Aquinas and Scotus on the Metaphysical Foundations of Morality

J. Caleb Clanton 1,* and Kraig Martin 2

1 Department of History, Politics, & Philosophy, Lipscomb University, Nashville, TN 37204, USA
2 College of Bible & Ministry, Harding University, Searcy, AR 72149, USA; kmartin10@harding.edu
* Correspondence: caleb.clanton@lipscomb.edu

Received: 27 December 2018; Accepted: 9 February 2019; Published: 14 February 2019

Abstract: This paper retraces some of the contrast between Aquinas and Scotus with respect to the metaphysical foundations of morality in order to highlight how subtle differences pertaining to the relationship between the divine will and the divine intellect can tip a thinker toward either an unalloyed natural law theory (NLT) or something that at least starts to move in the direction of divine command theory (DCT). The paper opens with a brief consideration of three distinct elements in Aquinas’s work that might tempt one to view him in a DCT light, namely: his discussion of the divine law in addition to the natural law; his position on the so-called immorality of the patriarchs; and some of his assertions about the divine will in relation to justice. We then respond to each of those considerations. In the second and third of these cases, following Craig Boyd, we illustrate how Aquinas’s conviction that the divine will follows the ordering of the divine intellect can help inform the interpretive disputes in question. We then turn our attention to Scotus’s concern about the freedom of the divine will, before turning to his discussion of the natural law in relation to the Decalogue as a way of stressing how his two-source theory of the metaphysical foundations of morality represents a clear departure from Aquinas in the direction of DCT.

Keywords: Aquinas; Scotus; morality; natural law; divine command theory; voluntarism; Decalogue; divine will; divine intellect

1. Introduction

Within the Christian tradition at least, Thomas Aquinas is clearly the thinker most closely associated with natural law theory (NLT), according to which moral obligations arise in connection to facts about the sort of creatures we are by nature—facts that God is responsible for, facts that we can discover and reason about for ourselves. Yet this familiar depiction of Aquinas can start to seem less straightforward in light of two considerations. One is simply that, admittedly, it is at least somewhat anachronistic to talk about Aquinas as a proponent of NLT in the first place: It is not as though he was, for example, a participant in the crisply defined debates between contemporary advocates of NLT, on the one hand, and, on the other hand, contemporary advocates of divine command theory (DCT), according to which moral obligations arise more directly in connection to God’s commands or some other prescriptive act of the divine will. Obviously, Aquinas precedes such precise categories, which we readily acknowledge. Of course, anachronistic classification can sometimes be a helpful heuristic nonetheless. At any rate, the familiar depiction of Aquinas as a proponent of NLT can seem less straightforward in light of yet a second consideration: In recent years, some scholars have either classified him among the proponents of DCT or appropriated his work in making a case for DCT.1

---

1 See, for example, (Idziak 1989, pp. 49, 56); (Quinn 1990, pp. 357–59); (Rooney 1995); and (Dougherty 2002).
Although we think that the interpretive evidence suggests that Aquinas probably fits most comfortably in the unalloyed NLT camp—and, hence, that he is not properly classified as a proponent (or even a proto-proponent) of DCT—our primary aim in this paper is not to settle interpretive disputes about Aquinas. Rather, our goal is to highlight some of the key nuances in his work that surface when addressing those sorts of interpretative disputes—nuances that evolved among some of his medieval successors and which took them in importantly different directions with respect to the metaphysical foundations of morality. An especially illustrative example of this can be seen in the work of John Duns Scotus, whose reflections on the natural law help stake out what Hannes Möhle has christened “a clear break and a new beginning” vis-à-vis Thomistic NLT.

This paper, accordingly, retraces some of the contrast between Aquinas and Scotus with respect to the metaphysical foundations of morality in order to highlight how subtle differences pertaining to the relationship between the divine will and the divine intellect can tip a thinker toward either an unalloyed NLT or something that at least starts to move in the direction of DCT. While we unavoidably wade into interpretive waters here, our aim is narrower than, say, demonstrating that Aquinas’s moral theory is or is not consistent with recent articulations of DCT. Rather, we highlight subtleties in the work of Aquinas and Scotus that we think can be cultivated as resources for understanding and advancing contemporary debates in theistic metaethics—particularly those related to the divide between NLT and DCT, for example.

We proceed as follows. The paper opens with a brief consideration of three distinct elements in Aquinas’s work that might tempt one to view him in a DCT light, namely: his discussion of the divine law in addition to the natural law (Section 2); his position on the so-called immorality of the patriarchs (Section 3); and some of his assertions about the divine will in relation to justice (Section 4). We then respond to each of those considerations. In the second and third of these cases, following Craig Boyd, we illustrate how Aquinas’s conviction that the divine will follows the ordering of the divine intellect can help inform the interpretive disputes in question. We then turn our attention to Scotus’s concern about the freedom of the divine will (Section 5), before turning to his discussion of the natural law in relation to the Decalogue (Section 6) as a way of stressing how his two-source theory of the metaphysical foundations of morality represents a clear departure from Aquinas in the direction of something more akin to DCT (Section 7).

2. Aquinas on the Divine Law and the Natural Law

As a prelude to his famous discussion of the natural law in the *Summa Theologiae*, Aquinas distinguishes four types of law: eternal law, natural law, human law, and divine law. Eternal law is the rule and measure of acts dictated by God’s perfect practical reason. Because God is eternal, so are the dictates of God’s practical reason. The natural law is that subset of the eternal law in which human can participate. That is, the natural law is that portion of the eternal law to which we have epistemic access and according to which we can freely order our lives. In turn, the natural law is valid and binding for us in virtue of its relationship to the dictates of God’s practical reason. Human law is comprised of dictates of practical reason derived through the process of human reasoning on the indemonstrable first precepts of the natural law (in conjunction with contingent facts) that are then put into place and promulgated by one who has care of a particular community. Lastly, divine law

---

2 (Möhle 2003, p. 314).
3 *Summa Theologiae* Ia-IIae, q. 91 in (Aquinas 2002, pp. 16–26). All subsequent references to Aquinas’s *Summa* will follow the standard citation format [ST #, q.#, a.#] and, additionally, cite page numbers from (Aquinas 2002), except where noted otherwise.
4 ST Ia-IIae, q. 91, a. 1 in (Aquinas 2002, pp. 16–17).
5 ST Ia-IIae, q. 91, a. 2 in (Aquinas 2002, p. 18).
6 ST Ia-IIae, q. 91, a. 3 in (Aquinas 2002, p. 19).
consists of specially revealed dictates from God which, Aquinas says, are “necessary to give direction to human life.”

Now, one might be tempted to think that Aquinas is committed to at least something akin to DCT (in addition to NLT) precisely because he allows for a subset of the law that flows directly from God’s commands—that is, the divine law. Suppose, for example, that God commands us to φ, where φ’s obligatoriness is in principle indiscernible through the use of supernaturally unaided human reasoning. We might be tempted to think, then, that the obligation to φ in this case arises solely in virtue of the divine command itself—and not as a result of its connection to the natural or eternal law. Accordingly, there would appear to be two fundamental sources of moral obligation at play here: The natural law, which are the dictates of God’s eternal practical reason to which we have epistemic access, and the divine law, which are the special revelations of God’s will. And if so, then it would be inaccurate to depict Aquinas as merely as a proponent of NLT.

Notice, though, that there are at least two ways one might construe Aquinas’s depiction of the divine law. On the one hand, consistent with the view just presented, one might read him as saying that the divine law is a set of special determinations of the divine will that causes or constitutes (or otherwise provides the ontological ground of) moral obligations. Call this the ontological interpretation for short. On the other hand, one might read Aquinas as saying that the divine law is a set of specially revealed epistemic aids for humans with respect to some set of moral obligations: Without these specially revealed precepts, we would have no way, or at least no easy way, of discerning the relevant obligations. Call this the epistemic interpretation of the divine law.

There are at least two considerations that point in favor of the epistemic interpretation. First, Aquinas explains that the divine law—which one might imagine would be unnecessary in addition to the natural law—is actually needed in order to direct us toward ends that extend beyond our natural ability to ascertain (viz., eternal blessedness) and because of the “uncertainty of human judgment,” among other such reasons. In other words, Aquinas seems to depict the function of the divine law in decidedly epistemic terms, and not as an ontological supplement to the dictates of God’s practical reason.

Second, recall that Aquinas contemplates law as a rule and measure of acts, and he explicitly holds that “it belongs to reason to order us to our end” and that ruling and measuring “belongs only to reason.” In other words, he gives priority to reason over the will when it comes to the establishment of law. This would seem to suggest that the ontological source of moral obligation is ultimately traceable to the dictates of God’s perfect and eternal practical reason, and not to some non-rational source. Accordingly, it seems likely that Aquinas did not think of the divine law as some additional primary ontological source of moral obligations, but rather as a set of special epistemic aids for discerning the full scope of our moral obligations. Admittedly, God’s commands in the divine law would serve as infallible guides to the relevant obligations in question—which is why we should always obey God’s command. But claiming that there is a perfect correlation between God’s commands and our moral obligations is not enough to qualify one as a proponent of DCT. After all, God’s commands might simply perfectly reiterate what our moral obligations would be even independent of God’s commands. And so to qualify as a proponent of DCT, one needs to claim that moral obligations are caused or constituted by (or are otherwise in a special, tight dependent connection to) divine commands. And insofar as DCT asserts that the relevant connection between the divine commands and moral obligations is more than just correlation—even perfect and infallible correlation—Aquinas’s affirmation of the divine law is not enough to qualify him as even a partial proponent of DCT.

7 ST Ia-IIae, q. 91, a. 4 in (Aquinas 2002, p. 21).
8 ST Ia-IIae, q. 91, a. 4 in (Aquinas 2002, p. 21).
9 ST Ia-IIae, q. 90, a. 1 in (Aquinas 2002, p. 11); emphasis added.
3. Aquinas on the Immoralities of the Patriarchs

The matter gets more complicated, though: One might be tempted to think that Aquinas holds that, at least with respect to some moral obligations, the relevant connection between the divine command and the moral obligation is more than merely epistemic. That is, one might be tempted to think that Aquinas holds that, in some cases, divine commands do more than merely provide needed epistemic aids—they do ontological work, too. After all, Aquinas seems to suggest that certain acts would not have been obligated (and, in fact, would have been morally forbidden) except that God commanded them. For this very reason Philip L. Quinn contends that, for Aquinas, “some moral statuses do depend on divine commands”—a position that is at least consistent with that of DCT.10 Quinn points in particular to the following passage in Aquinas’s discussion of the Decalogue:

Consequently when the children of Israel, by God’s command, took away the spoils of the Egyptians, this was not theft; since it was due to them by the sentence of God.—Likewise when Abraham consented to slay his son, he did not consent to murder, because his son was due to be slain by the command of God, Who is Lord of life and death: for He it is Who inflicts the punishment of death on all men, both godly and ungodly, on account of the sin of our first parent, and if a man be the executor of that sentence by Divine authority, he will be no murderer any more than God would be.—Again Osee [=Hosea], by taking unto himself a wife of fornications, or an adulterous woman, was not guilty either of adultery or of fornication: because he took unto himself one who was his by command of God, Who is the Author of the institution of marriage.11

Now, notice that the various acts in question here would normally be regarded as morally impermissible insofar as they seem to involve violations not only of right reason, and hence the natural law, but also of the divine law as conveyed in the second table of the Decalogue (at least anachronistically so in the case of Abraham and the plundering of Egypt). Nonetheless, in Aquinas’s view, the specific acts of these patriarchs were not actually impermissible, as indicated by God’s command. So, consistent with what Quinn argues, divine commands would appear to make a moral difference for Aquinas.

A curiosity arises here, however. Remember that, for Aquinas, the natural law is comprised of a subset of the dictates of God’s eternal practical reason, and hence it admits of no exception. So how could right reason at once affirm both (a) that the various classes of acts known as “murder” or “theft” or “adultery” are impermissible and (b) that individual instances of these classes are permitted (or even obligated) when commanded by God? Ultimately, on Aquinas’s view, the answer is that the precepts conveyed in the second table of the Decalogue—including the relevant injunctions against murder, theft, and adultery—were never actually revoked, despite any appearances to the contrary. He explains, for example, that

the commandments of the second table include the very order of justice to be observed in human society, that nothing improper be done to anyone, and that one should render to others what is their due. For we should so understand the commandments of the Decalogue. And so the commandments of the Decalogue cannot be dispensed from at all.12

So the specific acts of the patriarchs in question, rather than being dispensations from the law, were permissible simply because they did not ultimately constitute acts of murder or theft or adultery on final analysis, despite any appearances to the contrary. Why is that? In each case, the divine command somehow altered what the act in question was—or at the very least, the divine command alerts us to the fact that, in these special cases, the particular acts were actually different in nature than

10 (Quinn 1990, p. 359); emphasis added.
11 ST Ia-IIae, q. 100, a. 8, ad. 3, as quoted in (Quinn 1990, p. 358).
12 ST Ia-IIae, q. 100, a. 8 in (Aquinas 2002, p. 82); emphasis added.
they may have otherwise appeared to us. Aquinas explains, for example, that “the commandments of the Decalogue, regarding the nature of justice that they include, cannot be changed. But specifications applying the commandments to particular acts, namely specifications whether this or that be murder, theft, or adultery, are indeed variable.”

Think of it this way. Murder is unjustified killing. However, Abraham was not unjustified in planning to kill Isaac, precisely insofar as he was directed to do so by God, whose acts are always in accord with reason. And so in this case, Abraham was not actually planning murder because he was not planning something unjustified. Similarly, the Israelites did not actually commit an act of theft in despoiling the Egyptians because God’s command effectively transferred the relevant property rights as, say, compensation for past injustices. And in marrying Gomer, Hosea did not actually commit adultery, precisely because he carried out God’s specially revealed will. Notice the role played by the divine will in Hosea’s case, according to Aquinas:

Fornication is said to be a sin insofar as it is against right reason. Human reason is right when measured by the divine will, which is the first and supreme rule. Consequently, what a man does by God’s will and in obedience to his command is not against right reason, though it may appear to be against its common order: thus a miracle done by God’s power is not against nature though against the common natural order. . . . Hosea did not sin by fornicating from a divine command. Yet his intercourse properly speaking was not fornication, though called so in common usage.

Aquinas makes clear here that a sin is a sin insofar as it is against right reason, but that God’s will is the first and supreme rule of human right reason. So apart from the determination of God’s will in the command, Hosea’s act would have ordinarily amounted to fornication, and hence as a sin, a point that would seem to speak in favor of Quinn’s contention that divine commands make a moral difference for Aquinas.

But does it follow from this that the determinations of God’s will (as expressed in God’s commands) caused or constituted or otherwise ontologically grounded the moral obligation in such a way that accords with the DCT position? Perhaps not. Craig Boyd, for one, concedes that God’s commands make some sort of difference in the three cases mentioned above. As Boyd reads Aquinas, however, “it is not simply the case that God’s command acts independently of God’s reason.” Rather, “it is the divine reason, which in some cases exceeds the grasp of human reason, that serves as the standard for morality in Aquinas’ moral thought.” And that’s because, for Aquinas, the divine will follows the ordering of divine reason. So even though God’s will, as conveyed in God’s commands, indicates the conditions whereby an act (that would have otherwise been murder or theft or fornication) becomes an obligatory act, the divine will is not actually the root source from which the moral obligation arises. Rather, God’s will is informed by the dictates of God’s eternal practical reason. After all, for Aquinas, a law is simply “a dictate of practical reason by a ruler who governs a perfect community,” which is to say that law is simply a dictate of God’s eternal practical reason. Hence, if Boyd is correct, while Aquinas might be reasonably understood as conceding that divine commands can make some sort of difference, Aquinas can also be reasonably understood as denying that the divine will (or, command) is the most fundamental ontological ground of the obligation in the way a proponent of DCT would need to claim.

---

13 ST Ia-IIae, q. 100, a. 8, ad. 3 in (Aquinas 2002, p. 83).
14 ST IIa-IIae, q. 154, a. 2, ad. 2, as quoted in (Boyd 1998, p. 224).
16 (Boyd 1998, p. 223); emphasis added.
17 ST Ia-IIae, q. 91, a. 1 in (Aquinas 2002, p. 16).

Still, the dialectic between Quinn and Boyd raises an important question about the relationship between God’s reason (or, intellect) and God’s will (or, command). How can it be true that the law ultimately belongs to divine reason, and yet also true that the divine will is the first and supreme rule, as Aquinas explicitly says? To address this question, it will help to pause here and consider Janine Marie Idziak’s appropriations of Aquinas in formulating various positive arguments for DCT—appropriations which, again, can leave one with the impression that Aquinas is committed to something akin to DCT.

Idziak attempts to mine Aquinas for helpful historical resources in formulating two positive arguments for DCT—what we might think of as the argument from first cause for DCT and the argument from sovereignty for DCT. The argument from first cause pivots on the claim that God’s will must ultimately be uncaused, and thus dependent on nothing else. Accordingly, morality, like everything else, is traceable back to the uncaused divine will. The argument from sovereignty rests on the claim that the law in the human sphere is that which pleases the sovereign and so the moral law (in general) is that which pleases God, who is sovereign over all.

Now, consider the argument from sovereignty first. Obviously enough, such an argument might seem to mesh neatly enough with Aquinas’s assertion that the divine will is the “first and supreme rule.” After all, if the will of a sovereign is that which rules over a domain, then insofar as God is sovereign over all, God’s will is the rule over all—indeed, the first and supreme rule. So we need to ask: is Aquinas’s affirmation that the divine will is the first and supreme rule enough to imply that he is thereby committed DCT?

Not necessarily. Consider how such an inference would be dealt with by Boyd’s insistence that, for Aquinas, the divine will “takes its order from the divine intellect.” The response here would run much like the response to Quinn: Yes, God’s will or command makes a difference, but not in the way needed for DCT. And that’s because, for proponents of DCT, the divine will or command must be the thing that ultimately grounds the obligation. Yet for Aquinas, the divine intellect is prior to the divine will in grounding the law—after all, the law belongs to reason. Boyd notes, for example: “One must be careful, Aquinas warns, to remember that God’s will always follows the order of divine wisdom in order to avoid the blasphemous perspective of attributing to God a completely arbitrary will.” Now, admittedly, what Aquinas regards as blasphemy, others later came to see as sound doctrine. At any rate, the point here is just that one strategy for defending Aquinas as a proponent of NLT and not DCT—despite the fact that Aquinas allows that divine commands can make some sort of difference—is to respond that, for Aquinas, since the divine will cannot be arbitrary, it must follow the ordering of the divine intellect.

Still, Idziak’s appropriation of Aquinas in defense of yet another argument for DCT—viz., the argument from first cause—might seem to put pressure back on this very sort of defensive strategy. And that’s because the argument from first cause for DCT holds that the divine will must ultimately be altogether uncaused. Accordingly, an affirmation of the argument from first cause for DCT would clearly conflict with the defensive strategy underscored by Boyd.

But it is here where we should be careful to note that Aquinas indeed entertains, but then explicitly rejects, the line of reasoning animating the argument from first cause for DCT in the first place. So he should not be confused as endorsing Idziak’s appropriation of his work in making a positive case DCT. At any rate, Aquinas’s consideration of this line of reasoning is instructive, in part because it illustrates how the law belongs to divine reason, while the divine will remains the first and supreme

---

18 (Boyd 1998, p. 211).
19 (Boyd 1998, p. 211); emphasis added. For more on this point, see also (Stillner 1993, p. 231).
20 To be clear, Idziak does not claim that this argument is endorsed by Aquinas, only that it is found in Aquinas.
rule. In response to the question “Does justice as found among created things depend simply upon the divine will?” Aquinas entertains the following line of reasoning:

Every will which is just by a principle other than itself is such that its principle should be sought. But “the cause of God’s will is not to be sought,” as Augustine says. The principle of justice therefore depends upon no other than the divine will.”

Aquinas ultimately replies to that line of reasoning as follows:

Now the will does not have the character of a first rule, rather, it is a rule which has a rule, for it is directed by the intellect and reason. This is true not only in us but also in God, although in us the will is really distinct from the intellect . . . . In God, however, the will is really identical with the intellect . . . . Consequently the first thing upon which the essential character of all justice depends is the wisdom of the divine intellect, which constitutes things in their due proportion both to one another and to their cause. In this proportion the essential character of created justice consists. But to say that justice depends simply upon the will is to say that the divine will does not proceed according to the order of wisdom, and that is blasphemous.

Notice here that, on final analysis, the divine intellect—God’s perfect and eternal practical reason—appears to stand at the root of all justice. Hence, following Boyd’s lead, we indeed appear to have good reason to contemplate Aquinas among the proponents of an unalloyed NLT after all, despite his affirmation of the primacy and supremacy of the divine will. In a move that keeps his NLT consistently unalloyed, he contends that the divine will follows the ordering of the divine intellect—the divine will is a rule that has a rule, so to speak. And, ultimately, he allows that the divine will and the divine intellect are actually identical in God.

We have no intention of delving into issues related to divine simplicity here. It is enough for us at this juncture to point out that in Aquinas we have a thinker who can be reasonably—albeit anachronistically—classified among the proponents of unalloyed NLT, but within whose work there is enough nuance and difficulty that one might at least get the impression that he also supports something akin to DCT, too. But a vital point for him turns on the relationship between the divine intellect and the divine will: Every divine act proceeds according to the order of wisdom, and to suggest otherwise would be to suggest that the divine act is arbitrary, which would be blasphemous. Accordingly, every decision and act of God must be determined by God’s reason. Important Christian thinkers who followed Aquinas—such as John Duns Scotus, William of Ockham, and Andrew of Neufchateau in particular—clearly reacted to this sort of position, in part because they thought that it left God too constrained. In trying to free God from those constraints, they would eventually move in the direction of placing God’s will, rather than God’s reason, at the center of their explanations of the metaphysical foundations of morality.

---

21 Questiones Disputatae de Veritate, q. 23, a. 6, diff. 6 in (Aquinas 1954).
22 Questiones Disputatae de Veritate, q. 23, a. 6, as quoted in (Boyd 1998, pp. 210–11); emphasis added.
23 We acknowledge, with trepidation, that our interpretation appears to conflict with the presentation of a similar matter in (Stump 2003, pp. 310–11). There, Stump cites ST Ia-IIae q. 57, a. 2, ad. 3, according to which divine law “has partly to do with those things which are naturally just but whose justice is hidden from human beings, and partly with those things which become just by divine institution. And so divine justice (ius) can be divided by these two [categories] in the same way as human justice. For in divine law, there are certain things which are prescribed because they are good and prohibited because they are evil, and certain other things which are good because they are prescribed and evil because they are prohibited.”
24 Ultimately, we think that Boyd’s reflections about the priority of the divine intellect to the divine will is enough to show why M. V. Dougherty has failed to show that Aquinas affirms a DCT of metaethics. Dougherty notes that Aquinas affirms that the obligation to obey God’s commands is per se notum. See (Dougherty 2002, p. 154ff.). But even though we fully concede this point, that point is not enough to qualify Aquinas as a proponent of DCT: if Boyd is correct, the divine command would simply reiterate what is determined by the divine intellect. In other words, the divine command does not cause or constitute or otherwise provide the ontological ground for the moral obligation in question.
25 For more on this connection, see (Stump 2003, pp. 92–130, esp. at pp. 127–28).
5. Scotus on Contingency and Will

A prime example of this can be seen in Scotus. Aquinas holds that the divine will—and hence God’s commands—are ordered according to divine reason, on pain of blasphemy. For Scotus, though, the theological worry seems to cut in the opposite direction: Given Aquinas’s position, God’s will would be problematically bound. After all, on such a system, God can do or will only what the divine intellect dictates. One worry that can arise here, though, is that such a view would effectively entail that, since God can only ever do or will that which is determined by divine reason, it would be impossible for God to, say, choose not to create humanity (or, say, create us in that way as opposed to this way). Yet many thinkers find it intuitive to suppose that, if it is impossible for S not to φ, then, when S φs, S does not φ freely. In other words, for many thinkers, it can seem intuitive to think that, without contingency, there could be no freedom—even for God.

This general kind of concern seems to motivate Scotus’s emphasis on the will, which he depicts as a kind of power that contrasts with the hardwired inclinations of nature. He writes, for example:

For a power or potency is related to the object in regard to which it acts only by means of some operation it elicits in one way or another, and there is only a twofold generic way an operation proper to a potency can be elicited. For either [1] the potency of itself is determined to act, so that so far as itself is concerned, it cannot fail to act when not impeded from without; or [2] it is not of itself so determined, but can perform either this act or its opposite, or can either act or not act at all. A potency of the first sort is commonly called “nature,” whereas one of the second sort is called “will.”

The sun’s potency is an example of a natural power that cannot fail to act when unimpeded from without. When the sun shines on wet clay, for instance, the clay dries and hardens—in fact, it cannot fail to do so unless something gets in the way. But things are different with the will. When the will chooses to do something, it could have chosen to not act at any time prior to having acted. We can lift our hands, or not. We can eat the apple, or not. So for Scotus, the will is a potency that is contingent, as it is not compelled toward some singular course of action by something else.

Notice what this implies with respect to the divine will. If the divine intellect fully determines the divine will toward one and only one act or command, then, insofar as the divine will and the divine reason are conceptually distinguishable, God’s will would lack the character by which Scotus defines the will in the first place. In short, the divine will would cease to be will—precisely because God would be necessitated to a singular course of action and, hence, couldn’t choose not to act in the way determined by reason.

So there appears to be a problem here in need of a solution. And to articulate a position that preserves God’s freedom without thereby entailing that God’s acts are utterly unconstrained by reason (and thus problematically arbitrary), Scotus contends that at least some of God’s commands are fully determined by reason, and thus they are necessarily commanded by God, while other commands simply are not fully determined but contingent, and thus they could have been different had God chosen otherwise. To explain this solution, and why it matters, we should pause here to consider Scotus’s views regarding the relationship between the natural law and the Decalogue.

6. Scotus on the Natural Law and the Decalogue

For Scotus, a precept can be said to belong to the natural law in one of two ways: either in the strict sense, or in a loose or extended sense. Concerning the first way, he writes:

26 Questions on the Metaphysics, IX, q. 15, a. 2.2.a, in (Scotus 1997, p. 139). All subsequent references to Scotus’s texts will follow the standard citation format of the relevant primary source and, additionally, cite page numbers from (Scotus 1997) as well, except where otherwise noted.
One way is as first practical principles known from their terms or as conclusions necessarily entailed by them. These are said to belong to the natural law in the strictest sense, and there can be no dispensation in their regard . . . . It is to these that the canon of the Decrees of Gratian refers, where it is said that, "the natural law begins from the very beginning of rational creatures, nor does time change it, but it is immutably permanent"—and this I concede.27

The idea here is that a precept belongs to the natural law in the strict sense only when its truth is discernable simply by understanding the relevant terms involved—it is *per se notum*, in other words—or when its truth follows necessarily from precepts that are *per se nota*. "Strictly speaking," he writes "nothing pertains to the law of nature except a principle or a conclusion demonstrated in this fashion."28

In some ways, of course, this is a perfectly familiar way of speaking about the natural law. Aquinas, too, holds that the primary precepts of the natural law are *per se nota*, though he depicts them as a subset of the eternal law, and so they are therefore immutable and timeless on his view. While Scotus agrees that the precepts of the natural law in the strictest sense are *per se nota* and even immutable (and hence, he says, they admit of no dispensation), this is not because he depicts them in connection to an eternal law,29 but because he regards them as reflective of, or in possession of, a necessary truth—a truth that not even God could make false.30

For Scotus, though, only the first table of Decalogue—specifically, the first, second, and third commandments—could belong to the natural law in this strict sense. Why is that? Möhle explains that "since the ultimate end of all action is the attainment of the highest good, and [since] the highest good is identical with God, the only commandments that can belong to the natural law in the strict sense are those that have God himself as their object."31 In other words, only those commandments that have God as their object (viz., the injunction against having other gods or taking the Lord’s name in vain or the command to worship God on the Sabbath) are commands that necessarily orient humans toward their good, regardless of how God might have otherwise ordered creation. And so the thought is that the truth of these precepts would be knowable simply by properly understanding the relevant terms—"God," "good," etc. Scotus explains, for example:

Indeed the first two [commandments], if they be understood in a purely negative sense—i.e., "You shall not have other gods before me" and "You shall not take the name of the Lord, your God, in vain," i.e., "You should show no irreverence to God"—belong to the natural law, taking law of nature strictly, for this follows necessarily: "If God exists, then he alone must be loved as God." It likewise follows that nothing else must be worshipped as God, nor must any irreverence be shown to him. Consequently, God could not dispense in regard to these so that someone could do the opposite of what this or that prohibits.32

If God exists, God is perfectly good. What is good is to be loved, and what is perfectly good is to be loved above all else. So supposing God exists, God is to be loved above all else—necessarily. Hence, it is necessary that we abstain from showing any irreverence to God. Period.

Scotus offers something of a caveat with respect to the third commandment, however. He recognizes, for example, that "there is some doubt whether this precept of observing the Sabbath pertains to the natural law strictly to the extent that it requires that at some definite time worship be shown to God."33 The specification that God be should worshipped on a particular day of the week rather

---

than some other day does not seem to be a specification known merely by understanding the relevant terms. In fact, that specification seems dispensable enough. So for Scotus, there are clearly cases where, and respects in which, a divine command could simply be under determined by divine reason. After all, perhaps it is the case that divine reason does not necessitate the divine will to command a specific, detailed time of worship such that any number of different possible dedicated times of worship would work equally well. If so, the divine intellect might entail that God command that God be worshipped on one of some limited range of possible occasions while remaining, in a sense, indifferent regarding which of those specific times God wills. In that case, God’s will, as it were, simply picks one. God might well have commanded that the fourth day of the week be set aside, rather than the last, and it is at least possible that reason is antecedently neutral between those two options.

Even if we ignore this particular caveat, though, Scotus still holds that not all of the precepts of the Decalogue possess necessary truths that are per se nota—and so not all of them could belong the natural law in the strict sense. Nonetheless, Scotus is careful to say that all of the commandments of the Decalogue still belong to the natural law in at least the looser, extended sense. He writes, for example:

The other way in which things belong to the law of nature is because they are exceedingly in harmony with that law [=natural law in the strict sense], even though they do not follow necessarily from those first practical principles known from their terms, principles which are necessarily grasped by any intellect understanding those terms. Now, it is certain that all the precepts of the second table also belong to the natural law in this way, since their rightness is very much in harmony with the first practical principles that are known of necessity.34

Two points are worth stressing here. First, the second table of the Decalogue—viz., the commandments to honor one’s parents and the injunctions against murder, adultery, theft, bearing false witness, and coveting—belong to the natural law in only the extended sense, and not in the strict sense. Second, the connection between the second table (and, hence, the natural law in the extended sense) and the natural law in the strict sense is depicted in terms of consonance and not in terms of entailment. That is, the precepts of the second table are exceedingly harmonious with what is necessarily true—viz., that God is to be loved—but they are not somehow necessitated by it. John E. Hare explains this point in Scotus by saying that the commands of the second table are fitting given the nature of God and of creation, but they are not somehow required by, or deducible from, it.35 Elsewhere Hare explains, for example:

God is bound to love the divine essence, and (given that God creates others) to will that those others love it also. So the commandments which tell us to love God have the kind of necessity required for natural law in the strict sense, but the commandments which tell us how to love our neighbor do not. They are extremely fitting, Scotus says, but still contingent. This is because God is not, for Scotus, limited in the ways in which we can be ordered to this final end. We do not know that God is constrained to will that we reach this end, for example, by following the second table of the law.36

Simply put, for all we know, God could have commanded differently with respect to the second table. The divine will was not fully determined by the divine intellect here—it was at most underdetermined whether God should issue the commands contained in the second table, or some other set of commands. Thus, the commands of the second table are not reflective of necessary truths, precisely because there may be other ways God could have commanded that would also have been harmonious with the necessary first principles of the natural law (which includes the first table of the Decalogue).

34 Ordinatio III, suppl., dist. 37 in (Scotus 1997, p. 203).
35 See, for example, (Hare 2009, pp. 97–105); and (Hare 2015, pp. 102–109).
36 (Hare 2000, p. 25).
To illustrate the point at hand, consider the injunction against theft. The very concept of theft presupposes the concept of private property. Yet Scotus contends that God could have directed us toward a good, alternate social order that does not require private property in the first place. And had God chosen that alternate social order, rather than the one God decided on, the commandment against theft would have been unnecessary. Hence, the relevant commandment in question does not qualify as a precept of the natural law in the strict sense precisely because it is does not reflect a necessary truth.\(^\text{37}\) Scotus explains:

Given the principle of positive law that life in a community or state ought to be peaceful, it does not follow from this necessarily that everyone ought to have possessions distinct from those of another, for peace could reign in a group or among those living together, even if everything was common property. Not even in the case of the infirm is private possession an absolute necessity; nevertheless, that such persons have their own possessions is exceedingly consonant with peaceful living . . . . And it is this way, perhaps, with all positive laws [=any precept that is not natural law in the strict sense], for although there is some one principle which serves as the basis for establishing these laws, still positive laws do not follow with the simple [logical] necessity from the principle in question or explicate it as regards certain particular cases. Nevertheless, these explications are greatly in harmony with the first universal principle they clarify.\(^\text{38}\)

Similarly, the commandment involving adultery could have perhaps been different than it is, had God chosen differently. After all, for all we know, God could allow a dispensation from this precept. Mary Beth Ingham and Mechthild Dreyer point out, for example, that “Scotus notes, if there were a devastating epidemic and the survival of the human race were threatened, one might be allowed to practice bigamy. This dispensation from the sixth commandment . . . would be rational in light of the particular circumstance.”\(^\text{39}\) But if there are any circumstances under which it could ever be rational for God to allow such a dispensation, then the injunction against adultery is not reflective of a necessary truth, and thus is contingent upon the divine precept.

Why, then, did God choose the specific set of commandments outlined in the second table, as opposed to some other set of commandments? It is here where some sense of arbitrariness enters the picture again. For Scotus, however, this is not a problematic arbitrariness, precisely because those commandments were still constrained or limited, though not entailed, by divine reason: the relevant commandments were still exceedingly harmonious with the first precepts of the natural law in the strict sense. To be sure, some other set (or sets) of commandments could also have been exceedingly harmonious with the first precepts of the natural law, too. Had God so chosen, God could have reasonably ordered the natural law in those ways. This power to reasonably order the universe in ways other than the way God actually did reasonably order it makes room for contingency, and contingency allows room for the divine will. And recall that, for Scotus, where there is no contingency, there is no will.

It is worth noting that, in making room for the divine will to operate without being fully determined by the divine intellect, Scotus relies on a distinction between the ordained and absolute power of God. We can think of ordained power as the power to “act in conformity with some right and just law.”\(^\text{40}\) Both God and humans have ordained power. By contrast, we can think of absolute

\(^{37}\) We remain unclear whether, for Scotus, the multiple human orders or systems that God could have used to direct the commandments of the second table all assume that humans have the particular kind of biology and psychology that God created us to have. Supposing God could have made humans with very different bodies and psychological dispositions, then the range of fitting orders to which God might have directed us increases even further.

\(^{38}\) *Ordinatio* III, suppl., dist. 37 in \(\text{(Scotus 1997, p. 204)}\).

\(^{39}\) (Ingham and Dryer 2004, p. 135); see also *Ordinatio* IV, dist. 33, q.1 in \(\text{(Scotus 1997, pp. 208–12)}\).

\(^{40}\) *Ordinatio* I, dist. 44 in \(\text{(Scotus 1997, p. 191)}\). For a helpful discussion of this distinction, see also \(\text{(Veldhuis 2000, p. 225)}\).
power as the power to “act beyond or against such a law.”\footnote{Ordinatio I, dist. 44 in (Scotus 1997, p. 191).} Here again, both God and humans have absolute power. However, while humans might act \textit{inordinately} in exercising their absolute power (i.e., when acting \textit{against} right law), God can only ever act ordinately in exercising God’s absolute power. This is because God’s acts, by definition, are always ordered and always consistent with right law. So how, then, could God ever exercise absolute power? Scotus explains:

God, therefore, insofar as he is able to act in accord with those right laws he set up previously, is said to act according to his ordained power; but insofar as he is able to do many things that are not in accord with, but go beyond, these preestablished laws, God is said to act according to his absolute power. For God can do anything that is not self-contradictory (and there are many such ways he could act); and then he is said to be acting according to his absolute power.\footnote{Ordinatio I, dist. 44 in (Scotus 1997, p. 192).}

So God could exercise absolute power by ordering creation in one of the multitude of alternate ways that God could have ordered creation, which would have thereby (downstream from that creative act) entailed a different natural law than the one we actually have. Yet no matter how God might have ordered creation, it would have thereby been reasonably ordered, even though it would have been ordered according to some other system or package of laws.

7. Two Sources of Moral Obligation

Despite the fact that Scotus is sometimes taken to be a reductive voluntarist about the metaphysical foundations of morality, what we actually see in Scotus is not just one, but \textit{two} fundamental ontological sources of morality at play. The first source—necessary truth—does not arise from the divine will per se, but rather is infallibly recognized by the divine intellect. The commandments in the first table of the Decalogue reflect, or possess, this necessary truth, and the thought is that by merely understanding that to which the term “God” refers—what is perfectly good and, hence, what is to be loved above all else—we can see that created beings necessarily owe such a being their total devotion and worship. Accordingly, with respect to the obligations identified by the first table of the Decalogue, Scotus says in no uncertain terms: “God could not dispense in regard to these so that someone could do the opposite of what [they] prohibit.”\footnote{Ordinatio III, suppl., dist. 37 in (Scotus 1997, p. 203).} The divine will is thereby fully determined by this necessary truth. So not even an omnipotent God could, for example, command that we hate God, or that we put others above God, or that we not worship God.

The second source of obligations is the divine will. In other words, some obligations arise as a result of God’s positive commands, which proceed from the divine will. Obligations that arise in connection to the divine will, like those expressed in the second table of the Decalogue, are contingent obligations. They are not necessitated by the dictates of God’s perfect perception of necessary truth, though they are exceedingly consonant with it. Hence, they are not immutable and, as such, can admit of dispensation.

For example, Scotus takes the infamous acts of the patriarchs (e.g., Abraham’s binding of Isaac, the Israelites’ despoiling of Egypt, and Hosea’s situation with Gomer) to represent clear cases where the commandments of the second table were fully and robustly dispensed from. But notice the sunlight that this puts between the Subtle Doctor and the Angelic Doctor. For Aquinas, the acts of the patriarchs were entailed by the divine reason, and thus were not actually cases of theft or murder or adultery on final analysis. That is, the injunctions against murder and theft and adultery were never revoked—the specific acts of the patriarchs in question, despite appearances to the contrary, were simply \textit{not} cases of murder, theft, or adultery, as indicated by the divine command. Scotus seems to have something like
that sort of Thomistic explanation in mind when he writes that, if one assumes that the second table of
the Decalogue is immutable

then one would have to explain away those [biblical] texts where God seems to have given
a dispensation. One way of doing this is to claim that, though a dispensation could be
granted to an act that falls under a generic description [like killing in general], it could never
be given insofar as it is prohibited according to the intention of the commandment [e.g.,
killing an innocent neighbor], and hence [killing an unjust aggressor, for example] would
not be against the prohibition. Put another way, an act that is inordinate cannot become well
ordered, but an act insofar as it violates a prohibition is inordinate. Therefore, it cannot be
subject to dispensation insofar as it is against a prohibition.44

Scotus rejects this way of handling things, precisely because he thinks the biblical texts in question
clearly indicate that God made full-stop dispensations from the relevant injunctions, and, thus,
rendered specific acts that would have otherwise been impermissible permissible—and not merely
under generic descriptions, but also under more specific descriptions. Scotus holds, for example,
that Abraham’s intention to kill Isaac was an act that, absent the divine command, would have been
impermissible. He continues:

My question is this. Granted that all the circumstance are the same in regard to this act of
killing a man except the circumstances of its being prohibited in one case and not prohibited
in another, could God cause the act which is circumstantially the same, but performed by
different individuals, to be prohibited and illicit in one case and not prohibited but licit
in the other? If so, then he can dispense unconditionally, just as he changed the old law
when he gave a new law . . . . [B]ut that he did so is clear in the case of Abraham and many
other cases.45

So, for Scotus, the commands of the second table of the Decalogue are contingent. Although they
are harmonious with the necessary first precepts of the natural law in the strict sense, they are not
entailed by them. And the fact that there are other ways God could have commanded us with respect
to the matters covered in the second table is demonstrated by the simple fact that there are other
ways that God has commanded, according to Scotus. The other ways that God could have (and has)
commanded would also be (and were) harmonious with the first table of the law. God is constrained
only in that the nature of God’s goodness and wisdom makes it impossible for God to command in
ways that are not exceedingly harmonious with the first precepts. However, God’s will is free to choose
among any number of possibilities, each of which is consonant with the first precepts of the natural
law in the strict sense.

Obviously enough, the second source of moral obligations, from which the second table of the
Decalogue arises, is precisely why Scotus is sometimes taken to be proponent of voluntarism or
DCT. And, to be sure, it is clear that he at least moves in the direction of DCT. But the first source of
moral obligations, from which the first table of the Decalogue arises, is precisely why Scotus is not a
proponent of a thoroughgoing or unalloyed DCT, since he does not contend that the first source fully
reduces to the second source. Ultimately, then, it seems fair to say that Scotus holds something like a
two-source theory concerning the metaphysical foundations of morality. And for that reason, if for no
other, Scotus represents a clear—if not clean—break from Aquinas’s NLT.

Author Contributions: The authors contributed equally to this work.

Funding: This research received no external funding.

Conflicts of Interest: The authors declare no conflict of interest.

References


