

# Thomas Aquinas Treatise On Law

THOMAS AQUINAS



## Treatise on Law

The Complete Text

(*Summa Theologiae* I-II, Questions 90–108)

Translated by Alfred J. Freddoso

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This is the *only* free-standing English translation of the entire *Treatise*, which includes both a general account of law (Questions 90–92) and also specific treatments of what St. Thomas identifies as the five kinds of law: the eternal law (Question 93), the natural law (Question 94), human law (Questions 95–97), the Old Law (Questions 98–105), and the New Law (Questions 106–108).

Thomas Aquinas' *Treatise on Law* is a foundational text that explores the nature, purpose, and implications of law from a philosophical and theological perspective. Written in the 13th century as part of his larger work, the *Summa Theologica*, Aquinas' treatise remains influential in contemporary discussions of ethics, morality, and legal philosophy. This article delves into the key components of Aquinas' treatise, examining its historical context, the nature of law, the classifications of law, and its relevance in modern legal thought.

# Historical Context

To fully appreciate Thomas Aquinas' treatise on law, it is essential to understand the historical backdrop of his work:

1. The Scholastic Tradition: Aquinas was a prominent figure in the Scholastic movement, which sought to reconcile faith and reason. This intellectual tradition flourished in medieval Europe and emphasized rigorous philosophical argumentation.
2. Influence of Aristotle: Aquinas drew heavily on Aristotelian philosophy, particularly regarding ethics and politics. His engagement with Aristotle's ideas helped shape his understanding of law as both a moral and rational construct.
3. Religious Context: Living in a time of significant theological debate, Aquinas aimed to harmonize Christian doctrine with philosophical inquiry. His treatise reflects an attempt to articulate a cohesive vision of law that aligns with divine justice.

## The Nature of Law

Aquinas begins his exploration of law by defining its essence. He identifies law as a rational ordinance for the common good, promulgated by a legitimate authority. This definition encompasses several key elements:

### 1. Reason

- Law is rooted in reason. For Aquinas, a law that lacks rational foundation is not a true law.
- It serves to guide human behavior toward the common good, reflecting a moral order.

### 2. Common Good

- The ultimate purpose of law is to promote the common good of society.
- Laws should not serve the interests of a select few but rather benefit the entire community.

### 3. Authority

- Legitimate authority is essential for law to be valid. Aquinas argues that laws must be established by those in power who act for the benefit of the populace.
- This aligns with his view of natural law, which is inherent in the moral order of the universe.

## Classifications of Law

In his treatise, Aquinas categorizes law into four primary types:

## 1. Eternal Law

- This is the divine wisdom that governs the universe. It is unchanging and pertains to all creation.
- Eternal law is the source of all other types of law, reflecting God's plan for the world.

## 2. Natural Law

- Natural law is derived from eternal law, manifesting in human reason. It guides individuals in discerning right from wrong.
- Aquinas posits that natural law is universal, accessible to all people, regardless of culture or belief.

## 3. Human Law

- These are laws enacted by human beings to govern society. Aquinas emphasizes that human laws must align with natural law to be just.
- If a human law contradicts natural law, it is considered unjust and lacks moral authority.

## 4. Divine Law

- Divine law is revealed through scripture and is necessary for human salvation. It complements natural law and offers guidance on matters beyond human reason.
- Aquinas argues that divine law is particularly important in a fallen world, where human reason may be clouded by sin.

## The Purpose of Law

Aquinas articulates several purposes of law within his treatise:

1. Promoting Virtue: Law serves to cultivate virtues among individuals. By establishing norms for behavior, laws encourage citizens to strive for moral excellence.
2. Maintaining Order: Laws are essential for the preservation of social order. Without law, society would descend into chaos, as individuals would pursue their interests without regard for others.
3. Providing Justice: Law serves as a means of administering justice. Aquinas emphasizes that laws must be applied fairly and consistently to ensure that individuals receive their due.
4. Guiding Behavior: Laws offer guidance in complex moral situations, helping individuals make choices that align with the common good.

## Relevance of Aquinas' Treatise Today

The insights provided in Aquinas' treatise on law continue to resonate in contemporary discussions of legal philosophy and ethics. Several key areas illustrate its enduring significance:

# **1. Natural Law and Human Rights**

- The concept of natural law has influenced the development of human rights. The belief that certain rights are inherent to all individuals aligns with Aquinas' assertion that natural law is universal.

# **2. Legal Positivism vs. Natural Law Theory**

- The debate between legal positivism and natural law theory remains central in legal philosophy. Aquinas' views provide a counterpoint to positivist arguments that law is purely a matter of human construction.

# **3. Moral Foundations of Law**

- Aquinas' emphasis on the moral dimensions of law encourages contemporary legal scholars and practitioners to consider the ethical implications of legal decisions.

# **4. Integration of Faith and Reason**

- Aquinas' approach exemplifies the integration of faith and reason, promoting dialogue between religious beliefs and secular legal frameworks.

## **Conclusion**

In conclusion, Thomas Aquinas' treatise on law presents a comprehensive and thought-provoking exploration of the nature and purpose of law. Through his analysis, Aquinas establishes a framework that emphasizes the interplay between reason, morality, and justice. His classifications of law—eternal, natural, human, and divine—continue to influence contemporary discussions on legal philosophy and ethics. As societies grapple with complex moral dilemmas and the quest for justice, Aquinas' insights remain a vital resource for understanding the foundational principles that govern human conduct and societal order. His work challenges us to reflect on the moral dimensions of law and the role it plays in promoting the common good, urging a continued engagement with the philosophical and theological underpinnings of legal systems around the world.

## **Frequently Asked Questions**

### **What is the main purpose of Thomas Aquinas' treatise on law?**

The main purpose of Aquinas' treatise on law is to explore the nature of law, its origins, and its relationship to morality and human behavior, ultimately arguing that law should promote the common good.

### **How does Aquinas classify different types of law?**

Aquinas classifies law into four main categories: eternal law, natural law, human law, and divine law,

each serving distinct roles in guiding human conduct.

## **What is eternal law according to Aquinas?**

Eternal law is the divine wisdom of God that governs the universe and is the source of all other laws; it is unchanging and applies to all creation.

## **What role does natural law play in Aquinas' legal theory?**

Natural law, according to Aquinas, is the rational creature's participation in eternal law, allowing humans to discern right from wrong through reason and guiding ethical behavior.

## **How does Aquinas differentiate between human law and divine law?**

Aquinas differentiates human law as the laws created by humans to govern society, which must align with natural law, while divine law encompasses the laws given by God, often revealed through scripture.

## **In what way does Aquinas argue that laws should promote the common good?**

Aquinas argues that laws should be oriented towards the common good by ensuring justice, protecting individuals' rights, and facilitating the flourishing of society as a whole.

## **What is the significance of justice in Aquinas' treatise on law?**

Justice is a central theme in Aquinas' treatise, where he defines it as giving each person their due and emphasizes that laws must uphold justice to be legitimate.

## **How does Aquinas address the relationship between law and morality?**

Aquinas asserts that valid laws must be in accordance with moral principles derived from natural law; unjust laws, which contradict moral reasoning, lack legitimacy.

## **What impact has Aquinas' treatise on law had on modern legal philosophy?**

Aquinas' treatise has significantly influenced modern legal philosophy, particularly in natural law theory, ethics, and discussions about the relationship between law and morality.

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