CHAPTER 11

Suárez and the Natural Law

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1 Introduction

I believe that Francisco Suárez can make an extremely important contribution to the current debate on natural law, and that his extensive reflection on this topic can shed much light on the matter. In spite of writing in a world that was so very different from our own, and in a style that often looks inaccessible to the contemporary reader, his reflections, and especially his conclusions, appear eminently relevant to the twenty-first-century mind.

Yet his thought on the Natural Law is barely known, and any bibliographical search will yield only very meagre results. This is a real misfortune he shares with his contemporary theologians of sixteenth-century Spain, whose prolific response to the challenges that the New World was offering is hardly ever mentioned in contemporary discussions on Natural Law.

There are three main factors that explain this lacuna. First, the enormous output that sixteenth-century Spain produced in barely a century is impressive on many counts, and it will take a long time for anyone to become familiar with this whole corpus. Second, the fact that all these authors wrote in Latin, and that most of their books exist only in the original editions or in nineteenth-century editions, available only in very specialized libraries, render them even more remote. And third, Suárez’s style may seem often impenetrable to those who approach him for the first time.

2 The Theory

In his treatise De legibus ac Deo legislatore, first published in 1612, Suárez dedicates Book 2 entirely to the natural law. The fruit of long years of reflection, wide reading, and ample teaching on the topic, this long discussion presents

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1 The edition of De Legibus (hereafter De leg.) we will be using here will be that found in Luciano Pereña et al., eds., Corpus Hispanorum de Pace (hereafter chp), vols. 13–14 (Madrid, 1971, 1974). This forms part of a critical edition of the first four books of De leg., with an accompanying Spanish translation and copious introductions.
Suárez meticulously discusses the usual issues raised by authors at the time, including the nature of the law, its content, and the question of whether it can change or not. He insists that it is a divine law, and as such is absolutely immutable, so that not even God can dispense from any of its demands. Here he obviously parts company from Aquinas and his main commentators, who were ready to admit change in the third-level precepts. He adds that since the Natural Law is tied to the human rational nature, not even God can change its precepts; he cannot dispense from them, nor apply *epikeia* to depart from their demands.

In the worst possible *ius*-naturalist mode, this would seem to be a vision of the natural law that is wholly inflexible. Yet Suárez surprises his readers by noting that the third-level precepts, where the natural law is mostly exercised, are known to us only imperfectly, being nothing more than approximate formulations, incomplete and inadequate. Thus, while he insists that natural law principles are absolutely immutable once discovered, Suárez points out that our positive formulations are necessarily imprecise, so that he urges us to refine our formulation of these precepts in a process of continuing reflection on our moral experience.

## The Context

The more we learn about Spain in the sixteenth century, the more we understand the turmoil this country went through in a relatively short period of time. Suárez was born in 1548 in Granada, located in Southern Spain, and by the time of his death in Coimbra in 1617, not only had he become one of the most outstanding theologians of his time, but his country, like the majority of Europe, had become a completely different place.

Sixteenth-century Spain was a cauldron of change on many levels. Suárez was born in a country that had been under one monarchy for less than a