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CIVIL DISOBEDIENCE IN  
ST. THOMAS AQUINAS' NATURAL LAW THEORY

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NATURAL LAW THEORY

28 The purpose of this paper is to develop and explain 'civil  
29 disobedience' based on Aquinas' natural law theory.

30 **I. Opening statement**

31 The central question is, 'Is civil disobedience allowed in Aquinas'  
32 natural law theory?' If his theory allows civil disobedience, then it  
33 must also answer: (1) how does an individual decide that a law is  
34 unjust, (2) how does an individual make this decision concerning  
35 just versus unjust; and (3) what does the individual do about an  
36 unjust law?<sup>a</sup> These questions and the central question will be  
37 answered in this paper. At the heart of the civil disobedience  
38 question in Aquinas' natural law theory is the dismissive judgment<sup>b</sup>  
39 issue, "that which is not just does not seem to me to be a law."<sup>c</sup> Is

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2 <sup>a</sup> Norman Kretzmann, "Lex Iniusta Non Est Lex: Laws on Trial in Aquinas' Court  
3 of Conscience," *Philosophy of Law*, Eds. Joel Feinberg and Hyman Gross, 5th  
4 ed. (Belmont: Wadsworth, 1995) 7-8.

5 <sup>b</sup> *New Shorter Oxford English Dictionary*, 5th ed. (Oxford: Oxford University,  
6 2002) CD-ROM. Dismissive is defined as, "Of the nature of or characterized by  
7 dismissal; tending to dismiss; suggesting unworthiness of any further  
8 consideration; disdainful." As such, a dismissive judgment is a judgment of an  
9 object that is denied or dismissed as unworthy of any consideration.

10 <sup>c</sup> St. Augustine, *De libero arbitrio*, I v 11, Kretzmann 8. Kretzmann points out  
11 that there is a problem between the quote from Augustine, "*lex mihi esse non*  
12 *videtur, quae iusta non fuerit*" and the 'quote' "*Lex iniusta non est lex*", some  
13 philosophers attribute to Augustine and Aquinas. The later, "An unjust law is  
14 not a law," is opposed to the former, "To me that which is not just does not  
15 seem to be a law."

16

40 it a paradoxical judgment for Aquinas? Alternatively, is it a  
41 reasoned intellectual judgment for Aquinas? Finally, may humans  
42 disobey an unjust law? As the basis for my developing my critical  
43 analysis of this issue, I have chosen the argument from Norman  
44 Kretzmann's article "Lex Iniusta Non Est Lex: Laws on Trial in  
45 Aquinas' Court of Conscience."<sup>d</sup> Kretzmann's article provides a very  
46 insightful analysis of the dismissive judgment issue. He analyzes  
47 and draws a valid conclusion on dismissive judgment and the  
48 central question of civil disobedience. Additionally, he provides an  
49 excellent analysis of Aquinas' motives for supporting this doctrine.  
50 Finally, with a minor modification, Kretzmann's argument provides  
51 an answer to the civil disobedience issue.

52 However, developing, examining, and answering the question of  
53 civil disobedience in Aquinas' natural law theory is only the start.  
54 Does Aquinas' account of civil disobedience hold up when explaining  
55 a modern civil disobedience case? To answer this, we will next  
56 examine a modern civil disobedience case in Aquinas' court of  
57 conscience. Should an anti-abortion activist disobey the laws of the  
58 United States to protect "unborn" children? Does civil disobedience  
59 in Aquinas' natural law theory pass muster on this 'morally difficult  
60 case'?

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17 <sup>d</sup> Kretzmann 7-19.

61 We will use the two verdicts developed from the discussion of  
62 the central question to inspect this 'morally difficult case'. First,  
63 whether or not an 'unjust law is no law', as moral reasoning  
64 individuals, we must learn to weigh the cost of disobeying the law  
65 versus obeying the unjust law, i.e., obey by 'turning the other  
66 cheek' for the good of society. Second, an 'unjust law is no law', as  
67 creatures of a divine being, we must always be disobeyed, i.e., such  
68 'an unjust law is no law' and we have no choice but to disobey the  
69 unjust law. Let us begin by developing and answering the central  
70 question, "Is civil disobedience allowed in Aquinas' natural law  
71 theory?"

## 72 **II. Developing, examining, and answering the central** 73 **question**

74 The desideratum for answering the central question of civil  
75 disobedience in Aquinas' natural law theory is as follows. First, it is  
76 essential to the theory that we understand Thomist civil  
77 disobedience, i.e., whether the dismissive judgment, "an unjust law  
78 is not a law", is commonsensical or paradoxical and how can it be  
79 used explain civil disobedience. We will begin by laying out the  
80 preliminary groundwork, the assumptions, basis for the argument,  
81 and the issue. Next, it is essential to the theory that we

82 understand Aquinas' conception of law, in particular the relationship  
83 of natural and human laws. We will summarize Aquinas' four  
84 classifications of law and the types to be used for this analysis.  
85 Thirdly, it is essential to the theory that we understand the Thomist  
86 view of dismissive judgment and its motives. This will sum up the  
87 basis for an assessment of law, Aquinas' assessment of law, and  
88 assessment of law in the court of conscience, the agent intellect.

### 89 **A. Laying the groundwork**

90 Let us begin by outlining the preliminary assumptions, conditions  
91 for civil disobedience, and the issue of how to determine the justice  
92 of a law.

#### 93 *1. The preliminary assumptions*

94 Kretzmann uses Aquinas' system as a basis for his investigation.  
95 The focus of the discussion is on disagreements between a moral  
96 system and a legal system. As such, disagreements between  
97 individuals over the moral assessment of laws (e.g., people arguing  
98 over their individual assessments of a law as just or unjust) are to  
99 be ignored. Kretzmann also writes that in a Thomist viewpoint,  
100 there is a fundamental connection between moral philosophy and  
101 Christian theology. As such, Aquinas' legal system does not

102 separate morality from theology (i.e., the human beings in Aquinas'  
103 society are Christians). Nevertheless, even with this linkage, a  
104 secularized version of Aquinas is still proper for developing,  
105 examining, and answering the question of civil disobedience.<sup>e</sup>

## 106 2. *The conditions for civil disobedience*

107 Dismissive judgment (i.e., a disdainful judgment that dismisses  
108 thereby denying a premise or object) concerns whether a law is  
109 unjust. However, in this moral judgment, what information must a  
110 human being in a society need to determine justice? For  
111 Kretzmann, the following questions must be answered concerning a  
112 dismissive judgment of a law in terms of civil disobedience: <sup>f</sup> 1) can

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21 <sup>e</sup> Kretzmann 7. And Frederick Copleston S.J., *Aquinas*, (Baltimore: Penguin  
22 1957) 219. "[We] can say with truth that Aquinas believed in a set of  
23 unalterable moral precepts. The question arises... whether [Aquinas' moral]  
24 theory is compatible with the empirical fact that different people and different  
25 social groups [i.e., different religions] have divergent moral convictions [i.e.,  
26 religious convictions].... [However, I make] the following relevant point,  
27 namely that differences in moral convictions do not themselves constitute a  
28 disproof of the theory.... For there might be an unchangeable moral law and  
29 at the same time varying degrees of insight into the content of this law" [i.e.,  
30 reasoning humans in different social groups have just not 'discovered' the  
31 unalterable moral law].

32 <sup>f</sup> Joel Feinberg, "Civil Disobedience in the Modern World," *Philosophy of Law*,  
33 Eds. Joel Feinberg and Hyman Gross, 5th ed. (Belmont: Wadsworth, 1995)  
34 121-123. Although Kretzmann does not specifically deal with what constitutes  
35 'the act civil of disobedience', which is also an important conclusion for a  
36 discussion of civil disobedience. 'The act of civil disobedience' as 'lawbreaking'  
37 against an unjust law can have distinct flavors. A Thomist 'act of civil  
38 disobedience' according to Feinberg's article would be defined as "not to  
39 undermine authority but to protest its misuse." Of the flavors in the article,  
40 Rawl's approach to the 'act of civil disobedience' seems best in terms of  
41 Aquinas, as it requires the use of 'reason' to determine 'the act of civil  
42 disobedience'. Since the use of reasoning to determine 'the act of civil  
43 disobedience' would seem to be a requirement for a Thomist theory. For  
44 Aquinas then, 'the act of civil disobedience' would be similar to John Rawl's

113 an individual decide whether a law is unjust; 2) how can an  
114 individual make such a decision; and 3) what can or should the  
115 individual do about an unjust law.<sup>g</sup> However, which kind of  
116 dismissive judgment should apply to the law and civil  
117 disobedience?<sup>h</sup>

### 118 3. *The dismissive judgment issue in Aquinas' law*

119 Every thing, being, or substance has inclusive conditions that  
120 determine its completion. Law is a thing for Aquinas. An inclusive  
121 condition, which could be either non-evaluative or evaluative, is a  
122 "condition" that a thing, being, or substance must have to be

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46 "conscientious refusal" than "warfare against the state." (Epecially  
47 considering Aquinas' 'doctrine of the mean' as well as 'perversions of law' as  
48 developed respectively in *Summa Theologica*, I-II. Q. 64 A. 1 Obj. 3. and  
49 *Summa Theologica*, I-II. Q. 92 A. 1 RObj. 3. Further, Aquinas does not seem  
50 to advocate armed revolt which would be far away from the 'mean'.) The 'act  
51 of civil disobedience' requires four characteristics: (1) it must be public; (2) in  
52 must be nonviolent; (3) it must be either direct or indirect deliberate  
53 unlawfulness; and (4) it must be conscientiously aimed towards the 'good of  
54 society'. Therefore, a reasoned 'the act of civil disobedience' as "conscientious  
55 refusal" seems to me in alignment with Thomist philosophy.

56 <sup>g</sup> Kretzmann 9. Kretzmann's paper is contingent on the plausibility of the notion  
57 of civil disobedience: its role, justification, and nature. Kretzmann deals  
58 thoroughly with the justification for civil disobedience. However, Kretzmann  
59 seems unaware in the article that he is facing a problem in the areas of the  
60 role and nature of civil disobedience; I feel that he has left his argument open  
61 to questioning in these two areas. In spite of this, for the purpose of this  
62 paper I feel that we can properly explain Aquinas and civil disobedience  
63 without specifically dealing with the distinctions concerning the role and nature  
64 of civil disobedience. It seems to me that for Aquinas, an entitlement for the  
65 'role of civil disobedience' might be understood as both a 'right' and a 'duty' to  
66 disobey the unjust law, i.e., for unjust laws *vis-à-vis* 'divine law' there is a  
67 *duty to civil disobedience* and for unjust laws *vis-à-vis* 'reasoning to the  
68 natural law' there is a *mere right to civil disobedience*. Please note: The  
69 'nature' or the act of civil disobedience was discussed in a previous footnote.  
70 Thank you to Dr. Corlett for pointing out this problem with Kretzmann's article.

71 <sup>h</sup> Kretzmann 7-8.



123 considered complete. Non-evaluative means that the thing simply  
124 has the condition (e.g., the leg of a chair is a non-evaluative  
125 condition of "chair-ness"). Evaluative conditions are abstracted by  
126 reason to determine whether the conditions for inclusion in the form  
127 of the thing have been met (e.g., "masterpiece" is an evaluative  
128 condition of "musical masterpiece", because an evaluation must be  
129 made to determine inclusion).<sup>i</sup>

130 There are two of the kinds of things: non-natural conventional  
131 kinds and natural conventional kinds.<sup>j</sup> Of non-natural conventional  
132 kinds, their inclusive conditions are non-evaluative (e.g., for a  
133 *Haiku poem* or *soldier*, they simply need to meet the defining  
134 conditions). Of the natural conventional kinds, some are overtly  
135 and invariably evaluative. An example of this would be fine *artwork*  
136 or *gifted person* where an evaluation determines whether the  
137 condition is met for its inclusion. There are also natural  
138 conventional kinds that are not overtly or invariably evaluative.  
139 Evaluative conditions that are not overt involve implicit evaluative  
140 conditions and are linked with things that have a familiar human  
141 function. An illustration of this would be *artwork* or *anthropologist*.  
142 For these kinds of things with non-overt evaluative conditions, the

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73 <sup>i</sup> Kretzmann 8.

74 <sup>j</sup> Kretzmann 8.

143 non-evaluative conditions must be met before applying the  
144 evaluative (i.e., “He is no general,” makes sense only if “A bad  
145 general is not really a general, despite the fact that he holds the  
146 rank and commands an army”). Is it the natural conventional kind  
147 of things, with conditions that are both non-evaluative and  
148 evaluative, but not overtly or invariably evaluative, and has an  
149 important human function, which is the appropriate kind to apply  
150 dismissive judgment?<sup>k</sup> It is here that Kretzmann’s argument has a  
151 problem interpreting Aquinas.

152 The problem with Kretzmann’s argument is, “*How do you explain*  
153 *‘without being overtly evaluative’ condition in Aquinas?*”<sup>l</sup> The  
154 etymology of ‘overt’ is the Latin word *aperire*—exposed to view or  
155 knowledge, open, evident, straightforward.<sup>m</sup> Is Kretzmann correctly  
156 saying, “Without being exposed, evident and open to knowledge”?  
157 Is this not a contradiction of Aquinas’ writings? For Aquinas,  
158 humans possess a unique inclination towards reason.<sup>n</sup> This

76 <sup>k</sup> Kretzmann 9.

77 <sup>l</sup> There is another problem, that of *conscientia* or *synderesis*? Which  
78 ‘conscience’ from Aquinas do you use? [Aquinas, *Summa Theologica*, I. Q. 79  
79 A. 12 and I. Q. 79 A. 13. *The Human Constitution*, trans. Richard Regan,  
80 (Scranton: University of Scranton Press, 1997) 75-78.] While Kretzmann  
81 points out that he is aware that he is facing a problem in this area, I feel that  
82 he has left his argument open to question from this area as well. However, for  
83 the purpose of this paper I feel that we can properly explain Aquinas and civil  
84 disobedience without specifically dealing with this distinction.

85 <sup>m</sup> *The Shorter Oxford English Dictionary*.

86 <sup>n</sup> St. Thomas Aquinas, *Summa Theologica*, I. Q. 79 A. 4 and I. Q. 79 A. 8, *The*  
87 *Human Constitution*, trans. Richard Regan, (Scranton: University of Scranton  
88 Press, 1997) 57.

159 inclination is reasoning towards natural knowledge and knowledge  
160 of the supernatural and ultimate goal of human existence. If  
161 humans are inclined towards reason and knowledge, then how can  
162 you evaluate a condition without exposing or opening it to  
163 knowledge? Clearly, Aquinas would not agree with Kretzmann's  
164 definition, 'without being overtly evaluative'; since being open and  
165 exposed to knowledge is a condition of reasoning, the potential to  
166 gain knowledge. Further, this definition is a contradiction of  
167 evaluation, since to evaluate is to open or expose to knowledge. It  
168 is also to make a thing, being, or substance evident through  
169 reason. Clearly, this is a problem for Kretzmann's argument.  
170 Therefore, we restate in light of this, 'It is the natural conventional  
171 kind of things, with conditions that are both non-evaluative and  
172 evaluative, but not invariably evaluative, and has an important  
173 human function, which is the appropriate kind to apply dismissive  
174 judgment.'<sup>o</sup>

175 There is a sidebar to our analysis. Kretzmann points out that  
176 various philosophers have confused Aquinas' dismissive judgment  
177 as a paradox. This attack on the dismissive judgment comes  
178 mainly from the logical positivists and others opposed to natural  
179 law. Philosophers like John Austin look on the issue of law and

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90 <sup>o</sup> Kretzmann 9.

180 justice as two distinct questions: 'Does the law exist?' and 'Is the  
181 law just?' From their perspectives, Aquinas' dismissive judgment,  
182 'an unjust law is not a law', does appear to be a paradox (i.e., like  
183 stating, "'statutes are not laws' or 'constitutional is not law' is  
184 nonsensical", since by definition they are laws).<sup>p</sup> They feel that  
185 Aquinas' dismissive judgment only deals with the first question  
186 (i.e., "does the law exist?").<sup>q</sup> However, as pointed out by  
187 Kretzmann, Aquinas does not think or look on dismissive judgment  
188 as an issue of existence. *It is an issue of evaluative and non-*  
189 *evaluative inclusive conditions—is the law complete? Does it meet*  
190 *all of the conditions to be a law?*

## 191 **B. Summarizing Aquinas' law**

192 With this preliminary foundation, let us next turn to a summary  
193 of Aquinas' laws, in particular the linkage between natural law and  
194 human law.

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92 <sup>p</sup> Kretzmann 8.

93 <sup>q</sup> Kretzmann 10.

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195        *1. Aquinas classifies the types of law.*

196        For Aquinas, there are four types of law: eternal, natural,  
197 human, and divine. Eternal law or God's intellect is the basis for  
198 the other three types. The principles of morality, physics, and  
199 mathematics are part of the eternal law. However, humans can  
200 know eternal law only incompletely and with uncertainty. It is  
201 through the natural law that humans can participate in the eternal  
202 law. Natural law is in the form of innate principles of rational  
203 action. Natural law can only be explained on a very limited basis  
204 via participation in eternal law (i.e., man cannot know the eternal  
205 law, although he shows the potential or inclination towards the  
206 supernatural and ultimate goal of human existence). Human law is  
207 the legislation of humans for their governance and natural direction  
208 of humans towards the common good. To be rational, human law  
209 depends on the principles of natural law as derived by reason.  
210 Divine law is the revealed elements of the eternal law. The  
211 Scriptures reveals the eternal law to humans to guide them towards  
212 the supernatural and ultimate goal of human existence.<sup>r</sup> Since a  
213 legal system operates in human society and human law governs  
214 human society, we next focus our analysis on Aquinas' natural and  
215 human law and their connective nature.

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95        <sup>r</sup> Kretzmann 10-11.

216        2. Aquinas' natural law

217        To incline towards the natural law is human nature, the  
218 inclination of human beings to actualize the essential potentials of  
219 their nature. Humans can recognize as good or bad the objects of  
220 their inclinations. The natural law's innate precepts are reasoned  
221 as corresponding from these natural recognitions of the objects of  
222 our inclinations. As such, human action and direction are found in  
223 practical reason.<sup>s</sup>

224        The first principle of practical reason is that it is inclined toward  
225 action, what is good. "Since every agent acts for an end, which has  
226 the nature of a good.... *The good is that which all things seek after.*  
227 Therefore, the first precept of law is this: *What is good is to be*  
228 *done and promoted.*"<sup>t</sup> There is a connection between the order of  
229 precepts and *natural* inclinations toward the natural good. Human  
230 beings have three natural inclinations. First, as with other  
231 substances, they have an inclination towards preservation. Second,  
232 as with other animals, they are inclined towards reproduction.  
233 Lastly, and unique to humans, they have an inclination to reason  
234 toward the supernatural and ultimate goal of human existence and

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97        <sup>s</sup> Kretzmann 11.

98        <sup>t</sup> St. Thomas Aquinas, *Summa Theologica*, I-II. Q. 94 A. 1, *Philosophy in the*  
99 *Middle Ages: The Christian, Islamic, and Jewish Traditions*, Eds. Arthur  
100 Hyman and James J. Walsh, 2nd ed. (Indianapolis: Hackett, 1977) 532.

235 the common good of society.<sup>u</sup> However, humans can know the  
236 supernatural and ultimate goal of human existence only  
237 incompletely and with uncertainty. Nevertheless, the “precepts of  
238 natural law are innate in us.”<sup>v</sup> In addition, Kretzmann points out  
239 that for Aquinas, there is an “essential connection between natural  
240 law and conscience.”<sup>w</sup> In Aquinas, “Conscience is said to be a law of  
241 our intellect because as it is a habit [dispositional state–Kretzmann]  
242 containing the precepts of natural law, which are the first principles  
243 of human actions”<sup>x</sup> or moral rules.<sup>y</sup>

244 Inasmuch as human law depends on the precepts of natural law,  
245 it would seem that human laws are merely derivations of moral  
246 rules. However, this is not the case. For Aquinas, merely deriving  
247 something from the precepts of natural law (i.e., moral rules) does  
248 not constitute a sufficient condition for its inclusion in human law.<sup>z</sup>  
249 Kretzmann says that the completeness of Aquinas’ human law  
250 requires both evaluative (moral) and non-evaluative (formal)

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102 <sup>u</sup> St. Thomas Aquinas, *Summa Theologica*, I-II. Q. 94 A. 1, Hyman and Walsh,  
103 530-531. See also, Kretzmann 11.

104 <sup>v</sup> Kretzmann 11.

105 <sup>w</sup> Kretzmann 11.

106 <sup>x</sup> Aquinas, *Summa Theologica*, I-II. Q. 94 A. 1, Hyman and Walsh, 531. I used  
107 Kretzmann’s translation of Conscience here as opposed to Aquinas’ use of  
108 ‘*synderesis*’. I have used Kretzmann’s distinction for conformity with his  
109 article. It would however seem that an important problem is created by this  
110 use or misuse. I believe that Aquinas makes a careful distinction between  
111 ‘*conscientia*’ as a habit and ‘*synderesis*’ as a power.

112 <sup>y</sup> Kretzmann 11.

113 <sup>z</sup> Kretzmann 11-12.

251 inclusive conditions. Finally, it is with reason that humans evaluate  
252 an inclusive condition that is derived from the natural law.

253 **C. Answering the central question**

254 The groundwork and structure of Aquinas' legal system is behind  
255 us. Let us now proceed to the argument for the assessment of  
256 human law via dismissive judgment in the court of conscience.

257 *1. The basis for the assessment of laws*

258 From reading Aquinas' works on natural and human law,  
259 Kretzmann deduces that Aquinas' definition of law has seven  
260 inclusion conditions. These conditions provide the basis for the  
261 assessment of the justness of a law for Aquinas. The inclusive  
262 conditions of law are that they are: (A) a directive of reason, (B)  
263 aimed at the common good, (C) promulgated by the government,  
264 (D) pertaining to a complete community, (E) leading people to or  
265 restraining them from certain actions, (F) have coercive power, and  
266 (G) intended to be obeyed. It is from Kretzmann's list of conditions  
267 that we continue our assessment of how Aquinas evaluates laws.<sup>aa</sup>

268 Of the conditions, (A) and (B) are evaluative (or moral)  
269 conditions and (C)-(G) are non-evaluative (or formal and non-

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115 <sup>aa</sup> Kretzmann 10-11.



270 moral) conditions. Aquinas makes it clear that conditions (A) and  
271 (B) only come into play to determine the essence of a law, if the  
272 formal conditions (C)-(G) have been fulfilled.<sup>ab</sup> For example, the  
273 board of directors of a fraternity may make rules that fulfill  
274 conditions (A)-(C) and (E)-(G), but because a fraternity is an  
275 incomplete community (i.e., it lacks political sovereignty) the rules  
276 do not fulfill condition (D). Such a rule or law would not even  
277 officially start as rule. "In failing to meet one of the formal  
278 conditions, those... rules fail to count as laws even technically."<sup>ac</sup>

279 For Aquinas, law is an extension of moral rules. Further, morals  
280 rules are derived by way of reasoning from natural law. Kretzmann  
281 also writes that for Aquinas both (A) and (B) are evaluative moral  
282 conditions. The justness of a law is implicit in its rational basis, i.e.,  
283 condition (A). Additionally, the justness of a law is implicit in its  
284 directing a person's actions towards the common good, i.e.,  
285 condition (B). As such, a law not fulfilling either (A) and/or (B)  
286 would be unjust despite the fact that fulfills conditions (C)-(G).<sup>ad</sup>  
287 Therefore it would seem clear that it is in conditions (A) and (B)  
288 that dismissive judgment of a law as *unjust* is clearly relevant.<sup>ae</sup>

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117 <sup>ab</sup> Kretzmann 13.

118 <sup>ac</sup> Kretzmann 13.

119 <sup>ad</sup> Note the similarity here between this example and in the example of  
120 evaluative inclusive conditions in section II. A. 3. of this paper.

121 <sup>ae</sup> Kretzmann 13.

289        2. *The assessment of Aquinas' laws*

290        The assessment of an actual law is not implicit. However, it is  
291 also not an explicit assessment or possible dismissive judgment; for  
292 Aquinas, the assessment and dismissal of a law requires action by  
293 the intellect through reason. Kretzmann gives us two examples: a  
294 'tyrannical' law and 'violent' law. In the first case, he quotes  
295 Aquinas, "A tyrannical law, through not being according to reason,  
296 is not a law, absolutely speaking, but rather a perversion of law."<sup>af</sup>  
297 For example, a tyrannical law that does not fulfill condition (A) and  
298 only marginally condition (B) would be unjust despite the fact that  
299 it fulfills conditions (C)-(G) (e.g., a tyrannical law is not a just law  
300 because it is contrary to reason and aims for the perverted good of  
301 the tyrant, despite the fact in fulfills conditions (C)-(G)). Finally, in  
302 the second case, he quotes Aquinas, "Human law has the nature of  
303 law insofar as it partakes of *right reason* [emphasis Ed.]....But  
304 insofar as it deviates from reason, it is called an unjust law and has  
305 the nature, not of law, but of violence."<sup>ag</sup> Again, as in the example  
306 above, a 'violent' law that does not fulfill condition (A) would be

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123        <sup>af</sup> Aquinas, *Summa Theologica*, I-II. Q. 92 A. 1 RObj. 4, Hyman and Walsh,  
124        530.

125        <sup>ag</sup> Aquinas, *Summa Theologica*, I-II. Q. 93 A. 3 ad. 2, *On Law, Morality, and*  
126        *Politics*, Eds. William P. Baumgarth and Richard J. Regan, S.J., (Indianapolis:  
127        Hackett, 1988) 38.

307 unjust despite fulfilling the other conditions (B)-(G).<sup>ah</sup> Therefore,  
308 for Aquinas the assessment or dismissal of a law as unjust always  
309 requires an act of reason (i.e., reasoning from inclusive conditions  
310 that are both non-evaluative and evaluative, but not invariably  
311 evaluative) to judge its completeness.

### 312 3. *The court of conscience*

313 From the argument on the definition and assessment of law, it is  
314 clear that human laws may be “unjust-I”<sup>ai</sup> by being contrary to the  
315 common good of society, i.e., the law is either ‘tyrannical’ or  
316 ‘violent’.<sup>aj</sup> Since human law is derived by reasoning from the  
317 natural law,<sup>ak</sup> the end of human law is the natural inclination  
318 toward the good. In addition, Kretzmann notes a second way a law  
319 may be “unjust-II” is by being contrary or opposed to divine law.  
320 This is explicit with the Christian theological nature of Aquinas’  
321 moral system. No law is just that is contrary to God’s divine law.  
322 It is within these two verdicts, “unjust-I” and “unjust-II”, that we  
323 can answer the justice of a law in terms of civil obedience. But,

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129 <sup>ah</sup> Again, note the similarity here between these two examples and in the  
130 example of evaluative inclusive conditions in section II. A. 3. of this paper.

131 <sup>ai</sup> Kretzmann 14. I am using Kretzmann’s notation of “unjust-I” and “unjust-II.”

132 <sup>aj</sup> Kretzmann 14.

133 <sup>ak</sup> Aquinas, *Summa Theologica*, I-II. Q. 95 A. 2, Hyman and Walsh, 537-538.  
134 For Aquinas every human law is derived from natural law. He proves this as  
135 follows: (1) if a human law is just, then it is valid; (2) reason is based in the  
136 natural law; (3) justice can only be determined by reason from natural law;  
137 and (4) therefore, since reasoning from the natural law determines justice,  
138 human law is just, if and only if it is derived by reason from the natural law.

324 how do we reach the verdict?

325 The verdict is determined in the 'court of conscience'. Aquinas  
326 says, "Laws framed by man are either just or unjust. If they be  
327 just, they have the power of binding in the conscience."<sup>al</sup> Moreover,  
328 the 'court of conscience' is an act of reasoning. Again, humans are  
329 rational beings. "For conscience, according to the very nature of  
330 the word, implies the relation of knowledge to something: for  
331 conscience may be resolved into *cum alio scientia*. ...Wherefore,  
332 from this explanation of the name, it is clear that conscience is an  
333 act."<sup>am</sup> Additionally, the 'court of conscience' is not an interest of a  
334 community action, but an interest of the individual, i.e., how an  
335 individual should act. It is through reason's acting in the 'court of  
336 conscience' that determines a dismissive judgment and an  
337 individual's obligation to follow the law.

338 As stated in the preliminary groundwork, the following questions  
339 must be answered concerning a dismissive judgment of a law in  
340 terms of civil disobedience: (1) can an individual decide whether a  
341 law is unjust; (2) how can an individual make such a decision; and

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140 <sup>al</sup> Aquinas, *Summa Theologica*, I-II. Q. 96 A. 4, Baumgarth and Regan, 70.

141 <sup>am</sup> Aquinas, *Summa Theologica*, I. Q. 79 A. 13, Baumgarth and Regan, 3. In  
142 fact, Aquinas goes on to say that, conscience "denominates" or names the act,  
143 in this case it names the act of an individual reasoning by way of scientific  
144 deduction.

342 (3) what can or should the individual do about an unjust law.<sup>an</sup> It is  
343 clear that for Aquinas that the answer to question (1) will always be  
344 yes. Individuals can decide by reasoning in the 'court of  
345 conscience'.

346 Of the later verdict, an "unjust-II" type, Aquinas says, "laws may  
347 be unjust through being opposed to the divine good; such are the  
348 laws of tyrants inducing to idolatry or to anything else contrary to  
349 the divine law, and laws of this kind must in nowise be observed."<sup>ao</sup>  
350 Any law that is contrary to divine law is inherently unjust.  
351 Answering question (2), an individual by reading the Scriptures can  
352 decide if a law is a 'perversion' and therefore unjust. As for  
353 question (3), it is clear that "laws that are contrary to the  
354 commandments of God, which is beyond the scope of [human]  
355 power. Wherefore in such matters the human law should not be  
356 obeyed."<sup>ap</sup> Therefore, in regards this type of verdict, it is clear that  
357 civil disobedience is not only permissible; it is an obligation of the  
358 individual. Therefore, clearly the dismissive judgment can apply in  
359 this case.<sup>aq</sup>

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146 <sup>an</sup> Kretzmann 9.

147 <sup>ao</sup> Aquinas, *Summa Theologica*, I-II. Q. 96 A. 4, Baumgarth and Regan, 70.

148 <sup>ap</sup> Aquinas, *Summa Theologica*, I-II. Q. 96 A. 4 RObj. 2, Baumgarth and Regan,  
149 71.

150 <sup>aq</sup> Kretzmann 16.

360 Of the former verdict, an “unjust-I” type, the answer is not as  
361 clear-cut. To answer question (2), an individual by reasoning well  
362 in a scientific manner could make a ‘reasonable’ decision if a law is  
363 unjust (particularly if it is either a ‘tyrannical’ or a ‘violent’ law).  
364 The problem would be the usual “unavoidable empirical difficulty”<sup>ar</sup>  
365 with the likelihood of a subjective error. However, in answering  
366 question (3), there is a caveat to disobedience. Aquinas posits that  
367 when a law is reasoned to be unjust, an individual is not obligated  
368 to obey the law; however, an individual might be obligated to obey  
369 a law after all—“for the sake of *avoiding a scandal or disruption*, for  
370 which a person should give up his right”<sup>as</sup> (i.e., the application of  
371 the Christian ‘turn the other cheek’ doctrine). Aquinas seems to  
372 say that when confronted by an “unjust-I” law, the individual must  
373 weigh the potential harm of resisting the law against the potential  
374 harm the unjust law may cause if left unchallenged.<sup>at</sup> Therefore, in  
375 the answer to (3), it is unclear whether civil disobedience is an  
376 absolute permissible obligation of the individual.

377 Therefore, the verdicts or answers to the central question, “Is  
378 civil disobedience allowed in Aquinas’ natural law theory?” is Yes for

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152 <sup>ar</sup> Kretzmann 16.

153 <sup>as</sup> Aquinas, *Summa Theologica*, I-II. Q. 96 A. 4, Baumgarth and Regan, 70.

154 <sup>at</sup> Kretzmann 16-17.

379 “unjust-II” and Yes for “unjust-I”, but maybe we as reasoning  
380 individuals should not disobey the civil law.

### 381 **III. Passing muster on a ‘morally difficult case’**

382 Does Aquinas’ civil disobedience hold up when explaining a  
383 modern civil disobedience in a ‘morally difficult case’? To answer  
384 this we will examine the abortion issue,<sup>au</sup> which is a ‘morally difficult  
385 case’. We will use two arguments from *Roe v. Wade*, 410 U.S. 113  
386 (1973) to inspect this issue. Next, we will hear a reply from  
387 Aquinas using the two developed verdicts from the court of  
388 conscience.

#### 389 **A. The abortion arguments**

390 There are two arguments that will be examined concerning the  
391 abortion issue. One concerns the fetus as only a ‘potential human’.  
392 The second concerns the fetus as not being an ‘actual human’.  
393 Each of these two arguments played central roles in the U.S.  
394 Supreme Court’s ruling in *Roe v. Wade*, 410 U.S. 113 (1973).<sup>av</sup>

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156 <sup>au</sup> Please note that while this topic can raise numerous metaphysical questions,  
157 they are beyond the scope of this paper. As such, we will only touch upon  
158 Aquinas’ metaphysics to support his position on “unjust versus just” laws and  
159 civil disobedience. Additionally, we will also not deal with the modern biology  
160 of pregnancy, the biological and hormonal battle for survival waged between  
161 the embryo/fetus and the mother. While the biological and hormonal ‘battle’  
162 would raise some serious metaphysical problems as well for Aquinas’ theories,  
163 the battle between the mother and the fetus is beyond the scope of this paper.

164 <sup>av</sup> Although the U.S. Supreme Court argued for abortion, “The State in  
165 promoting its interests in the potentiality of human life, may if it chooses,

395 While the two arguments appear similar, to see their dissimilarity  
396 let us examine each argument.

397 *1. A fetus is only a 'potential human'*

398 An abortion activist would say that we have no obligation, or  
399 right, to protect a fetus as if it were a 'potential human'. The basic  
400 argument boils down to "Potential possession of ['commonsense  
401 personhood'] confers not a right, but only a claim, to life."<sup>aw</sup>  
402 Because a fetus cannot exist outside the mother it is "extremely  
403 difficult to believe... that a zygote one day after conception is the  
404 sort of being that can have any rights at all, much less the whole  
405 armory of 'human rights' including 'the right to life'."<sup>ax</sup> For example,  
406 it is a logical error to say that a child with his or her crayons as a  
407 potential artist is not on that account an actual artist. Therefore,  
408 the fetus, with only a potential for 'commonsense personhood', has  
409 only a claim to life whereas, the mother, with actual 'commonsense

167 regulate, and even proscribe, abortion..." (Justice Blackman's opinion in *Roe*  
168 *v. Wade*, 410 U.S. 113 (1973), 197). That is, the State may decide at which  
169 point there is a potential human life in support of the 'common good' of  
170 society, and then if it has an interest to choose to control and/or forbid  
171 abortion as opposed to unrestricted rights for the mother up until actual birth.  
172 The Court is laying out a gradually increasing claim to the rights for the fetus  
173 as it moves from potential to actual 'commonsense personhood'.

174 <sup>aw</sup> Joel Feinberg, "Potentiality, Development, and Rights," *The Problem of*  
175 *Abortion*, Ed. Joel Feinberg, 2nd ed. (Belmont: Wadsworth, 1984) 145.  
176 "Editor's Note: The author explained earlier in the essay that he will use the  
177 letter c as an abbreviation for the collection of characteristics (consciousness,  
178 self-concept, rationality, etc.), whatever may be, that are necessary and  
179 jointly sufficient for 'commonsense personhood'." I will replace the c with  
180 ['commonsense personhood'].

181 <sup>ax</sup> Feinberg, "Potentiality, Development, and Rights," 146.



410 personhood', has an actual right, not a claim, to life. It then follows  
411 that the mother in possession of actual 'commonsense personhood'  
412 with all of its rights has the right to decide.

413       2. *A fetus is not an 'actual human'*

414       An abortion activist might also say that we have no obligation to  
415 protect a fetus as if it were an 'actual human'. The argument states  
416 that "all and only those creatures who actually possess  
417 ['commonsense personhood'] are moral persons [i.e., 'actual  
418 humans'] ...whatever species or category they may happen to  
419 belong to."<sup>ay</sup> Therefore, the "status of the fetus as a moral person  
420 [is] straightforward: Since the fetus does not actually possess those  
421 characteristics [of 'commonsense personhood'] that we earlier listed  
422 as necessary and sufficient for possessing right to life, the fetus  
423 does not possess that right."<sup>az</sup> As such, abortion does not violate  
424 the fetus' right to life, since the fetus does not possess a right to  
425 life. Therefore, the fetus, not being 'actually human', has only a  
426 claim to life and the mother, being 'actually human', has an actual

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183 <sup>ay</sup> Feinberg, "Potentiality, Development, and Rights," 148. It is important to  
184 note that the 'actual-possession' criterion would imply that small infants are  
185 not moral persons. The whole issue of infanticide of a physically normal small  
186 infant becomes a very real possibility; since the small infant is not in actual  
187 possession of 'all' the criteria of 'commonsense personhood'.

188 <sup>az</sup> Feinberg, "Potentiality, Development, and Rights," 149.

427 right, not a claim, to life. It then follows that the mother, being an  
428 'actual human' with all of its rights, has the right to decide.

## 429 **B. The replies from Aquinas' court of conscience**

430 Aquinas can reply to these two arguments concerning the  
431 abortion issue. Aquinas could reply to both arguments in terms of  
432 an "unjust-II" verdict.<sup>ba</sup> However, to understand Aquinas' civil  
433 disobedience, we will examine the first argument that the fetus, as  
434 only a 'potential human', is an "unjust-II" verdict. Next, we will  
435 examine the second argument that the fetus, as not being an  
436 'actual human', is an "unjust-I" verdict. Let us proceed to examine  
437 each reply by answering questions (1), (2), and (3) concerning  
438 dismissive judgment and civil disobedience.

### 439 *1. A reply to a fetus is only a 'potential human'*

440 The reply from Aquinas in terms of an "unjust-II" is that abortion  
441 violates the divine law. Aquinas says that a reasoning human  
442 intellect can know that "the form coming upon the matter makes  
443 the matter itself actually exist, as the soul does to the body."<sup>bb</sup>

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190 <sup>ba</sup> I believe, in fact, that Aquinas would respond to both arguments for abortion  
191 with a verdict that abortion violates divine law. Nevertheless, to understand  
192 fully Aquinas' civil disobedience, it is prudent to examine the abortion  
193 argument with both verdicts.

194 <sup>bb</sup> St. Thomas Aquinas, *On Spiritual Creatures*, A. 1, *Philosophy in the Middle*  
195 *Ages: The Christian, Islamic, and Jewish Traditions*, Eds. Arthur Hyman and  
196 James J. Walsh, 2nd ed. (Indianapolis: Hackett, 1977) 474.

444 During reproduction, the man deposits the form or soul upon the  
445 matter provided by the mother, and the fetus exists.<sup>bc</sup> Therefore,  
446 the answer to question (1) is that a fetus cannot be merely a  
447 'potential human' since it is both soul and matter; thereby it is a  
448 'human'.<sup>bd</sup> The *Bible*, which is divine law, tells man, "Thou shall not  
449 kill."<sup>be</sup> For that reason, we answer question (2) that abortion, which  
450 kills the fetus, is a 'perversion' and therefore unjust law. It follows  
451 for question (3), "laws that are contrary to the commandments of  
452 God... should not be obeyed."<sup>bf</sup> Clearly, Aquinas' reply to the  
453 argument that a fetus is only a 'potential human' would be that the  
454 law is unjust (in terms of "unjust-II") and that civil disobedience is  
455 not only permissible; it is an obligation.<sup>bg</sup>

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198 <sup>bc</sup> Aquinas, *On Spiritual Creatures*, A. 1, 475. "For it is clear that what belongs  
199 to a thing by virtue of the thing itself is inseparable from it. But being belongs  
200 to a form, which is an act, by virtue of itself. And thus, matter acquires actual  
201 being according as it acquires form; while it is corrupted so far as the form is  
202 separated from it."

203 <sup>bd</sup> Aquinas, *Summa Theologica*, I. Q. 75 A. 6, Hyman and Walsh, 501.  
204 "Moreover we may take a sign of this from the fact that everything naturally  
205 aspires to being after its own manner." For example, the seed of a plant has  
206 the form or soul of the completed plant. The seed aspires to become the plant  
207 after its manner. "And for this reason, living things need to have a power of  
208 the soul that brings them to their requisite size." (Aquinas, *Summa*  
209 *Theologica*, I. Q. 78 A. 2, RObj. 3, Regan, 50.) If you destroy the seed, then  
210 you destroy the future plant. In the sense of form and matter, a fetus is to a  
211 human as a seed is to a plant.

212 <sup>be</sup> *Exodus*, Chapter XX, Verse 13.

213 <sup>bf</sup> Aquinas, *Summa Theologica*, I-II. Q. 96 A. 4, RObj. 2, Baumgarth and Regan,  
214 71.

215 <sup>bg</sup> Kretzmann 16.

456 2. A reply to a fetus is not an 'actual human'

457 The reply from Aquinas in terms of an "unjust-I" is that abortion  
458 violates the natural law principle; society's common good is man's  
459 end of happiness.<sup>bh</sup> Reproduction is a part of man's end. For  
460 Aquinas, "the power of generation [reproduction] is the ultimate  
461 and most important and most perfect of these three powers [of the  
462 vegetative soul], as the *De Anima* says, (Aristotle, *De Anima* II, 4.  
463 416b23-25) for it belongs to something perfect 'to produce  
464 something just like itself.' (Aristotle, *De Anima* II, 4. 415a26-b7)."<sup>bi</sup>  
465 Consequently, the answer to question (1) is that a fetus is an  
466 'actual human';<sup>bj</sup> since "we do not imply in the creature a  
467 potentiality to non-being"<sup>bk</sup> and a fetus is a subsistent creature<sup>bl</sup>  
468 produced by humans as a perfect end to a part of its being, it is  
469 thereby an 'actual human'.<sup>bm</sup> It then follows that the answer to

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217 <sup>bh</sup> Aquinas, *Summa Theologica*, I-II. Q. 90 A. 2, Baumgarth and Regan, 14. For  
218 Aquinas, "the last end of human life is bliss or happiness.... Consequently, the  
219 law must needs regard principally the relationship to happiness. Moreover,  
220 since every part is ordained to the whole as imperfect to perfect, and since a  
221 single man is a part of the perfect community, the law must needs regard  
222 properly the relationship to universal happiness."

223 <sup>bi</sup> Aquinas, *Summa Theologica*, I. Q. 78 A. 2, Regan, 14.

224 <sup>bj</sup> Aquinas, *On Spiritual Creatures*, A. 1, 474-475. "but as potency which is  
225 always accompanied by its act." Further "matter is being in potency and  
226 becomes actual being through the coming of the form, which serves as the  
227 cause of existence in its regard." Additionally, as stated above, for Aquinas  
228 the soul coming upon the matter creates the being.

229 <sup>bk</sup> Aquinas, *Summa Theologica*, I. Q. 75 A. 6 RObj. 2, Hyman and Walsh, 502.

230 <sup>bl</sup> Aquinas, *Summa Theologica*, I. Q. 75 A. 6, Hyman and Walsh, 501.

231 <sup>bm</sup> Aquinas, *Summa Theologica*, I. Q. 75 A. 6, Hyman and Walsh, 501. See also  
232 Aquinas, *Summa Theologica*, I. Q. 78 A. 2, RObj. 3, Regan, 50.

470 question (2) is abortion is an unjust law<sup>bn</sup> since it is contrary to the  
471 ends of man, happiness,<sup>bo</sup> and the ends of society, the common  
472 good. In terms of the common good, the answer for question (3) is  
473 problematic. As stated above, Aquinas wrote that an individual  
474 might be obligated to obey an unjust law after all- "for the sake of  
475 avoiding a scandal or disruption."<sup>bp</sup> When confronting by an  
476 "unjust-I" law, for Aquinas, the individual must weigh the potential  
477 harm of resisting the law against the potential harm the unjust law  
478 may cause if left unchallenged.<sup>bq</sup> Here are I feel two examples.  
479 First, in the case of a deformed fetus, could the act of abortion be  
480 deemed for the common good of society and merciful for the fetus?  
481 Secondly, in times of famine or pestilence, could the act of abortion  
482 be deemed for the common good of society and merciful for the  
483 fetus? It is therefore, unclear in answering question (3) whether

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234 <sup>bn</sup> Aquinas, *Summa Theologica*, I-II. Q. 90 A. 2, Baumgarth and Regan, 14.  
235 "Consequently, since the law is chiefly ordained to the common good, any  
236 other precept in regard to some individual work must needs be devoid of the  
237 nature of law, save insofar as it is ordered to the common good." That is a  
238 law devoid of the nature of law is unjust.

239 <sup>bo</sup> Aquinas, *Summa Theologica*, I-II. Q. 90 A. 2, Baumgarth and Regan, 14.  
240 "Now the first principle in practical matters, which are the object of the  
241 practical reason, is the last end, and the last end of human life is bliss or  
242 happiness, as stated above. Consequently, the law must needs regard  
243 principally the relationship to happiness. Moreover, since every part is  
244 ordained to the whole as imperfect to perfect, and since a single man is a part  
245 of the perfect community, the law must needs regard properly the relationship  
246 to universal happiness."

247 <sup>bp</sup> Aquinas, *Summa Theologica*, I-II. Q. 96 A. 4, Baumgarth and Regan, 70.

248 <sup>bq</sup> Kretzmann 16-17.

484 civil disobedience would be a permissible obligation or right of the  
485 individual.

486 Therefore, the replies to the verdicts or answers explaining a  
487 modern civil disobedience in a 'morally difficult case' (the abortion  
488 issue) for Aquinas are Yes for "unjust-II" with an obligation to  
489 disobey and Yes for "unjust-I", but maybe we as reasoning  
490 individuals should not disobey an unjust law for the good of society.

#### 491 **IV. Summing up Aquinas' civil disobedience**

492 The purpose of this paper was to develop and explain 'civil  
493 disobedience' based on Aquinas' natural law theory. First, we  
494 developed and answered the central question, 'Is civil disobedience  
495 allowed in Aquinas' natural law theory?' We modified the dismissive  
496 judgment argument on from Norman Kretzmann's article "Lex  
497 Iniusta Non Est Lex: Laws on Trial in Aquinas' Court of  
498 Conscience"<sup>br</sup> as the basis for answering this central question.  
499 What we found was that the verdict or answer to the central  
500 question is 'Yes for "unjust-II" and Yes for "unjust-I", but maybe we  
501 as reasoning individuals should not act on the verdict for "unjust-I".  
502 Secondly, we explored whether civil disobedience in Aquinas'  
503 natural law theory passes musters on a 'morally difficult case.' To

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250 <sup>br</sup> Kretzmann 7-19.

504 answer this, we examined the abortion issue. We listed and  
505 examined to two arguments for abortion from *Roe v. Wade*, 410  
506 U.S. 113 (1973). We then examined replies from Aquinas' court of  
507 conscience. We found that Aquinas' replies to both arguments were  
508 that abortion is an "unjust" law; per se, for a rational human being  
509 civil disobedience is both an obligation in one verdict and perhaps  
510 an optional right in the other verdict.<sup>bs</sup>

## 511 **V. Closing statement**

512 The logic of Aquinas' replies to the arguments in the abortion  
513 issue are sound within the historical time span and scope of  
514 Aquinas' moral and metaphysical philosophy. However, for a  
515 'morally difficult case' such as abortion, I see real difficulties facing  
516 a modern day Thomist. Primarily, modern biology and biological  
517 anthropology would raise some very difficult metaphysical problems  
518 for Aquinas' philosophy to answer. Aquinas' role of semen in  
519 reproduction is brought directly into doubt.<sup>bt</sup> Many other problems  
520 would face a modern day Thomist. Therefore, because of the  
521 advances and knowledge posited by modern science, I would have  
522 a hard time being a Thomist; nevertheless, even today Aquinas'

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252 <sup>bs</sup> The distinction between obligation and right was not developed in this paper.  
253 What is meant, is that there is an obligation or duty to disobey a law contrary  
254 to divine law and that there is only an optional right to disobey a law contrary  
255 to civil law.

256 <sup>bt</sup> Aquinas, *Summa Theologica*, I. Q. 118 A. 2, Regan, 199.

523 philosophy still presents very powerful arguments and explanations  
524 of man and his role in the world.<sup>bu</sup>

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258 <sup>bu</sup> The philosophers Dewey and Maritain come directly to mind.  
259 Page xxxii of 34



- 526   ▪ These works provided the basis for the critical analysis.
- 527    Aquinas, St. Thomas. *Summa Theologica. Philosophy in the*  
528 *Middle Ages: The Christian, Islamic, and Jewish Traditions.* Eds.  
529 Arthur Hyman and James J. Walsh. 2nd ed. Indianapolis: Hackett,  
530 1977. pp 468-539.
- 531    Aquinas, St. Thomas. *Summa Theologica. On Law, Morality, and*  
532 *Politics.* Eds. William P. Baumgarth and Richard J. Regan, S.J.  
533 Indianapolis: Hackett, 1988. I used it both as a primary source for  
534 Aquinas and as a cross reference in translation differences between  
535 Kretzmann article and the Hyman and Walsh book.
- 536    Aquinas, St. Thomas. *Summa Theologica. The Human*  
537 *Constitution.* Trans. Richard Regan, S.J. Scranton: University of  
538 Scranton Press, 1997.
- 539    Kretzmann, Norman. "Lex Iniusta Non Est Lex: 'Laws on Trial in  
540 Aquinas' Court of Conscience." *Philosophy of Law.* Eds. Joel  
541 Feinberg and Hyman Gross. 5th ed. Belmont: Wadsworth, 1995.  
542 pp. 7-19.
- 543    ▪ These works provided the basis for the argument and the  
544 rebuttal from Aquinas.
- 545    Copleston S.J., Frederick. *Aquinas.* Baltimore: Penguin 1957.
- 546    Feinberg, Joel. "Potentiality, Development, and Rights." *The*  
547 *Problem of Abortion.* Ed. Joel Feinberg. 2nd ed. Belmont:  
548 Wadsworth, 1984. pp. 145-150.
- 549    Feinberg, Joel. "Civil Disobedience in the Modern World."  
550 *Philosophy of Law.* Eds. Joel Feinberg and Hyman Gross. 5th ed.  
551 Belmont: Wadsworth, 1995. pp. 121-133.
- 552    Feinberg, Joel. "The Dilemmas of Judges Who Must Interpret  
553 'Immoral Laws'." *Philosophy of Law.* Eds. Joel Feinberg and Hyman  
554 Gross. 5th ed. Belmont: Wadsworth, 1995. pp. 91-112.

- 555   ▪ These works provided the general understanding of Aquinas.
- 556   Copleston S.J., Frederick. *Mediaeval Philosophy, Part II, Albert*  
557 *the Great to Duns Scotus. A History of Philosophy.* Vol.2. New  
558 York: Image, 1962.
- 559   Gilson, Etienne. *History of Christian Philosophy in the Middle*  
560 *Ages.* New York: Random House, 1955.
- 561   Kretzmann, Norman. "Philosophy of Mind." *The Cambridge*  
562 *Companion to Aquinas.* Eds. Norman Kretzmann and Eleonore  
563 Stump. Cambridge: Cambridge University Press, 1993. pp. 128-  
564 159.
- 565   McGrade, A. S., Ed. *The Cambridge Companion to Medieval*  
566 *Philosophy.* Cambridge: Cambridge University Press, 2003.
- 567   Wippel, John F. "Metaphysics." *The Cambridge Companion to*  
568 *Aquinas.* Eds. Norman Kretzmann and Eleonore Stump.  
569 Cambridge: Cambridge University Press, 1993. pp. 85-125.