

Objection 1. It would seem that it belongs to human law to repress all vices. For Isidore says (Etym. v, 20) that “laws were made in order that, in fear thereof, man’s audacity might be held in check.” But it would not be held in check sufficiently, unless all evils were repressed by law. Therefore human laws should repress all evils.

Objection 2. Further, the intention of the lawgiver is to make the citizens virtuous. But a man cannot be virtuous unless he forbear from all kinds of vice. Therefore it belongs to human law to repress all vices.

Objection 3. Further, human law is derived from the natural law, as stated above (q. 95, a. 2). But all vices are contrary to the law of nature. Therefore human law should repress all vices.

On the contrary, We read in De Lib. Arb. i, 5: “It seems to me that the law which is written for the governing of the people rightly permits these things, and that Divine providence punishes them.” But Divine providence punishes nothing but vices. Therefore human law rightly allows some vices, by not repressing them.

I answer that, As stated above (q. 90, Aa. 1,2), law is framed as a rule or measure of human acts. Now a measure should be homogeneous with that which it measures, as stated in Metaph. x, text. 3,4, since different things are measured by different measures. Wherefore laws imposed on men should also be in keeping with their condition, for, as Isidore says (Etym. v, 21), law should be “possible both according to nature, and according to the customs of the country.” Now possibility or faculty of action is due to an interior habit or disposition: since the same thing is not possible to one who has not a virtuous habit, as is possible to one who has. Thus the same is not possible to a child as to a full-grown man: for which reason the law for children is not the same as for adults, since many things are permitted to children, which in an adult are punished by law or at any rate are open to blame. In like manner many things are permissible to men not perfect in virtue,

which would be intolerable in a virtuous man.

Now human law is framed for a number of human beings, the majority of whom are not perfect in virtue. Wherefore human laws do not forbid all vices, from which the virtuous abstain, but only the more grievous vices, from which it is possible for the majority to abstain; and chiefly those that are to the hurt of others, without the prohibition of which human society could not be maintained: thus human law prohibits murder, theft and such like.

Reply to Objection 1. Audacity seems to refer to the assailing of others. Consequently it belongs to those sins chiefly whereby one’s neighbor is injured: and these sins are forbidden by human law, as stated.

Reply to Objection 2. The purpose of human law is to lead men to virtue, not suddenly, but gradually. Wherefore it does not lay upon the multitude of imperfect men the burdens of those who are already virtuous, viz. that they should abstain from all evil. Otherwise these imperfect ones, being unable to bear such precepts, would break out into yet greater evils: thus it is written (Ps. 30:33): “He that violently bloweth his nose, bringeth out blood”; and (Mat. 9:17) that if “new wine,” i.e. precepts of a perfect life, “is put into old bottles,” i.e. into imperfect men, “the bottles break, and the wine runneth out,” i.e. the precepts are despised, and those men, from contempt, break into evils worse still.

Reply to Objection 3. The natural law is a participation in us of the eternal law: while human law falls short of the eternal law. Now Augustine says (De Lib. Arb. i, 5): “The law which is framed for the government of states, allows and leaves unpunished many things that are punished by Divine providence. Nor, if this law does not attempt to do everything, is this a reason why it should be blamed for what it does.” Wherefore, too, human law does not prohibit everything that is forbidden by the natural law.