rules at Augusta National that no woman will be allowed as a member applies to all, whether or not one agrees with the rule. Now, if rules of etiquette and club rules are not hypothetical imperatives, and if

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<sup>10</sup> Foot, 308.

<sup>11</sup> Ibid.



one accepts Kant's distinction that there are only hypothetical imperatives and categorical imperatives, then it follows that rules of etiquette and club rules are categorical imperatives, and thus moral imperatives. But of course this is plainly wrong.<sup>12</sup>

Clearly rules of etiquette and club rules are not categorical imperatives. But are they really non-hypothetical imperatives as well? While it might be the case that any one rule of etiquette admits of no exception, couldn't one reasonably ask, "but what reasons do I have for following *any* rule of etiquette in the first place?" Here, the objection centers on the important feature we identified above about the moral system as a whole. If one were to ask, "but why should I care about following the rules of morality?" the answer cannot be "because the rules of morality are means to one of your ends or purposes," or "because you do in fact care about moral considerations." This cannot be the answer because the justification for the system of morality cannot be anything external to the system itself since the system is constituted by categorical imperatives which are ends in themselves. But in the case of rules of etiquette or club rules, even though any one rule might be non-hypothetical, it looks like the system *as a whole* is hypothetical since we surely wouldn't want to say that the justification for the system of etiquette *as a whole* is something internal to itself. Furthermore, if good reasons for caring about the rules of etiquette cannot be given, then rules of etiquette lose their force even though any one rule of etiquette is non-hypothetical. So, the rules of etiquette depend for their force on a goal or desire, for instance, caring about the rules of etiquette. Rules of etiquette don't have any "automatic reason-giving force" like moral rules do.

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<sup>12</sup> Ibid., 309.

And again, this seems to be the important difference between morality and anything else.<sup>13</sup>

Foot grants that this is indeed generally taken to be the important difference between the system of morality and a system of hypothetical imperatives. Her contention, however, is that this feature is simply asserted without being defended—and furthermore, on her account, there is no good defense of the assertion. Foot's point is that there is no reason to think that the normative character of moral judgments *necessarily* gives any reason-giving force anymore than rules of etiquette do.<sup>14</sup> Rules of etiquette are normative too, but lack the necessity of moral commands precisely because we can always ask, "but why should I care about the system of rules of etiquette anyway?" The special force of moral imperatives, or the necessity we generally associate with it comes from the fact that the answer to that question with respect to morality cannot be anything outside of the moral system itself. But again, on Foot's view, this claim is simply asserted without being adequately defended. Why are moral imperatives not like the non-hypothetical rules of etiquette in that, while any one moral imperative may be non-hypothetical, we can always ask what reasons we have for following moral imperatives in the first place?

But plainly we do associate this special bindingness with morality. From where does this binding force come? Foot's answer is that moral rules have just been more stringently and consistently enforced than rules of etiquette.<sup>15</sup> Thus, they "feel" more

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<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid., 310.



forceful, or necessary than rules of etiquette or club rules. But there in fact is no good reason to think that they possess any real necessity. That is just the feeling that comes with the way they are taught. The conclusion that Foot draws, then, is that there is no more reason to think that moral rules are categorical imperatives than that rules of etiquette are categorical imperatives. If reasons are not found for following the rules of either etiquette or morality, then one may reasonably not follow either.<sup>16</sup>

One might object: this notion of morality as a system of hypothetical imperatives works so long as one actually cares about morality. But even if one doesn't care about morality, isn't it the case that one *ought* to care?<sup>17</sup> This is an appeal to the kind of obligation that "goes all the way down."<sup>18</sup> Whatever the facts about how one feels about moral imperatives, precisely because they are *moral* imperatives one is obligated, thoroughly. This is precisely the 'feeling' that Foot thinks is nothing more than an accident of the way morality is taught and enforced. That we think people are obligated in the strong sense to care about moral considerations just reflects the seriousness with which we take moral considerations, not anything about the nature of morality itself. Here, Foot thinks that there is no such thing as this sort of overarching 'ought'—or at least she is convinced that no adequate account has been given of this ought. On her view this overarching 'ought' is a result of the fear that if people find out that there is no such thing as an ultimate obligation with respect to morality, then there will be a wholesale

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<sup>16</sup> Ibid., 312.

<sup>17</sup> Ibid., 315.

<sup>18</sup> Williams, 188.

abandonment of the 'sinking' morality ship. Her contention is that it is more likely that people will appreciate moral considerations and respond positively.

It is important to note that Foot's analysis is not merely a claim about why obligation carries with it this feeling of necessity. It also is an implicit thesis about the origin and nature of moral obligation. Foot's thesis is that this emphatic ought, that ought from which we "feel ourselves unable to escape,"<sup>19</sup> is an "illusion" and that it is nothing more than an attempt to give the moral ought a "magic force."<sup>20</sup> We try to give obligation this magic force because we fear that if people find out that morality is not a system of categorical imperatives, then no one will be moral.<sup>21</sup> Insofar as moral obligation, then, is an illusion, Foot's thesis contains an implicit, and I think correct identification of moral obligation as, despite its cloak of "dignity" and rationality, in essence nothing but this feeling of necessity and universality. On her view, the feeling of necessity is simply a result of the way morality is taught. There is nothing in morality itself that gives rise to this feeling. Likewise, then, there is nothing in morality itself that gives rise to *moral* obligation, since moral obligation, that emphatic ought, arises from our desire to shore up the ranks of moral agents.

### 3. Aquinas and Foot's thesis

My task, for the rest of this thesis, is twofold. The issue is not only addressing why moral imperatives present themselves to us as necessary and universal, but further, why does morality present itself to us in the form of obligations in the first place? What

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<sup>19</sup> Foot, 310

<sup>20</sup> *Ibid.*, 315.

<sup>21</sup> *Ibid.*, 315.



occasions obligation in some cases, but not in others? First, whatever part sociological factors may play in the feeling of obligation, I will argue that Aquinas gives us a more complete picture of why obligation presents itself to us as binding necessarily and universally. Second, I will argue that the origin or occasion that gives rise to obligation, far from being anything in the moral system itself, is rather a failure in the virtue of charity. Below, I will first outline Aquinas's ethical theory, and show how the structure of the theory addresses the feeling of necessity associated with moral commands. Then I will show how Aquinas's claim that charity as the highest of the virtues insofar as it properly orders us to our final end, God, creates the context for obligation.

### 3.1 Aquinas's Teleological Eudaimonism

Aquinas thinks that for any action to be called properly human, that action must issue from a person's reason and will—the action must be deliberately willed (Ia IIae q. 1).<sup>22</sup> Certainly people perform actions all the time that are not deliberately willed—scratching one's ear absent mindedly, for instance. But these actions, though actions of a person, are not properly human actions since they do not arise from what is properly human, reason. What separates humans from other beings that act is reason. So, for an action to be properly human, it must be from reason. Reason is related to will in an important way. For Aquinas, the object of the will is the "end and the good" (Ia IIae q. 8,

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<sup>22</sup> For a nice summary of Aquinas's eudaimonism, see Goerg Wieland, "Happiness (Ia IIae, qq.1-5)," in *The Ethics of Aquinas*, ed. Stephen J. Pope (Washington, D.C.:Georgetown University Press, 2002): 57-68; or, Ralph McInerny, *Ethica Thomistica: The Moral Philosophy Of Thomas Aquinas*, Rev. Ed. (Washington, D.C.: The Catholic University Of America Press, 1997), 12-59.

a. 1).<sup>23</sup> The will always moves toward what it perceives to be good. It is reason that provides the will its object. Whatever the reason perceives as good it provides to the will as the will's object. All human action, then, must be for an end.

Certainly people may have many different ends. Even in action, an action might be for several ends at once. I may go for a walk to stretch my legs, to get some exercise, and to please my wife who thinks I sit around too much. But for Aquinas, like Aristotle, there must be only one last end for a person, otherwise the will would never be motivated to move (I IIae q. 1, aa.4-5). The many ends for which one may act must always be under the aspect of the final end. For it is the final end that ultimately motivates the will to move. While a person may recognize several ends as worthy of pursuit, those ends will be ordered in a kind of hierarchy in such a way as to lead to a final end.

Consequently, one human cannot have many last ends. The will cannot be directed to several things that it takes to be final ends. The last end for humans is the good. Aquinas defines 'good' as that which is perfective (Iae, q.5).<sup>24</sup> This is because Aquinas thinks that 'good' and 'being' are really the same essence, though under two different aspects. What is good is what best actualizes the kind of thing that something is. What is good for humans, then, is whatever it is that perfectly actualizes the kind of thing that humans are.

Furthermore, humans desire all that they desire for the sake of the last end. This is because all naturally desire their perfection, what is ultimately good for them.

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<sup>23</sup> All quotes from Aquinas's Summa are from the Benziger Bros. Edition, 1947, trans. Fathers of the English Dominican Province, accessed on-line from <http://www.ccel.org/a/aquinas/summa/home.html>, 28 March 2003.

<sup>24</sup> For an account of Aquinas's understanding of goodness and its relationship to being, see Eleonore Stump and Norman Kretzmann, "Being and Goodness," in *Being and Goodness: The Concept of the Good in Metaphysics and Philosophical Theology*, ed. Scott MacDonald (Ithica: Cornell University Press, 1991): 98-128.



Whatever anyone desires, she "desire[s] it under the aspect of good" (Ia IIae q. 1 a.6) For Aquinas, the notion of valuation is built into the concept of the good. *Anything* that a person desires, she desires insofar as she conceives it to be good for her. At the very least, she must desire it as conducive to her final good, if not actually her final good. In fact, a person desires *only* what she conceives to be her good. Because Aquinas defines the good as that which is perfective of the agent, one desires what one conceives of as being perfective of her.

So, any one person must have only one final end. But furthermore, this ultimate end is the same for all persons (Ia IIae q. 1 a. 7). On Aquinas's analysis, to speak of the last end common to all, we must approach it under two aspects. On the one hand, there is the last end itself. On the other, there is the realization of that last end. For Aquinas, on a general level, all humans share one and only one last end, namely "the fulfillment of their perfection" (Ia IIae q. 1 a. 7). As we noted above, Aquinas defines goodness in terms of perfection. Insofar as good and being are the same in essence, they both speak of perfection in existence. At this level of generality Aquinas thinks all would agree. But of course, many differ on what they *take* to be in fact perfective of them. Some think that what constitutes their final perfection is pleasure, others riches. Aquinas accounts for the empirical differences in ends that people pursue not in that there really are many different ends, but that people *conceive* of there being many different ends. On Aquinas's view, what ultimately is perfective of humans is union with God, or the vision of God's essence (Ia IIae q. 3 a. 8). Though every created thing has as its end God, this realization of the end is not possible for other creatures which lack rationality. We will come back to how Aquinas conceives of the vision of God in the last section.

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For Aquinas, then, what one desires is her final end formally conceived.

According to Aquinas, *anything* that one desires one desires insofar as one conceives of it as good for her. In any human action, then, insofar as human actions are ordered to the final end, one always acts for the good formally considered. Any action aims at what the agent takes to be perfective of herself. Consequently, for Aquinas valuation is built into human action. More specifically, insofar as the pursuit for a person's good is viewed under the aspect of the moral life, all humans are engaged in the moral task insofar as any agent, in virtue of performing human acts, pursues the good formally considered.

What is important for my purposes is to notice the structure of Aquinas's moral theory up to this point. For Aquinas, *everyone* is engaged in morally valuational acts just by virtue of performing properly human acts. This is because everyone, on Aquinas's view, acts for what she conceives to be perfective of her. She just does desire her own good. Even the one who claims to reject all valuations of good and bad, or good and evil, on Aquinas's view is still acting under the aspect of the good. This is because reason always presents to the will what the reason takes to be perfective of the agent; and because Aquinas defines the good in terms of what is perfective of the agent, the one who forswears all valuations would not reject the valuations of good and bad if she really thought such a rejection was somehow not perfective of her nature. So, on Aquinas's view, there is no such thing as a truly amoral person, even if lots of people *think* they are amoral.

With respect to Foot's analysis of the feeling of necessity of moral imperatives, applying Aquinas's account to morality gives us a way to account for the force of non-hypothetical moral imperatives without having to construe that force as a mere accident



of the way morality is taught. On Aquinas's account everyone does in fact have reasons to care about moral considerations in virtue of the fact that everyone, because of their nature as humans, pursues the good formally considered. *Everyone* should refrain from stealing, for instance, not because the imperative "do not steal" is a categorical imperative. Rather, because refraining from stealing is good for humans, and everyone just does pursue their good, even if many often mistake what is in fact perfective of them. Consequently, that we feel the force of moral imperatives is by virtue of the fact that no one can escape their reach because every agent pursues the good and consequently cares about moral considerations, at least under the formal aspect goodness. On this account, the force of moral imperatives depends upon the fact that moral imperatives are those imperatives that specify the actions that are perfective of humans, and therefore good. However, because everyone on Aquinas's account just does pursue the good, we do not need to construe moral imperatives as categorical imperatives. Their universality and feeling of necessity is a result of the fact that everyone meets the implied conditional of moral imperatives. No one escapes their reach not because they are categorical, but because of a natural fact about humans. They in fact possess no necessity of themselves. Rather, they feel necessary because of the necessity that is a result of the kind of creatures humans are

Up to this point, I have outlined Aquinas's account of morality and have argued that his view of the structure of human life can be used to account for the feeling of force of moral imperatives. Now I want to look more carefully at Aquinas's account of the relationship between law and virtue. As I hope to show below, one of the distinct advantages of approaching Foot's problem from the perspective of Aquinas is that we can

account not only for the feeling of obligation, but also for the occasion for obligation in the context of an overall virtue ethic. Why *does* morality present itself to us as something obligatory? This will require us to look first at Aquinas's account of natural law, and then see how law in general is situated in the context of Aquinas's virtue ethic. The claim will be that for Aquinas, law in general is secondary to virtue. When one is perfected in virtue, the law fails to bind since one does those acts which turn out to be in accord with the law from virtue rather than from obligation to the law. On this picture, obligation is not merely the result of the way moral imperatives are taught and enforced. Rather, obligation arises when there is a failure of charity.

### **3.2 Natural Law in Aquinas**

Aquinas is often read as though natural law is the primary notion in his moral theory. However, this view is mistaken. Aquinas's natural law theory must be read in light of his teleological eudaimonism. That natural law is generally taken to be central to Aquinas's ethical theory is surprising given the position of Aquinas's exposition on law within the Summa. The entire Second part of the Summa discusses humans and human life. It begins, as we noted above, with a eudaimonistic picture of human moral action. Aquinas then discusses habits and the virtues. Finally, at the end, Aquinas takes up the issue of law. Of the 114 questions of the first part of the second part of the Summa, only 24 are related to law. Of those 24 questions, the last 6 discuss the relationship of grace to law, and the 11 questions before those are concerned with the Old Law and the New Law. This means that of the 114 questions of the second part, only 8 discuss the nature of laws and the different kinds of laws. Of those 8, only one, question 94, is devoted to the natural law. Now certainly, a hand count of numbers does not make the case that natural



law does not hold the primary place in Aquinas's ethics. But at the very least, the relatively insignificant space Aquinas devotes to law, and to natural law specifically, begs for an explanation. I do not have the space to lay out the arguments for the claim that law is secondary to virtue in Aquinas. Others have done that much better than I can.<sup>25</sup>

Rather, I want to look at a consequence of the claim for Aquinas's account of the first precept of the natural law.

In Ia IIae, q. 94, a. 2 of the Summa, Aquinas draws an analogy between the first principle of understanding and the first principle of practical reason. In understanding, the first principle is the law of non-contradiction. All the precepts of understanding follow from this first principle. Similarly, with respect to practical reason the first principle is "that good is to be sought and done, and evil to be avoided":

"Now as 'being' is the first thing that falls under the apprehension simply, 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 under the aspect of good. Consequently the first principle of practical reason is one founded on the notion 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 pursued, and evil is to be avoided.' All other precepts of the natural law are based upon this: so that whatever the practical reason naturally apprehends as man's good (or evil) belongs to the precepts of the natural law as something to be done or avoided." (Ia IIae, q. 94, a. 2)

Just before this passage, Aquinas says that the first principles of both practical reason and theoretical reason are self-evident, or known in themselves. In the case of theoretical reason, the first thing the mind grasps in any operation of theoretical reason is the notion

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<sup>25</sup> See, for instance, Daniel Mark Nelson, *The Priority of Prudence: Virtue and Natural Law In Thomas Aquinas and the Implications For Modern Ethics* (University Park, PA: The Pennsylvania State University Press, 1992); and Martin Rhonheimer, *Natural Law and Practical Reason: A Thomistic View of Moral Autonomy*, trans. By Gerald Malsbary (New York: Fordham University Press, 2000).

of 'being.' 'Being' is included in, and always at least partly constitutive of whatever one knows. Thus, any operation of theoretical reason includes the notion of being. Included in the notion of being is the principle that something cannot both be and not be. That is, when one grasps anything at all, that apprehension is predicated upon the notion of being and that the notion of being includes within it the principle that the thing grasped cannot both be, and not be. Hence, we get the first principle of theoretical reasoning: We cannot at the same time affirm and deny the same thing (Ia IIae, q. 94, a. 2).

As being is the first thing the mind apprehends, so the good is the first thing the mind apprehends when using practical reason. This is because every agent acts for an end, and to be an end carries with it the formality of goodness. What is good? Aquinas has previously told us that 'good' is what all things seek. But furthermore, all things naturally seek what is perfective of them, or what completes them. Thus, formally considered, when the mind uses practical reason to consider what to do, it first and unavoidably grasps the notion of goodness—seeking what is perfective of the agent in the same way that upon any act of apprehension, the intellect first grasps being. As being is always included in any operation of theoretical reasoning, so the notion of goodness is always present in any operation of practical reasoning. Furthermore, since goodness always includes the notion of that which is perfective of the agent (at least as far as the agent can see), and since all things just naturally do pursue what is perfective of them (at least as far as they can tell), the first principle of practical reasoning is: pursue good, avoid evil. This is the first principle of natural law. Aquinas says that all of the other precepts of natural law follow from this first, just like all the principles of theoretical reasoning follow from the first principle of theoretical reasoning.



Consider the analogy between the first principle of theoretical reasoning and the first principle of practical reasoning. In the case of goodness, goodness formally considered is that which is perfective of humans. On the broadest level, goodness formally considered includes only the notion of what is perfective without any claim about what in fact is perfective. But of course, while everyone agrees on goodness formally considered, people often have different beliefs about what *in fact* is perfective of them. They might be wrong about what in fact is perfective of humans, but goodness formally considered always presents itself in any moral deliberation. Likewise, 'being' formally considered always presents itself in any theoretical reasoning. But of course, people might disagree about *what in fact* exists. So, for instance, cosmologists still disagree over whether or not there is any such thing as 'dark matter' in the universe—that is, whether or not dark matter has being in the substantive sense. But those same cosmologists could not disagree that if in fact there is dark matter, we can not say of dark matter that it both does and does not exist. This is because being formally considered always presents itself to the mind and includes the principle that a thing cannot both be and not be.

In the case of apprehending something, one does not need to be told the first principle of theoretical reasoning—one just does it in any case of apprehension. Were one to deny this principle we would be at a loss of what to make of such a claim, other than that the person either just misunderstands or is somehow lacking in rational capacity. But notice, to cite the first principle to one who does not already accept and act on the principle will have no impact since *any* act of apprehension already includes the principle. Likewise, on Aquinas's account, when one acts intentionally, one *just is*

pursuing the good and avoiding evil. The first principle of practical reason, "pursue the good and avoid evil," like the first principle of theoretical reasoning is always included in the act of performing a properly human act. Were one to deny the first principle of practical reason we would be at a loss except to say that the person simply misunderstands the principle since in virtue of acting intentionally, the person already acts on the principle. Citing the principle as an imperative to be followed will have no force on one who denies the principle in the first place. Thus, the first principle of practical reasoning, what in fact is constitutive of the natural law at its broadest level, can not be the first *imperative* that grounds a moral system since it is rather *descriptive* of how any intentional agent acts.

But of course, that anyone by virtue of acting does pursue the good does not mean that everyone does what *in fact* is good anymore than that someone grasps the first principle of apprehension thereby knows what *in fact* is real. So, just in virtue of being a moral agent everyone just does abide by the first precept of the natural law. Notice, this is not because the *law* binds everyone to act in this way. In fact, on Aquinas's account no moral agent pursues the good formally considered as a *result* of natural law. Moral agents pursue the good formally considered as a result of being the kind of creature that moral agents are—rational, deliberate creatures. It is simply a fact about being human—rational agents *just do* pursue the good formally considered; that is, they just do pursue what they think is perfective of them. The articulate of the natural law is a result of reflection on this fact. Consequently, all moral agents just do follow the first precept of the natural law. But of course, since many people disagree about what in fact is



perfective of them, many people will disagree on which other precepts of the natural law follow.

For Aquinas the natural law includes all of the particular laws that are derivable from the first principle. So, for instance, the imperatives about procreation and murder are, on Aquinas' view, part of the natural law. Aquinas does, however, draw a line between what is self-evident in natural law, the first principle, and what is not evident in natural law, the subsequent derived imperatives. There is, in a sense, two aspects under which we might approach natural law—the first precept and what flows from it (Ia IIae q. 94, a. 2). Everyone acts on the first precept (Do good, avoid evil) by virtue of being human. But not everyone pursues what other precepts are in fact contained in the natural law because not everyone recognizes those other precepts. Hence, in Aquinas we can disagree with him about what flows from the first precept because he or we might be wrong about that. Thus, though we might disagree with Aquinas about some particular imperatives derived from the natural law, we need not disagree about his structural point.

Consequently, the first principle of natural law is to do the good and avoid evil—but the natural law isn't providing the agent with any new 'command' or 'imperative' to which one is obligated. The impulse to pursue good is already built into the intentional action since by virtue of acting intentionally one is pursuing the good, at least formally considered. Furthermore, no 'command' is needed since the agent just does pursue the good by virtue of acting intentionally. If Aquinas means this first principle to be a 'command' in the sense of obligating one to a certain course of action, then the command is redundant since by virtue of acting intentionally one is already pursuing the good without any mention of obligation—*it's just what intentional agents do*. So, "pursue the

good" is not an imperative to which one is obligated. It is a summation of a natural fact. As Rhonheimer argues, "when Thomas says . . . that the first principle of the practical reason is based on the 'nature of the good' . . . which is that 'good is what all things seek' . . . he does not mean that the practical reason is based on this 'sentence', rather, it is based upon a fact that is only reflectively formulated and grasped in it, and this is the fact of the 'seekable'."<sup>26</sup> The first precept of natural law, then, is not an imperative one is *obligated* to follow. What is important for us to note is that whatever else he may or may not make of obligation, obligation can not hold the primary and defining place in Aquinas's ethical theory. Rather, as we shall see, that role belongs to the virtue of charity.

### 3.3 Virtue and Law

Natural law, then, has a different connection to virtue than is usually conceived on the picture of Aquinas as a traditional natural law ethicist. In the following section, I will outline Goerner's account of the relationship between law and virtue in Aquinas, and a critique of Goerner's account from Pamela Hall. As we will see, Goerner's account, while moving us in the right direction, needs to be modified in light of Aquinas's account of the Old and the New Laws. This will set the context for further specifying why it is that morality presents itself to us in the form of obligations.

Goerner's thesis on Aquinas actually occurs in two parts, his two essays "On Thomistic Natural Law: The Bad Man's View of Thomistic Natural Right"<sup>27</sup> and

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<sup>26</sup> Rhonheimer, 71.

<sup>27</sup> E. A. Goerner, "On Thomistic Natural Law: The Bad Man's View of Thomistic Natural Right," *Political Theory* 7, no. 1 (Feb. 1979), 101-122.



"Thomistic Natural Right: The Good Man's View of Thomistic Natural Law."<sup>28</sup> Goerner argues that it is not right to read Aquinas as a traditional natural law theorist, where a natural law theorist is "one who holds that the standard of natural morality is a law or laws in the sense of universally valid propositions about what is right or wrong, by nature, to do or not do."<sup>29</sup> This is because for Aquinas, natural law is second best to virtue. Goerner argues that the function of law is merely to train those lacking in virtues so that they may attain the virtues. Law, then, is intended to implement God's ordering of the universe in the face of vice and sin. Aquinas is, rather than a natural law theorist, a natural right theorist, one who holds that the rightness or wrongness of actions is not derived from universally valid moral laws. Rather, the rightness or wrongness of an action is derived from the judgment of the virtuous person. I find Goerner's account helpful, but incorrect in one important point. Before I outline Goerner's argument and an important objection from Pamela Hunt, I will briefly discuss Aquinas's view of virtue, and how the purpose of laws is to train people in virtue. This will be important for Goerner's conclusion.

Goerner begins by noting an important distinction in Aquinas. Aquinas distinguishes between external principles of action and internal principles of action.<sup>30</sup> Intrinsic principles of action are the virtues. The virtues are internal because the actions arise not from coercion by something outside of the agent, but because of a quality of the agent's soul. Insofar as the agent possesses the virtues, the agent performs actions out of

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<sup>28</sup> Ibid., "Thomistic Natural Right: The Good Man's View of Thomistic Natural Law," *Political Theory* 11, no. 3 (Aug. 1983), 393-418.

<sup>29</sup> Goerner, "Thomistic Natural Law," 102.

<sup>30</sup> Ibid., 108.

a habit, or disposition to pursue the good. But of course, many people are not virtuous. They require external principles of action in order to do what is right. There are two kinds of external principles of action. First, law is implemented by God to achieve God's purposes even though His purposes are actively opposed by the vicious. Those who do not, by their own internal principles of virtue do what is good, do what is good in subjection to the law. The other external principle is grace. Grace is external in the sense that it is given by God to those who would otherwise lack the internal principle of virtue. Grace, however, is not external in the way that law is; for grace infuses the recipient with virtue so that the agent in the end does freely act from virtue.

For Aquinas, like Aristotle, virtues are kinds of habits.<sup>31</sup> Habits are qualities insofar as they dispose something well or ill in relation to a thing's nature or end (Ia IIae, q. 49 aa. 1, 4). They are durable and difficult to change since they are patterns of activity. Aquinas argues that habits are a necessary quality of acts because habits keep actions from being random. A habit is a perfected disposition, or a disposition that is solid, stable, and hard to change. Aquinas uses the metaphor of a boy growing to be a man to illustrate the relation between dispositions and habits. Habits are dispositions that have 'matured' and are therefore 'hardened' and durable (Ia IIae, q. 49, a. 2).

With respect to morality, we are interested in certain kinds of habits. For Aquinas, like Aristotle, what is distinctive about humans is the presence of reason. What is perfective of humans will be found in connection with reason. Consequently, there

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<sup>31</sup> For an account of the differences between Aristotle and Aquinas on habits and virtues, see Bonnie Kent, "Habits and Virtues (Ia IIae qq. 49-70)," in *The Ethics of Aquinas*, ed. Stephen J. Pope (Washington, D.C.: Georgetown University Press, 2002): 116-130.



must be the presence of reason for there to be habits in the moral sense. Consider the sensitive powers of the soul. We can consider the sensitive powers in two ways. On the one hand, the sensitive powers act from natural instinct. On this aspect, they are ordained to one thing "even as nature is" (Ia IIae q. 50, a. 3). On the other hand, the sensitive powers can participate in the rational faculty of the soul at least insofar as they are governed, or guided by reason. Under the aspect of reason, the natural instincts of the sensitive powers might be ordered to many different things. For instance, the instinct for sex might be ordered to procreation or to sexual pleasure. It is this variety in orientation that allows for the presence of habit—because there is variation, there is space to be well or ill disposed with respect to something. It is reason that guides the natural instincts to their proper ends. The sensitive powers of the soul do have the natural "aptitude" to obey reason, and so they can have habits in them. These habits are what Aquinas and Aristotle call the moral virtues.

Not only are their habits with respect to the sensitive powers of the soul, there are also habits of the intellectual powers of the soul (Ia IIae q. 50, a. 4). The sensitive powers are rational only by participation, insofar as they are governed by the rational powers of the soul. The intellectual virtues, however, are virtues insofar as they are by necessity of reason since they are in the intellect itself. Finally, the virtue of justice is related to the power of the will (Ia. IIae. Q. 50, a. 5). Every power which can be directed toward many different ends must have habits to be either ill or well disposed to that end which is proper to it. The will is a rational power, and so like other rational powers, either properly or accidentally, it can be directed towards various acts. Consequently, the will too must have a habit by which it is ill or well disposed to act. Justice is the habit of the

will since justice is the virtue by which, "men will and do that which is just" (Ia IIae q. 50, a. 5).<sup>32</sup> Virtue is a certain kind of habit. Specifically, they are excellent habits (Ia IIae, q. 55, a. 2).

What, then, is the cause of habits, and specifically of virtues? Aquinas says that there can be two causes of habits. First, there are causes of habits from nature. (Ia IIae, a. 51, a. 1). Nature endows humans with certain capacities. These capacities are natural to the human species—without them the being is no longer human, although the capacities can be present in different degrees in different people. So, for instance, in one sense the virtues associated with the intellect are caused by nature at least insofar as the intellect's capacity for virtue is a result of nature.

But, though nature gives humans the capacity for virtue, with respect to the moral life, habits are caused by acts (I. IIae q. 51, a. 3). Aquinas employs a metaphor here: like a fire spreads gradually, so with the repetition of acts habits grow gradually. One act does not a habit make. This is because the active principle, reason, in properly human actions can not overcome the appetitive powers all at once. It takes practice, the repetition of acts. So, the kind of habits we are interested in, the virtues, those habits which well dispose us to our proper end as humans, are acquired by practice.

With his account of how habits are acquired in mind, consider Aquinas's account of law. Aquinas begins his exposition on law by outlining the essence of law. First, law is a "rule and measure of acts" because the rule and measure of human acts is properly reason (Ia IIae q. 90, a. 1). Law is properly directed to the common good. This is because the first principle with respect to human acts is always the final end of humans.

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<sup>32</sup> Aquinas is here quoting Aristotle, *Nicomachean Ethics*, V, 1.



Law then, "must needs regard properly the relationship to universal happiness" (Ia IIae q. 90, a. 2). After noting the various kinds of laws, Aquinas discusses the effects of the law in question 92. In article 1, Aquinas first asks whether the effect of the law is to make men good. The first objection argues "no" because humans are good through virtue. Aquinas does not disagree, but answers that it is law that leads its subjects to the virtues proper to their end. Aquinas quotes Aristotle who says that by habituating subjects to good works, legislators make them good. The purpose of law, then, is to "lead its subjects to their proper virtue." (Ia IIae q. 92, a. 1) Aquinas recognizes that it is virtue as the perfection of qualities of the soul as oriented to the last end that properly make one good. But it is laws that habituate one to the virtues.

For Aquinas, all authentic law is rooted in and expressive of eternal law.<sup>33</sup> The Eternal law is nothing other than Divine wisdom moving all things to their proper end. Eternal law is properly God's providence over creation. Everything participates in eternal law insofar as everything is guided by God's providence. The three other kinds of laws that Aquinas identifies, the natural law, the Divine law, and human law, are all rooted in God's providence and work to move creation, and specifically humans, to the end proper to the species.

In question 95, Aquinas takes up a discussion of human law specifically. He notes in article 1 that humans have a natural aptitude for virtue. But, because of human fallibility and because of the destructive effects of sin, humans are not naturally virtuous in the sense of actually possessing the virtues by nature. Perfection in virtue must be

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<sup>33</sup> Pamela Hall, "The Old Law and the New Law (Ia IIae, qq. 98-108)," in *The Ethics Of Aquinas* ed. By Stephen J. Pope, (Washington, D.C.: Georgetown University Press, 2002), 194.

acquired by training, through practice in performing the acts of virtue. But some, perhaps all, need training through the fear of punishment to refrain from evil and practice the acts of virtue. This is because humans, though always acting for their good formally considered, continually misidentify what is in fact perfective of them. The reason for laws, then, is to habituate people in the acts that are proper to their end. Human laws are passed by rulers of practical judgment as guides to virtue. For a law to be a proper law, it must be derived from the natural law, which of course is rooted in God's eternal law. But of course, not all human laws in fact do habituate humans to their proper end. There are wicked rulers who pass wicked laws. For Aquinas, it is only those just laws, those laws which in fact are conducive of the proper end, that have the power to bind a person in conscience. (Ia IIae q. 96, a. 4).

Goerner argues that it is in this context that Aquinas's account of law must be read. Virtue, as we've seen, is something that one must learn through training and practice. The law is an important tutor in the instruction of virtue. The vicious person is not skilled at pursuing the good. The law instructs the vicious person in how to pursue the good, and motivates the vicious person to pursue the good out of fear of punishment. The goal of law is to make people virtuous. With enough practice one acquires the habit of acting rightly and becomes virtuous (Ia IIae q. 95, a. 1). On Goerner's analysis, once one acquires the virtues, the law no longer applies. This is because the purpose of the law is to train in virtue. Once one has acquired virtue, one no longer needs the law.

To say that one no longer needs the law because one has acquired virtue might be interpreted in at least two ways.<sup>34</sup> One might argue that the difference between the bad

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<sup>34</sup> Goerner, "On Thomistic Natural Law," 110-111.



person (the one who does what is right because coerced by the law) and the good person (the one who does what is right out of love for the good) is merely a difference of a motive. The bad person lacks the motive of love for the good. On this account, the content of the law and the content of virtuous activity are identical. The good person does all that the law says, and never violates the law, though the good person does what the law says not out of fear of punishment by the law, but "because of an habitual inclination to do what is right."<sup>35</sup> She does it not out of the motive of fear or duty, but out of the motive of love for the good in the manner of the virtues.

But for Goerner, the difference between law and virtue is not merely motive. On Goerner's account, Aquinas accepts Aristotle's notion that the virtuous person is ultimately the judge of what counts as right. Laws are generalizations, rules of thumb. But laws are limited in their applicability. The person of virtue weighs the law and the circumstances, and at times will decide that following the law is in fact not the right thing to do. In this sense, law is inferior to virtue because virtue can override law. Goerner argues that in matters of legal justice, there will be times when if the law is applied, the good will not be implemented. Consequently, the virtuous judge may decide that in some particular case, the intention of the law would have it that the law not be applied. "Equity" demands that at times the virtuous person may need to judge outside the bounds of the law if the law when applied would result in injustice.<sup>36</sup> In Goerner's phraseology, the virtuous person "transcends" the law. The virtuous person transcends the law because ultimately it is the intention of the law giver that determines what is right, not the

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<sup>35</sup> Goerner, "On Thomistic Natural Right," 398.

<sup>36</sup> Ibid., 410.

command of the law itself.<sup>37</sup> Goerner's conclusion, then, is that since Aquinas recognizes the priority of the virtues, and by extension the priority of the judgment of the virtuous person, Aquinas's natural law theory must be understood as in service to the natural right.

Pamela Hall objects to Goerner's formulation of the transcendence of the law by the virtuous person.<sup>38</sup> Hall argues that for Aquinas, practical wisdom is not the creator of the law, rather it is the way in which we "exhibit knowledge of our good or end in a practically effective way."<sup>39</sup> Prudence is "rooted in and guided by the natural law."<sup>40</sup> Virtue, then, can never transcend the law in the way that Goerner describes.

Hall makes her case from Aquinas's treatment of the Ten Commandments. For Aquinas, the Decalogue contains the moral precepts that in principle humans should be able to derive from the natural law. However, because of deficiencies in human intellect, either because of sin or because of nature, these principles are not clear to humans (at least not clear to all humans). Consequently, God revealed in the form of the decalogue the moral principles that are derivable from natural law. But, asks Hall, if these principles are revealed by God as *His* laws, then how could Aquinas be arguing that these laws, *God's* laws, can be transcended? How could God's laws be imperfect in their implementation? Hall's answer is that according to all that Aquinas has said in the first part of the *Summa* about God's providential ordering of the universe, and the way that ordering is expressed in the eternal laws, related as they are to the natural law, Aquinas

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<sup>37</sup> Goerner 410-411.

<sup>38</sup> Pamela Hall, "Goerner On Thomistic Natural Law," *Political Theory* 18, no. 4, 638-649.

<sup>39</sup> *Ibid.*, 644.

<sup>40</sup> *Ibid.*, 646.



cannot think that the natural law is transcendable. Thus, on Hall's reading, Aquinas does not think that the moral principles as derivable from the natural law can be cast aside at the judgment of the virtuous person.

I think Hall is right to argue that the natural law can never be transcended as Goerner claims. However, we can say more in favor of Goerner's view that the law is secondary to virtue, even transcending virtue in a sense, though not in the way Goerner describes. When Goerner says that the person of virtue transcends the law, he means that the standard of right and wrong is not the law, but the judgment of the person. I think Goerner is right to claim that the standard of right and wrong for the virtuous person is not the law. Nevertheless, though the standard is not the law, as I will argue below with respect to Aquinas's account of the Old and the New Law, the person of virtue always performs acts that turn out to be in accord with the law, even though the law is not the standard of the person and the person does not act from the law. I am arguing, contrary to Goerner, that in fact the difference between the law and virtue is not a difference of content—the virtuous person always does the works of the law that are in accord with the actions commanded by the law. However, this does not mean that the law is the standard for virtue. This is because what is right for humans is derivable from what is good for humans; and what is good for humans is what is perfective of humans. Virtue and law both aim at what is perfective of humans. Virtue is the quality of the soul such that the agent has the disposition of seeking and doing what is perfective of being human out of love for the good. The law is the imperatives which aim at fostering virtue by commanding through external coercion those actions that are perfective of humans. This law is based, then, on human nature as created by God. They are the actions that

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result in the full actualization of humans as humans insofar as they train one in the virtues, though of course in themselves the works of the law are not fully perfective since they are done out of coercion rather than love of the good. Virtue and law, then are both expressions of the same natural fact as created by God. Law, however, is the inferior expression of that natural fact since the purpose of law is to train for virtue. To see how this captures an important notion of transcendence, we need to look very briefly at Aquinas's account of the Old and the New Laws.

The Old law contains the moral precepts that are derivable from the natural law (Ia IIae q. 100, a. 1). The Decalogue is the most important expression of the Old Law. The New law is the gospel of Christ, which, whatever else it may be, Aquinas takes to endow the agent with grace, which infuses the person with the theological virtues. The difference between the Old Law and the New Law is not a difference of the content of the moral imperatives. It is rather a difference of their "perfection and imperfection" (Ia IIae, q. 107, a. 1). He notes that one may perform acts that a virtuous person would perform in two ways. First, one may perform the acts from virtue itself. Second, however, one may perform the act as coerced by law. Of course, in this second case, the act would not be virtuous, but it would be in accord with what the virtuous person would do and ideally would be a step on the way to virtue insofar as the law is a tutor in virtue. Aquinas says that those who do not yet have virtue are still directed toward virtuous acts by "threat of punishment, or the promise of some extrinsic rewards, such as honor, riches, or the like" (Ia IIae, q. 107, a. 1). The Old Law was given to people who were imperfect in virtue and bound them externally. The Old Law, then, insofar as it was external, was a law of fear since it directed conformity with the law through coercion.



The New Law, on the other hand, infuses the person with the theological virtues through grace. Rather than containing different moral precepts the New Law contains a different orientation to acts that are perfective of humans. This is because the person of virtue performs virtuous acts out of love—"such persons are inclined of themselves to those objects, not as to something foreign but as to something of their own" (Ia IIae, q. 107, a. 1). Aquinas derives this understanding of the New Law from the Bible, where God promises to write the law on the hearts of people. By this, Aquinas understands the Bible to promise not a change in the moral law, but a new orientation to the law, where one does the works of the law not from external coercion, but from one's own internal motivation. The New Law is more difficult from the perspective of the person who lacks virtue because it elicits perfect conformity, not only in outward deed, but also in inward motivation and spirit. For the person of virtue, on the other hand, the virtuous deeds that were likewise required by the Old Law become 'easy' precisely because they are done from virtue, from love, rather than from an external impulse such as punishment or reward (Ia IIae, q. 107, a. 4).

We are now in a position to see how transcendence of the law by the virtuous person should be characterized. The function of law is to train people in virtue. On Goerner's view, once one has become virtuous, the law is transcended such that the measure of what is right for the virtuous person is no longer law, but virtue. So, a virtuous person might act in a way contrary to the letter of the law, but because they are rightly ordered to the intention of the law by virtue, they would be performing a right act. However, as Hall argues, because those laws are *God's* laws it is not right to claim that Aquinas understands this to mean that a person of virtue may, on occasion, need to break

the law. On my view, the person infused with grace does, nonetheless, transcend the law. But not because the person sometimes performs acts that are contrary to the law. Rather, it is because the person infused with virtue does not act from the law. For the person of virtue the law is neither the standard nor the source for moral human acts. The virtuous person acts from love of God. However, though she does not act from law insofar as she transcends law, because her actions are from virtue as ordered to God as her final end, she will perform acts that turn out to be in accordance with the law, though the law is neither the standard nor the source for her actions. She acts from the love of God as enabled by grace rather than from obedience to the law.

It is important to note this relationship between law and virtue; for ultimately what is perfective of humans is "friendship" with God, or love of God. God is not loved by the person who only does what is perfective of humans out of fear of punishment by the law because even though the person seeks her perfection, she does not recognize God as her ultimate good. In this case, the person has not been sufficiently habituated to virtue. It is the person of virtue who is disposed to the good out of love for God that can attain friendship with God, even though it so happens, because of the way law and virtue are both related to human nature, that the person of virtue will never perform any acts that would in fact violate the law. So the person of perfect virtue does transcend the law in the sense that the person no longer acts from the law. This is important because as we will see below, obligation ends at virtue.

#### **4. Obligation as the Failure To Act From Charity**

We have already seen why moral imperatives present themselves to us with the feeling of necessity and universality. It is because of the natural fact that humans, in



virtue of performing properly human acts, always pursue the good. Now we are in a position to see what the occasion for obligation is in the first place. Why does morality present itself to us in the form of obligations? To see this, I will first outline John Hems' contention that obligation, rather than constituting the essence of morality, is a failure in love.<sup>41</sup> On Hems' view, obligation arises when we fail to act out of love. Obligation would have us act toward those we do not love in the same manner we act toward those we do love. In Aquinas, the perfection of love is the theological virtue of charity. It is charity that rightly orders us to our final end, God. My contention will be that obligation is a failure in the virtue of charity. Those who are perfected in the virtue of charity do the actions that turn out to be commanded by moral imperatives out of love for God. They are perfected in virtue to the extent that their virtue is ordered to their final end by charity. On my view, obligation would have us act in the same way we would act if we sufficiently loved God. The feeling of universality and necessity of obligation arises from the natural fact that all humans do pursue their perfection. The occasion for obligation, the reason moral imperatives present themselves to us in the form of obligations is the failure to act from the virtue of charity.

#### **4.1 Love and Obligation**

We often take obligation to be what we should do in contrast to our desires. We may desire to get out of a sticky situation, but we tell the truth anyway because it is our duty to tell the truth. Hems thinks this characterization of obligation can not be right since

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<sup>41</sup> See John Hems, "What Is Wrong With Obligation," *Philosophy and Phenomenological Research* 22, no. 1 (Sep. 1961), 50-60.

it assumes a problematic view of desire, namely that desires as such are bad.<sup>42</sup> But this is not the case. Hems asks us to consider the love a mother has for her child. We would say that the desire a mother has to care for her child is a good inclination. Indeed, we would say that the mother who cares for her child *only* from a sense of obligation is a "monster."<sup>43</sup> So, it is not right to contrast duty with desire in general. The issue, then, is whether one acts from a desire to do what one ought to do, or whether one acts from a desire to do what one ought not to do. Certainly, in particular cases we say that a particular desire is contrasted with one's duty. But by this we mean that we have a desire to do what we ought not do. Obligation, then, is not the containment of desire in general. It is rather the containment of opposing desires—"namely the desire to do and not to do what I ought to do."<sup>44</sup>

What, then, is the contrary of obligation if not desire in general? Hems claims that it is love. It is love which makes us desire to do what we do in fact not desire to do. "Love furnishes what was lacking in obligation—the desire to do the action in question."<sup>45</sup> For instance, I normally do not desire to inflict pain on myself. However, I very much love my family and would without hesitation put myself in harms way to protect one of my family members. I would not do this grudgingly because I think I am obligated to do my best to protect those I love. My love for my family elicits a desire to do what I would otherwise not desire to do. Some actions of moral weight we may desire

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<sup>42</sup> Ibid., 54.

<sup>43</sup> Ibid., 53.

<sup>44</sup> Ibid., 54.

<sup>45</sup> Ibid.



to do for a family member because we love them. But we would only do them for a stranger out of obligation. So obligation is really a failure of love. That we often feel an obligation to do something is to be explained by our failure to love.

Hems claims that his conclusion that obligation is a failure in love is the answer to the question, "Why ought I to do what I ought to do?" The question traditionally is considered suspect from either of two perspectives. Either the question is taken to be irrational, or it is taken to be immoral. But, argues Hems, both of these conclusions depend upon particular interpretations of the question. First, the irrationality conclusion depends upon the interpretation of the question that results in a tautology (54-55).<sup>46</sup> If obligation, as is often traditionally conceived, is of its own kind, then to ask the question is to ask, "Why is obligation what it is?" But, rather than asking that, one might be asking what in fact the reason for a particular action is. For instance, a person ought to give one of his coats to a freezing elderly man on the street. Why ought he to do what he ought to do, which in this case is give the man a coat? Because the man is freezing.<sup>47</sup> That interpretation of the question is not irrational. On the other hand, it's not very interesting either. Second, the immorality conclusion likewise depends upon a particular interpretation of the question. On this interpretation of the question, one realizes what one's obligations are and why (to give the freezing man a coat because he is freezing) but still asks why she ought to do it. One might be asking, "Why ought I to help persons in need?" If that is what one means by "Why ought I to do what I ought to do?" that rightly

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<sup>46</sup> Ibid., 54-55.

<sup>47</sup> Ibid., 56.

strikes us as immoral since generally that a person is in need and that one is in a position to help is sufficient for recognizing and acting on one's obligations.

But, argues Hems, these are not the only relevant interpretations of the question. Granting that people do experience the feeling of obligation, we might rather be asking this: Why is it that certain actions present themselves to me as obligations, rather than, say, as a whim, or as something I just want to do? Why did *this* action present itself to me in the form of an *obligation*?<sup>48</sup> Hems notes that on the modern view of morality there can be no positive answer to this question, for any positive answer would amount to a justification of obligation. But we can't be looking for a justification for obligation since moral obligations on the traditional view are supposed to be their own justification. If we could give a justification for them, they would no longer be moral obligations. They would be something else entirely. It would make obligation somehow derivative. Obligation on Hems' view must have a negative ground if it has any ground at all.<sup>49</sup>

Hems tells this story. Children grow up loving their parents, their brothers and their sisters. They soon learn to love others—friends and extended family members. But once children grow up, it is through obligation that they know to treat strangers as they would their friends—that is, they should not take advantage of them, seek their harm, etc. Obligation teaches them to act toward those strangers as they act towards those whom they love: "to fulfill an obligation is to act as though one loved."<sup>50</sup> Of course, one should not pretend that one loves a stranger. That would be hypocritical. Rather, obligation regulates the way we act towards those for whom a desire to act in love is lacking.

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<sup>48</sup> Ibid., 57.

<sup>49</sup> Ibid., 58.



Should we act toward the person out of a true sense of love, that is, if we genuinely cared for the person the way we love our family members, then we would no longer *feel* the obligation, for we would *feel* love for the person. A mother does not care for her children out of the motivation of moral obligation, even though upon reflection she may well acknowledge that as a mother it is her obligation to care for her children. Rather she cares for her children because she loves them. Hems' conclusion is that our obligations turn out to be the actions we would have done anyway to those that we loved:

“Obligation is grounded in a failure in love, and the answer to the question, 'Why ought I to do what I ought to do?' is this: 'Because I am lacking in love'.”<sup>51</sup>

## 4.2 Charity and Obligation

For Hems, then, obligation arises when there is a failure in love. I think the general structure of Hems' account is correct. However, approaching it from the perspective of Aquinas will require some revision since for Aquinas, charity is the highest of the virtues insofar as it rightly orders us to God. In this final section, I will outline Aquinas's account of God as the final good, and how charity rightly orders us to our final good. The conclusion will be, given the natural fact that all humans pursue what they take to be perfective of them, that God is the final end of humanity, and that charity rightly orders us to God, obligation is occasioned only when there is a failure to act from the virtue of charity

Aquinas accounts for love under the aspect of the good. For Aquinas, the first object of human passion is always the good as the human intellect apprehends it. Good is

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<sup>50</sup> Ibid.,

<sup>51</sup> Ibid., 59.

always the proper cause of love (Ia IIae q. 27, a. 1). However, that the formal cause of love is the good is not to deny that humans love different things in different ways. One may love something not for itself, but because of the good that it gives one. Or, conversely, one may love something for its own sake, and Aquinas takes this to mean that one desires the good for it. Furthermore, one may love what in fact is not perfective of her. But this is because she has mistaken what is perfective of her. The good formally considered is still the cause of love in this instance.<sup>52</sup>

What is in fact ultimately perfective of humans is union with God. In Ia IIae q. 3 a.8, Aquinas says that human happiness is contemplation of God, or the vision of God. This is because perfect human happiness is the cessation of striving. As rational creatures, humans acquire happiness by "knowing and loving God" (Ia IIae q. 1 a. 8). As rational creatures, reason must ultimately be satisfied in human happiness. This occurs in the vision of God when humans will see God's essence. But the vision of God can not be separated from love for God. In IIa. IIae q. 23 a. 6, Aquinas says that it is charity that "attains God Himself that we may rest in him." In article 1 of the same section, Aquinas defines charity as friendship with God. On Aquinas's account, following Aristotle, there are two requirements for friendship. First, one must wish the good for another. Second, there must be mutual love, or "communication." True friendship, then, is not self-interested. One loves the other for the sake of the other. The infused virtue of charity is the quality of the soul of friendship with, or love of, God. By charity "there is communication between man and God, inasmuch as He communicates His happiness to

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<sup>52</sup> See also, Kevin White, "The Passions Of the Soul (Ia IIae, qq. 22-48)," in *The Ethics of Aquinas*, ed. Stephen J. Pope (Washington, D.C.: Georgetown University Press, 2002), 108-109.



us” (IIa IIae, q. 23 a. 1). Charity is simply the infusion of perfected love by grace into the human. The object of charity is God as man's last end. Charity “is simply a friendship of human beings with God in the same way that any friendship appears as an outstanding variation of love.”<sup>53</sup>

Since charity is what attains God in Himself, charity is the supreme of all of the virtues. It is under the aspect of the virtue of charity that all other virtues are ordered to their proper end. Aquinas says that charity is "included in the definition of virtue" (IIa IIae q. 23 a. 4), and charity "is the form of the virtues" (IIa IIae q. 23 a. 8). This is not because all other virtues are reducible to charity, or that only charity is necessary for the virtuous life. Rather, charity is the form of the virtues because charity, whose object is a person's final end—God—properly orders all other virtues to this end. While one could have a kind of virtue without charity, though only proximately and so long as the ends were not contrary to one's ultimate end, one cannot have perfect virtue without the virtue of charity.

Love of others is under the aspect of the virtue of charity. Though humans love different things in different ways, ultimately charity, as the infused perfection of love, is one virtue only. There are not two or more virtues relating to the different ways in which humans love. This is because on Aquinas's view, insofar as love is always love of the good, the different ways that humans love is united under the aspect of one's final good, loving God (IIa IIae q. 23 a. 5). Humans always love the good formally considered. This means that one's love for various things is united under the aspect of one's good formally

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<sup>53</sup> Eberhard Schockenhoff, “The Theological Virtue Of Charity (IIa IIae, qq. 23 46), trans. Grant Kaplan and Frederick G. Lawrence, in *The Ethics Of Aquinas*, ed. Stephen J. Pope (Washington, D.C.: Georgetown University Press, 2002), 246.

considered. What is in fact the ultimate good for humans is God. Charity is the love of God. Humans are perfecting their being when they love God insofar as God is in fact what is good for humans, which is always the object and cause of love. Consequently, humans love everything that they love under the aspect of loving God. We love our neighbors for God's sake—we desire the good for our neighbors, which is that they "may be in God" (IIa IIae q. 25 a. 1). We love ourselves insofar as we are able to share in the happiness of God which is our final end (IIa IIae q. 25, a. 4). So, charity orders all the virtues to love of God.

Grace infuses charity in the agent. Likewise, the New Law is "chiefly the grace itself of the Holy Ghost, which is given to those who believe in Christ" (Ia IIae q. 106 a 1). When agents are friends of God, that is, when they have been infused with the virtue of charity by grace, they are under the New Law, which, as we've said, means they do what turns out to be in accord with the law, even though they do not do it from the law. In other words, when agents are properly ordered by the virtue of charity, the actions that the agent does will be actions that are in accord with God's providence, actions that fulfill God's ordering. We've already said that Aquinas understands law as God's provision for implementing his providential plans in the face of human sin. Law is not the source of the moral life. The source of the moral life is love for God. Though the virtue of charity will not elicit actions that are in fact contrary to the law, law only binds the person who lacks virtue. Obligation, then, will not be felt as a motivator of action by the person of perfect virtue. That all humans do in fact experience obligation is simply because, as Aquinas argues, perfect human happiness cannot be attained in this life. This is not to say that perfect human happiness is something altogether different from the imperfect



happiness that is possible in this life. Rather, it is the completion of imperfect happiness insofar as it is the unbroken union with God, rather than the fleeting glimpses of this life.

The occasion for obligation, then can only be when one fails to act from virtue. Obligation arises where there is a lack of friendship with God and it would have us do those actions which we would do if we loved God as we should. The answer to the question, "why does the command 'do not murder' present itself to me as a moral obligation," is, "because I do not love God." If I loved God out of the virtue of charity, I would not murder; but not because 'do not murder' is commanded of me. I would not murder because I would be properly ordered by charity to God, and would act from virtue. Obligation would have me do the things that I would desire to do if I loved God. Far from the essence of morality, then, obligation is nothing but a deficiency of virtue.

## 5. Conclusion

I began this thesis by noting that modern ethical theory understands obligation to be the essence of morality because morality is taken to be constituted by categorical imperatives. Foot challenges the thesis that morality is a system of categorical imperatives and concludes, as a result, that the feeling of necessity and universality of morality is nothing more than a consequence of the way morality is taught and enforced. While agreeing with Foot that modern notions of morality as a system of categorical imperatives and of obligation as the essence of morality are misguided, I have argued by using Aquinas and some of his interpreters that moral imperatives present themselves to us as necessary and universal rather because of the natural fact that humans always, in virtue of acting intentionally, pursue the good. The necessity, then, comes neither from

the imperatives themselves, nor from the stringency with which those imperatives are enforced, but from the fact that humans necessarily, because of their nature, pursue the good. Likewise, the universality comes neither from the nature of the imperatives nor from the consistency with which they are enforced, but from the fact that *all* humans, in virtue of engaging in properly human acts, pursue the good and are thus not beyond the reach of moral imperatives.

Furthermore, that morality presents itself to us in the form of obligations in the first place is neither a result of the fact that morality is constituted by categorical imperatives, nor, as Foot claims, merely a function of the way morality is taught and enforced. Rather, morality presents itself to us in the form of obligations because of a failure on our part to act from the theological virtue of charity. Were we perfected in the virtue of charity no act would present itself as obligatory since we would act from love of God, not from coercion of the law. Foot, then, while correct to deny that obligation is the essence of morality, fails to recognize the centrality of charity in the moral life, and thus the proper place and characterization of obligation.



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