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The Impact of the Concepts of 'Common Good', 'Justice' and 'Diversity' in the Natural Law of our Time

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THE IMPACT OF THE CONCEPTS OF 'COMMON GOOD', 'JUSTICE' AND 'DIVERSITY' IN THE NATURAL LAW OF OUR TIME

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1. THE ETHICAL NATURE OF SOCIAL LIFE

Man is, by nature, a social being. The experience that the human being tends to society and needs it to live humanly is so clear and permanent that it does not take a great speculative effort to capture the natural character of human sociability. This idea has seldom been denied throughout the History of Philosophy. In fact, as John Stuart Mill (2001) states: "The social state is at once so natural, so necessary, and so habitual to man that, except in some unusual circumstances or by an effort of voluntary abstraction, he never conceives himself otherwise than as a member of a body"[2](p. 32).

Social life is not, then, in man, a mere factual issue. When we say that man is social by nature we do not mean only that in fact he lives in association with others, for more or less pragmatic reasons, of subsistence or reciprocal convenience[3]. Undoubtedly, human society has much of this, but the sense of the well-known Aristotelian affirmation - man is a political animal - is much deeper. This means that man only comes to fully manifest his humanity, only to develop his moral personality, to the extent that his life is received in the bosom of a human society: the family in the first place and, through it, the political society.

In fact, according to the classical approach, family and "polis" contribute, each in their own way, to realize the social nature of man and, to that extent, contribute to manifesting what it is to be human. Now, family and city contribute -better or worse- to that end, to the extent that they promote or not human development, according to the goods that - following St. Thomas - are already targeted in the very nature of man. Therefore, when we speak of family and city as "human" societies we do not simply refer to the fact that they are made up of human beings, but rather to the fact that they realize and must realize a specifically human way of life, and therefore are inherently ethical. Precisely the latter explains that, when it comes to characterizing them, we cannot settle for factual explanations, since the human, insofar as it is ethical, is not purely factual: it includes - as Ana Marta González (2008) affirms - always an original tension towards the order of duty to be. Just as every man is human, but he can always realize his humanity with greater perfection, so every human society is intrinsically ethical. This, however, does not prevent him from realizing his ethical condition with greater perfection.

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To better appreciate the intrinsically ethical character of human society, as something that distinguishes, this society from other animal societies, we can use a valuable observation of Aristotle (2005), who saw a connection between the peculiar human sociability, language and communication about what fair and unjust:

> The reason why man is a social being, more than any bee and that any gregarious animal, is evident: nature, as we say, does nothing in vain, and man is the only animal that has a word. For the voice is a sign of pain and pleasure, and that is why other animals also possess it, because their nature reaches a sensation of pain and pleasure and indicates it to each other. But the word is to show what is convenient and what is harmful, as well as what is just and unjust, and other values, and the community participation of these things constitutes the home and the 'polis' (Aristotle, 2005: I, 2, 1253 a, 11-13: p. 4).

The word, unlike the voice, does not only serve to manifest subjective states of pleasure and pain -as is the case of animals- but also objective contents, based on which a different type of community can be constituted. Among those objective contents, verbally communicable, Aristotle highlights those that refer to the usefulness or convenience of things for certain purposes, but also justice.

Indeed, as Aristotle (2005) explains elsewhere, justice consists of a "certain equality", or proportional equality, which can be determined by prudential judgment (p. 89). Now precisely, justice as a virtue requires of man the willingness to submit to such a judgment, even in the case that such submission supposes contradicting the most immediate particular interests. Man, precisely of his possibility of escaping from the immediacy, is radically different from other animals. And in this also lies the greatest difference between animal and human society.

Now, as we noted above, the properly human social life is structured in different types of communities, and it is not possible to dispense with such structuring - as political liberalism defends - without depriving man of essential ethical referents for his practical life. As we know, Aristotle himself refers to the family, the village and the city - or political society proper - although later he focuses almost exclusively on the analysis of the house and the city. Among them, it detects an essential difference, which should be kept in mind when reflecting on the just and the unjust in the configuration of public life.

2. FAMILY AND POLIS

Adopting a genetic perspective, that is, a perspective that deals with the former in the temporal order, it would be necessary to say that the house is prior to the city. However, adopting a teleological perspective, by which we discover the essentials of a reality in the form it presents when it has been fully developed, we would have to say the opposite, namely, that the city "precedes the house and every one of us, because the whole is necessarily prior to the part" (Aristotle, 2005, p. 4). In fact, Aristotle understands that only by reference to the common political good can man discover and realize the good initiated in his own nature. And, with everything, the same city cannot be constituted without houses and families, "… because every city is made up of houses" (Aristotle, 2005, p. 5). Therefore, all just order of the city must begin by considering the nature and specific contribution of the family to the constitution of human good.

2.1. The necessary and the free

According to Aristotle (2005), the family is a place of coexistence designed to satisfy the most immediate needs of life, without which man can hardly enter to form part of the political society proper (p. 3). The trait presented by the family is its imperfection because it lacks self-sufficiency, in such a way that it is more constrained by the necessary than by the free. On the other hand, the characteristic object of political society is not so much to satisfy the most immediate and urgent needs of life, but rather to make a form of free coexistence possible - in the sense of "liberated" from what is necessary or not constrained by what is necessary. For Aristotle, only the latter is an end in itself, but this must be understood well.

Following Ana Marta González (2008), when Aristotle suggests that only political coexistence, insofar as it is a free coexistence, is an end in itself, is not wanting to belittle the moral value of other activities. Undoubtedly, being good in itself is a feature of any morally good act: Aristotle (2009)

himself says it more than once: "good deed is itself an end" (p. 103). However, good deed is also an integral part of an activity that is no longer, in turn, a means to any other activity or activity other than itself. As we know, this activity is designated by Aristotle with a name, eudaimonia, and, as we also know, Aristotle himself experienced a hesitation in determining whether the eudaimonia in question, the happy life, properly consisted in a contemplative activity or had rather than looking for it in political life, understood in the previous terms: as a coexistence of free and equal.

From this perspective, it is unquestionable that the free activity in itself is contemplation.

But immediately, then, human coexistence should be placed not focused on satisfying needs, nor on productive activities, but purely and simply on living together in freedom -in which the allusion to the self-government of free men is implicit. Precisely for this reason, beyond his determined commitment to contemplation as an essential activity of happiness absolutely considered, Aristotle does not renounce to place in the political life the content of human happiness.

Politics, in the Aristotelian sense of expression, is a uniquely human activity because it begins only where everywhere needs are met. In this sense it reveals a first form of self-transcendence of man. Below the policy, still focused on the mere satisfaction of needs - or, as the case may be, on the production of goods that are only ordered, more or less sophisticatedly to the satisfaction of needs - is Economy.

2.2. Economy and politics

According to Aristotle, a correct economy must not lose sight of the fact that the satisfaction of the necessities of life only are considered if they contribute to reach the good life. In other words, that the Economy as such is subordinated to the Politics, and not vice versa. Consequently, decisions made with the sole criterion of administering the goods and satisfying needs, without further projection into the good life, are ethically deviant. The fact that Aristotle confined the Economy in the strict sense to the family has to do with it: for Aristotle, the only natural place to satisfy the needs of life is the family, and a family only fulfills its function if it enables its members to participate in a political community, formed by free and equal principles.

The Aristotelian idea according to which the Economy should be confined to the house has been criticized a lot, mainly by the precursors of neoclassical economy. His position, however, is much more understandable when we approach the question from the point of view of the subordination of the necessary to the free. From then on, it may not be necessary to think that the Economy as such should be confined to the house: it is enough to retain that, no matter where the economic activity is developed, it must not lose sight of its subordination to Politics, understood as Aristotle does, as the coexistence of free and equal. That is to say: Economy finds its ethical north when it is oriented to make possible the coexistence of free and equal. Now, there is a sense in which this certainly directly implies a reference to the house: concretely, when we consider the most immediate ethical horizon of the work activity. In effect: work, for what it has of economic relationship, belongs more directly to the family relationship than to the political relationship, and therefore when it becomes independent of any relationship with the common good of the family, distortions easily appear in the human life.

…Politics, understood as Aristotle does, as the coexistence of free and equal. That is to say: Economy finds its ethical north when it is oriented to make possible the coexistence of free and equal.

For the rest, the Aristotelian thesis according to which the Economy is to be subordinated to the Politics also extends to other matters. This allows us to understand, for example, the criticism that Aristotle (2005, p. 81) directs to all those who "convert their activities into chrematistics", that is,

they subordinate all their activities to profit, since such a thing supposes denaturalizing the activities.[4] When this same thought is transferred to the public service we talk about corruption.

In another order of things, this way of approaching the relationship between Economy and Politics supposes that the Politics has a positive content -the coexistence between free and equal men- and that such content does not appear by the mere fact of having common commercial interests or ensuring the reciprocal rights.

Indeed, according to Aristotle (2005):

> the 'polis' is not a community of place to prevent reciprocal injustices and with a view to exchange. These things, without a doubt, are necessarily given if the city exists, but not because all of them exist, there is already a city, but this is a community of houses and families to live well, with the aim of a perfect and autarchic life. (p. 81)

According to such words, what is distinctive about the political relationship itself is that it revolves not simply around life, but around the good life.

Thus, Aristotle clearly distinguishes the domestic-economic and political. Accordingly, neither the conjugal relationship, nor the paternal-subsidiary, nor the sheriff -between the master and the slave- are political relations. Nor is the artisan and the apprentice. Unlike all these relationships -defined by some kind of need-, only the relations between free and equal -so the relationships not marked by daily needs or economic interests- are properly speaking political relations. What defines the political perspective, therefore, is the consideration of men as free and equal, without prejudice to other differences that undoubtedly occur between them when things are considered from another perspective.

2.3. Justice and politics

The way to realize the political perspective is the introduction of considerations of justice, since justice is defined, precisely, as "a certain equality" (Aristotle, 2005, p. 81). Certainly, it is not a strict equality, but proportional. And, as we know, Aristotle distinguishes two types of proportion: the arithmetic, which must govern the modes of treatment between individuals, and the geometric, which must govern the distributions of charges and benefits according to merit, all under the protection of the law that, founding the notion of legal justice, is directly ordered to protect the common good. Indeed, according to Aristotle (2005), "…the political good is justice, that is, what is convenient for the community" (p. 81), but such political justice only "…exists between people who share a common life to make autarchy possible, free and equal persons, already proportional and arithmetically" (Aristotle, 2009, p. 90).

From the Aristotelian approach we can infer that the prospering of political relations are only possible if, above the possible relations of economic dependence that are established between men, as well as their different economic benefits to the community, they are all recognized as equal before the law, simply because all of them contribute in some measure with their actions and their judgment, to a different kind of coexistence, no longer governed in this case by necessity or utility. Determining to what extent they contribute to it is a matter of justice, and this kind of justice is what is safeguarded by law, which, according to Aristotle (2005) "is the middle ground" (p. 203).

This does not mean that the Policy is exhausted in the enactment of laws. However, legislation is an essential part of the Policy. Aristotle (2009) says of the laws that "…come to be the works of the Policy" (p. 202), because they introduce order in the whole of the coexistence, defining the limits beyond of which the common good is violated, or seriously attacked against others.

In any case, with the introduction of the political perspective, obviously, it is not about annulling the differences that persist among citizens from other points of view, nor is it about considering the different contributions they give to the community from their fields irrelevant respective. It is only about recognizing that, above or below, each and every one of these services, they are all equal as citizens.

In the latter, as pointed out above, the political community is clearly distinguished from the family community, since the latter is not a community of free and equal, because it is essentially marked by the satisfaction of needs. Basically, the spouses need each other and the children need their parents. Certainly, when they come of age, they are all equal before the law. But within the family community there is no equality but difference, and precisely because of this detail the relations that exist between them are not political either. Consequently, among them "…there can be no political justice of one respect to the others, but only justice in a certain sense and by analogy" (Aristotle, 2009, p. 202).

In fact, "…there is justice... for those whose relationships are regulated by a law" (Aristotle, 2009, p. 91). However, according to Aristotle, only "…those who are equal in command and in obedience…" (2009, p. 92) have a natural law.[5] Such a thing is in principle possible within the political community - and that is precisely the notion of citizenship; it is not, however, in the case of family relationships, where parents naturally have authority over their children. For this reason, only in the case of the relationship between husband and wife does Aristotle admit a certain concept of justice, domestic justice, which, however, is also distinguished from political justice itself.

Certainly, in the case of family relations it seems that justice is little and friendship should be better talked about. At the end of the day, "… when men are friends (Aristotle, 2009, p. 143), there is no need for justice, while even if they are righteous, they also need friendship". And yet, it is also true that, according to all appearances, "it is the righteous who are most capable of friendship" (Aristotle, 2009, p. 142), and "…it is natural that justice grows together with friendship, since both occur in the same and have the same extension" (Aristotle, 2009, p. 153). In any case, friendship requires a community of life: without this, friendship cannot develop, and that is why the different types of communities are at the base of the different types of friendship. Thus, next to a friendship based on superiority - as occurs, for example, between parents and children - there is a civic friendship, like the one that must be given between free and equal citizens.

2.4. Complementarity between family and polis in education

As we can see, it is important not to confuse or separate the family logic and the political logic, since these are two different entities. The distinction between them, however, does not exclude their complementarity. On the contrary, family logic and political logic are reciprocally complementary if we consider things in relation to the ultimate goal of ethics: to make a man a good man.

In fact, in order to reach this purpose, it is necessary that the child receives the appropriate education from a young age, in such a way that later, in his adult age, he lives "given to good occupations", and does not do "neither against his will not voluntarily what is bad" (Aristotle, 2009, p. 199). All of this, however, "…will not be possible except for those who live according to a certain intelligence and a right order that has strength" (Aristotle, 2009, p. 200). And it is precisely at this point that there is an aspect of that complementarity between family and politics that is necessary for the attainment of human life, because, as Aristotle (2009) observes, "the father's orders have no force or obligation, nor do they generally of no isolated man, unless he is a king or something similar; on the other hand, the law has obligatory force and is the expression of a certain prudence and intelligence" (p. 200).

Aristotle considers that family and polis contribute -each in its own way- to the realization of the human good, that is, that every man becomes a good man, which supposes, among other things, the formation for political life. Certainly, Aristotle (2009) also observes that if the city neglects these questions, "…it must correspond to each one to direct his children and his friends to virtue, and to be able to do it, or at least propose it" (p. 201). In reality, this task is always the special competence of parents and friends, because by their proximity and closeness they are in a better position to be

right in particular cases. All in all, his opinion is that he will be better able to deal with each individual case, who knows in general what is convenient for everyone, and in principle, this is the legislator, although this knowledge is also convenient for parents and educators.

In fact, although the father and the educator attend first to the good of the individual, insofar as the human individual is not perfected but by reference to the political community in which he lives, this implies that the educational task will not be successful unless you have the common good before your eyes. On the other hand, although the legislator must first attend to the common good, he must not lose sight of the fact that said common good, in order to be so, must be perfective of the individual man and that, for that reason, its provisions on education (Aristotle, 2009, p. 84), will have to act in accordance with human nature.

Undoubtedly, given that the legislator's work inevitably involves interference in the moral life of the individual, it is important to have a criterion that distinguishes education from manipulation or corruption, and this criterion, implicit in all practical reasoning, is none other than nature. Indeed, as Aristotle (2009) says, "it is not the same to be a good man and be a good citizen of any regime" (p. 84), because there are corrupt regimes that enact laws in line with the regime and whose corruption, however, is recognizable, precisely because they violate the natural basis of human coexistence - what we might call the natural sense of justice, which is not only relative to the determined political regime, but not completely alien to it either.

3. NATURAL AND LEGAL LAW

According to Aristotle (2009), natural law is distinguished from legal law, but it conforms to what we call political right. Thus, he writes, "… political justice is divided into natural and legal; natural, which has the same force everywhere, regardless of whether it looks like it or not, and legal that of what, at first does not matter what it is or otherwise, but that once established no longer gives the same" (p. 92).

As we see in the words of Aristotle, natural law appears as part of the political right. It is, therefore, a present and operative right in the polis, between free and equal citizens. It is not a pre-political right, as an abstract code that should be looked at when promulgating the legal right or examining its justice; but it is a right implicit in the practical reasoning of man historically situated and that, nevertheless, is distinguished by its origin from the purely legal right. We could say that, in the absence of ideological conditioning or tyrannical partisanship, the legal right for Aristotle is limited to specifying or determining the limits of the just and unjust in a given society. By doing this, it already incorporates the provisions of natural law. This thought is also implicit in the Thomist thesis according to which one must always judge according to written laws:

> Judgment is nothing other than a certain definition or determination of what is just; but a thing is made fair in two ways: either by its very nature, what is called natural right, or by a certain convention among men, what is called positive law ... Laws, however, are written for the declaration of both rights, although in a different way. For the written law contains the natural right, but does not institute it, since it does not take force from the law but from nature: but the writing of the law contains and institutes positive law, giving it the force of authority. That is why it is necessary that the judgment be made on the written law, because otherwise the trial would depart from the natural right, or from the just positive. (Aquinas, 2009, p. 3.263)

In that text, St. Thomas opportunely distinguishes between the institution of law and its presence or use by man. There is no doubt that, from this last perspective, the citizen as soon uses the natural right as the positive one. In fact, it would have to be said that, ordinarily, whenever the citizen uses positive law, he also makes use of the natural right. However, this does not mean that the source of both rights is the same, or that they have been instituted in the same way. For while the legal or

positive right takes its force and its origin from the convention of men, natural law takes its force and its origin from nature - that is, from natural reason, from reason that takes charge of the ends-goods to which our inclinations point. Therefore, in the response to the first objection of the same article, St. Thomas observes:

> Just as the written law does not give force to natural law, neither can it be diminished or taken away from it, since the will of man cannot change nature. Therefore, if the written law contains something against the natural right, it is unjust, and has no force to bind, because the positive law is only applicable when it is indifferent to the natural right that a thing be done in one way or another ... Hence, such scriptures are not called laws, but rather corruptions of the law, and, therefore, should not be judged according to them. (Aquinas, 2009, p. 3.264)

St. Thomas is obviously thinking of the "wicked laws". This name is reserved, precisely, to the laws that contradict the natural right "or always or in the largest number of cases" (Aquinas, 2009, p. 3.265). Now, as he himself observes, it would also go against the natural right in case we insist on observing a written law that in principle is just, but that, applied to a specific case, in which special circumstances occur, it is not.[6] St. Thomas refers to those cases whose right judgment requires the exercise of equity or epikeia. This virtue is not a different virtue of justice itself, but it does represent a higher form of justice than legal justice, since it is introduced precisely to correct the possible effect derived from applying the written law in certain cases.

Equity or epikeia had been referred to by Aristotle in similar terms:

Equitable is fair, but not in the sense of the law, but as a rectification of legal justice. The reason for this is that the law is universal, and there are things that cannot be treated correctly in a universal way. Therefore, when the law is universally expressed and something that is outside the universal formulation emerges, then it is fine, where the legislator does not reach and errs by simplifying, correcting the omission, what the legislator himself would have said if he had been there and would have stated in the law if he had known. That is why fairness is fair, and better than a kind of justice; not absolute justice, but the error produced by its absolute nature. (Aquinas, 2009, p. 3.285)

Well, the very fact that we can discuss the justice or injustice derived from applying a law in principle just to a given case is indicative that legal justice is not the last word in matters of justice. As Robert Spaemann (1973) has warned, the fact that it is relevant to discuss the justice or injustice of a positive law, legally promulgated, responds to the fact that the interlocutors know that there is something that is just in itself, even though it is sometimes recognized by the power established and others not. Whoever really accepted legal positivism would close to himself the possibility of participating in this type of debate after the entry into force of a law.

In fact, the existence of equity is an indirect confirmation of the existence of a natural right not always introduced in a code, but operative. That natural right is that we use spontaneously in all those cases not yet covered by the legal right, and that often lead us to speak -as Ana Marta González (2008) points out- of "legal vacuums" and demand a codification.

Thus, natural law, as understood by Aristotle and Thomas Aquinas, is not an ahistorical right, but is called to materialize and take a specific historical form through its positivization in different legal codes, to the extent that said Codes actually pursue introducing order in relationships that occur between members of a given community. This is so because whatever is fair in such relationships cannot be determined absolutely a priori. This is followed by words of Aristotle (2009) that would otherwise be truly obscure: "for us there is a natural justice, and yet all justice is variable: nevertheless, there is a natural and a non-natural justice. But it is clear which of the things that can be otherwise is natural and which is not natural but legal or conventional, although both

are equally mutable" (p. 92).

Despite writing shortly before, in the same place, that "what is by nature is immutable and has everywhere the same force, just as fire burns both here and in Persia", Aristotle has no objection to accept that "all justice is variable". St. Thomas is not far behind, and so he writes in his commentary: "among men, who are among the corruptible, was added to the physical nature a second nature, in essential level or by accident" (Aquinas, 1987, p. 240), which does not prevent him from affirming the existence of a natural right that is valid for all men. The only way to understand both statements together is to note, on the one hand, that the definition of man as a social animal involves admitting as many positive realizations of human nature as there are social forms throughout history. And notice, on the other hand, that this does not nullify the idea of natural law, which lasts, precisely, as a negative criterion: there are actions that, no matter what the historical determinations of human nature, nor what the reasons are about the most useful for human coexistence, they can never be considered natural, because, far from constituting a concretion of something that nature leaves indeterminate, they involve a direct contradiction to the goods that we recognize positively initiated in our natural inclinations.

As inheritor of modernity, we can feel the impulse to complete the classic doctrine of natural law with a clear affirmation of the dignity of the human person, which excludes any purely instrumental consideration of the human being and allows, therefore, to recognize everything biologically human as subject of political and social rights. This thought was introduced in the modern age with the different theories of natural rights, and codified later in the later universal declarations of human rights. Among the initiators of this revolutionary idea, there were many who appealed to biblical and Christian sources from which, in their opinion, the appropriate consequences had not been extracted. This is the case of the voluntarist thesis of Duns Scoto (1987) and William of Ockham (1990). These two authors rewrite the biblical and Christian sources about the foundations of legal rules.

However, progress in this direction has suffered an abrupt reversal in our time, with the denial of such rights to the unborn, despite their biologically human condition. Likewise, the loss of the classical context of natural law, with its definition of the minimum framework of the common good, has meant the introduction of a dangerous misunderstanding in the use of human rights that, in our days, are invoked to defend a thing as the opposite. From this last point we have a clear example in the debate about euthanasia: when we start talking about the right to death in the same plane of the right to life, we appeal to a highly individualistic conception of law that, ultimately, threatens by its base all the legal order.

Indeed, assuming that any individual desire must find an echo in the legal system, the latter automatically ceases to be the guarantor of the common good to become the arbitrator of supposed individual benefits. However, this movement is far from being harmless, because it involves the denial of a common human good, of which life, but not death, is an integral and essential part: a common good by reference to which some decisions are more just than others. Now, precisely because life, but not death, is an integral part of the common human good, when an alleged right to death is invoked, it is assumed that there is no common good, or that the common good does not have any objective content at all; it is assumed, in short, that there are only subjective visions or individual interests, more or less changing, that can be tilted as much by life as by death; and that the task of the public powers is to arbitrate between such preferences or interests, although to give greater solemnity to the political task appeals to a supposed "general interest".

This worldview can be sustained, in theory, on the basis of an extreme liberalism that disguises as love of individual freedom the lack of love for one's own life or that of others as soon as it does not meet certain conditions of quality. In practice, it involves introducing a genuine investment of values: once the presumed right to death is

accepted in the legal system, or - without going so far - once euthanasia is decriminalized, any patient whose care requires a considerable effort on the part of his relatives is defenseless against the social pressure that more or less tacitly encourages him to request euthanasia and, in this way, free his beloved relatives from the cumbersome task of caring for him. Whoever, in view of the efforts of the family or the state, would not choose to die would be labeled as selfish. With this, the investment of securities is complete.

4. Current Questions Around the Common Good

To the extent that the process of modernization involves a process of individualization, the notion of the common good tends to disappear from the ethical horizon of the agent. This follows a remarkable impoverishment of human life, because man only reaches its characteristic fullness to the extent that it relates to their peers and founds a community based on the word, in the conversation about the just and the unjust, what is useful and what is harmful.

Indeed, the properly human community exists only insofar as the word is not simply a rhetorical instrument at the service of particular interests, but a means to communicate the true and the just. Hence, relativism threatens by its base any properly human form of coexistence. Where the interest for the truth fades, other interests flourish, which are not capable of founding open communities. But-someone could object-: does the truth found open communities? Are there other alternatives? In the following sections we will try to answer these questions.

4.1. Fundamentalism and relativism

The term "fundamentalist", as we use it in this study, has no particular transcendental connotations. Rather, in etymological key, "fundamentalist" is anyone who adheres to the foundations, but refuses to develop them rationally, gathering from others a nod not justified with reasons. Developing the foundations, in effect, is the work of reason, because this is a discursive power, whose most proper task is certainly to move from principles to conclusions and conclusions to principles. Such a discourse is called "science" when we move on the theoretical plane, and "prudence" when we move on the practical plane. From this perspective, what defines fundamentalism is more the renunciation of or the inability to rationally articulate one's convictions, than the fact that such convictions are of a religious nature.

Now, from this point of view, the relativist himself is also a type of fundamentalist. For the relativist may have his reasons, but in thinking that each one also has his or her own, and also assuming that no one has to be in principle more relevant than the others, indirectly raises his own relativism to a single relevant reason. From here, its only difference with the fundamentalist is only of a practical and provisional nature. Thus, while the fundamentalist does not renounce in principle to assert his ideas in a violent way, the relativist seems to reject in principle such recourse to violence. However, its denying of the truth also implies a violence to the nature of things: if no opinion can be, in principle, moretrue than the opposite, then the use of the word loses all communicating virtuality in a double sense: neither communicates anything true nor founds true community. Under these conditions, the use of the word can only have a rhetorical purpose: to persuade the other of my opinions and, ultimately, of my interests. Relativism thus becomes an excuse for the strongest to dominate the weakest.

Faced with both positions, it is important to emphasize the rationality of the classical approach, for which there can only be community if there are shared reasons, of which some are conventional, while others are natural. The classic doctrine of natural law, in effect, constitutes an undeniable framework when finding shared reasons.

Certainly, as a moral doctrine and not just a legal one, the doctrine of natural law covers more things than natural law. Thus, although St. Thomas takes up the classical doctrine of natural law, in his brief exposition of the goods associated with rational inclination, one can call attention to a peculiar aspect, which is not equally emphasized in that approach: the duty to avoid ignorance

and, therefore, to seek the truth. This duty is a requirement that makes us the natural law and that cannot be translated into legal terms. However, that requirement of natural law is at the base of the same legal system because, if the search for truth lapses, social life easily falls prey to considerations of another type - purely pragmatic and, in the last analysis, balances of power. We thus enter into the vicious circle characteristic of the relativist society, because it is a fact that the duty to seek the truth can also be stimulated or, on the contrary, weakened, as a consequence of the appreciation or lack of public appreciation for the truth.

At the same time, the fact that St. Thomas speaks of the truth as something that must be sought supposes admitting a right to search, and, therefore, to the freedom to search. Faced with fundamentalist positions, which require a non-argumentative recognition of a body of truths, it must be remembered that political life, in the strict sense, although it certainly presupposes an interest in truth, as something of a natural law, does not suppose more shared than those that are known as "natural right".

Certainly, historical development can lead to a concrete community building its social life on a broader and deeper body of truths and, insofar as such truths are assimilated and incorporated into the way of life, they will become part of the common law not written, which is as much as saying a natural right in a derivative sense. Indeed, asked if natural law can change, St. Thomas Aquinas (2009) answers:

> …change can be conceived in two ways: first, because something is added to it. And in that sense, nothing prevents the natural law from changing, because in fact there are many useful provisions for human life that have been added to the natural law, both by divine law and, even, by human laws. (p. 3.632)

It is implicit in these words that the progress of human law, in so far as it is just and oriented towards the common good, can be considered as a natural law.

But historical development can also lead to a change in this last aspect. Thus, asked if human law can change, St. Thomas answers:

> Human law is an opinion of reason, according to which, human acts are directed. Hence, to legitimately change it, there can be two reasons: one on the part of reason and the other on the part of men whose acts the law regulates. On the part of reason, because it seems innate to human reason to gradually advance from the imperfect to the perfect ... and thus we see ... that the first ones that tried to discover something useful for the constitution of human society, not being able to take it all into account, they established imperfect norms and full of gaps, which were later modified and replaced by others with less deficiencies in the service of the common good. In turn, on the part of the men whose acts it regulates, the law can be legitimately modified by the change of human conditions, which in their differences require different approaches. (Aquinas, 2009, p. 3.664)

According to these words, it seems clear that not every change in the legislation is illegitimate: although it is true that there are irrational and unjust changes, because they do not serve the common good, there are others that may be necessary when there are notable changes in the constitution of the population, perhaps because people from other traditions and with stronger convictions than the indigenous community are incorporated into the community. In these cases, a redefinition of public order seems inevitable which has as an immutable point of reference the natural law.

4.2. Universalism and culturalism

Broadly speaking, the conflict can be defined in the following terms: while the universalist maintains that there are universal reasons that can be shared by all, regardless of their cultural origin, the culturalist objects that these universal reasons are universal only in appearance, since that, in reality,

they are the fruit of a particular culture. In this case, the particular culture is referred to as Western culture.

It should be noted that the culturalist-who is nothing but a cultural relativist-argues from a theoretical position that to a large extent derives its strength from the substantivization of the concept of culture. That is to say, it argues as if culture were a static reality, as if it were not a practical reality configured and configurable along the lines of theoretical and practical solutions of a given human community to the various challenges that nature or history poses.

However, precisely the coexistence of people of diverse cultural origin in the same society, as well as the presence of diverse cultural communities under the same political framework, constitutes an unprecedented practical challenge for all those involved: for those people and their communities, as well as for the indigenous cultural community.

The fact that it is a practical challenge makes secondary the conflict between universalism and culturalism, as has been stated above in terms of theory. For from a practical point of view the question is no longer whether cultural minorities can or cannot share universal ideas of justice, or if they have other ideas of justice, but purely and simply under what conditions can we live in such a way that we do not offend each other reciprocally and do not live as strangers among us. That is, how to build a community beyond our differences.

Additionally, at this point we consider that without a minimum reference to human nature, as well as to the goods that belong to the integrity of that nature, it is not possible to forge a reciprocal understanding between members of diverse cultures. For which a very nuanced notion of universalism will be needed, but not to the uprooted way as it has sometimes been posed by some sector of the doctrine but rather as a universalism rooted in the very dynamics of socially situated human life and appealing from the beginning to a practical rationality.

In any case, the law that provides the framework for coexistence is guided by a basic criterion pointed out by Thomas Aquinas: "not to offend those with whom one has to converse" (2009, p. 3.631). It is well understood that, beyond its diverse cultural achievements, the minimum guidelines of what constitutes an offense are found in nature itself, and that this same nature asks us to develop a sense of community.

5. PLURALISM AND NATURAL LAW

Precisely because man only realizes his nature to the extent that he participates freely and responsibly in that conversation that is at the base of the common good, any position that endangers that conversation constitutes a threat to the common good and, ultimately, to man himself.

Without a doubt, it is necessary to participate in the conversation about what is just and unjust and, nevertheless, to violate the common good. Any disobedience of the law constitutes such a threat and, otherwise, any attack against the special justice, that is, any attack against the men with whom one has to converse, is also an offense - albeit indirect - to the common benefit.

But the characteristic of the present moment is not reflected so much in these types of attacks against justice as in the very questioning of the conversation without which we cannot even speak of the common good. Above, we referred to individualism and relativism as threats to that conversation. While individualism designates a sociological reality, relativism designates a cultural reality. At the political level, the confluence of both phenomena translates into the development of a moral pluralism that undermines the possibility of a true political community. From here we could only speak of associations with a view to exchange or to guarantee reciprocal rights.

As Zygmunt Bauman (1997) has indicated, fundamentalism can be considered a reaction to the risks implicit in these two threats, which deprive the individual of all community and philosophical support. However, the fundamentalist reaction is also a threat, and serious, against the constituent conversation of social life, simply because one way or another comes to consider it superfluous. In the latter,

fundamentalism betrays its fundamental incompatibility with politics. In its desire to counteract the solvent moral pluralism, fundamentalism comes to deny the legitimate political pluralism.

In fact, the possibility of communicating one's own thoughts, expressing one's opinion on the issues that concern all of us, is part of the very essence of political life. This fact is also at the base of political pluralism, which cannot be confused with moral pluralism: while moral pluralism designates a fundamental discrepancy in the plane of principles, political pluralism designates a practical discrepancy in the level of solutions to the problems that arise in the thread of coexistence.

Certainly, issues related to coexistence are judged by each from their own perspective, with their history and interests. Nevertheless, this does not in itself constitute an obstacle to coexistence, but is precisely what is required for conversation, and so that the determination of the just, that is, the allocation to each one of what corresponds to it, is not done without taking into consideration the way in which the goods that are object of discussion affect each one of the citizens.

However, the same political pluralism requires an agreement on moral principles: there are assets that cannot be publicly challenged without at the same time questioning the bases of coexistence. This fact alone constitutes an ethical reason to subtract them from the public debate, although there is no problem in questioning them on a theoretical level, for example in an academic context. Just as one cannot experiment with humans, one cannot experiment with the bases of human coexistence: such a thing, indeed, amounts to experimenting with men, and nobody is legitimated to do so. The difference between government and manipulation resides precisely in the recognition that the common good is not constituted against the goods initiated in the human nature itself, but only in conformity with them, and, therefore, respecting the natural law, true manifestation of the eternal law instituted by God.

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NOTES

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[2] Stuart Mill, J. (2001). Utilitarianism [orig.: 1863]. Kitchener, Ontario: Batoche Books, p. 32.

[3] As Aristotle argues: "It has been said in the first exhibitions... that man is by nature a political animal, and, therefore, even without needing reciprocal help, men tend to coexist. However, the common utility also unites them, insofar as each one encourages participation in the good life. This is, in effect, the

main purpose, both of all in common and in isolation. But they also meet by mere living, and constitute the political community. For perhaps in the mere fact of living there is a certain part of the good, if in life the penalties do not predominate too much. It is evident that most men endure many sufferings because of their lively desire to live, as if there were a certain happiness and natural sweetness in life" (2005: III, 6, 1278 b 3, p. 77).

[4] Alasdair MacIntyre will use in his work After virtue (1981), the expression "external goods" to refer to those goods that, because they are common to many practices, can denaturalize the genuine meaning of a practice, which only it is enriched if its participants use the so-called "internal goods".

[5] "A citizen without any other rank is better defined than by participating in judicial functions and in government" Aristotle (2005: III, 1, 1275 b, p. 69). For that reason, Aristotle says that being a citizen is an indefinite magistracy, which is above all true of democratic regimes. "But the definition of citizen admits a correction; in the other regimes, the indefinite magistrate is not a member of the assembly and judge, but rather a determined magistracy; because all these or some of them have been entrusted with the power to deliberate and judge on all matters or on some. After this it is clear who the citizen is: who has the possibility of participating in the deliberative or judicial function, we call that citizen of that city; and we call the city, to put it briefly, the set of such citizens enough to live with self-sufficiency" (2005: III, 1, 1275 b 12, p.69).

[6] "Just as iniquitous laws by themselves contradict natural law, or always or in the greatest number of cases, in the same way laws that are rightly established are deficient in some cases, in which, if observed, it would go against the natural right. And therefore, in such cases, should not be judged according to the literality of the law, but should be resorted to equity, which tends the legislator. Hence, the Judge says: "Neither the reason of right nor the benignity of equity suffer that what has been introduced in the interest of men is interpreted too harshly against their benefit, leading to severity. In such cases, even the legislator himself would judge otherwise, and if he had foreseen it he would have determined it in the law" (Aquinas, 2009: II, II, q. 60, to 5 ad 2, p. 3.265)