In this paper, I want to investigate how Vitoria’s and Suárez’s concepts of law differ and how this affects their views on natural law (lex naturalis), i.e. the laws of morality. I will argue that Suárez starts from a voluntaristic conception of law which leads him to what Schneewind has called the “older,”
medieval understanding of “morality as obedience,”3 according to which God is the legislator of the laws of morality. Vitoria, on the other hand, argues for a rationalistic conception of law which allows him to develop what Schneewind has called the “new,” modern understanding of “morality as self-governance” or autonomy.4 In order to do so, I will first compare Vitoria’s and Suárez’s interpretation of Aquinas’s definition of law (section 1). I will then reconstruct their theories of natural law (sections 2 and 3). Finally, I will explore Vitoria’s theory of natural law a little bit further to show why he believes a theory of the kind Suárez has in mind is inadequate to capture the universal scope of morality and in what sense his own theory can be said to be based on a concept of autonomy (section 4).5

1 Vitoria and Suárez on the Concept of Law

In STh 1–11, q. 90, Aquinas defines law as *quaedam rationis ordinatio ad bonum commune, ab eo qui curam communitatis habet, promulgata.*6 Given this definition of law, Vitoria and Suárez agree on three points: They agree that this definition of law expresses a general concept of law that captures what the four types of law (i.e. eternal law, natural law, human law, and divine law) have in common or what the term “law” means in every case. They also agree that Aquinas’s definition of law does capture the essence of law quite accurately. This, in turn, implies that they agree that natural law is a law in the sense of this general definition of law. And yet, Vitoria and Suárez develop two quite different theories of natural law, which is partly due to the fact that they work with two quite different interpretations of Aquinas’s definition of law. Their disagreement mainly turns on the question of what the term *ordinatio rationis* means.7

4 Ibid.
5 While I believe that most commentators are correct in assuming that Suárez traces natural law back to divine legislation, I will attempt to show that Vitoria’s theory of natural law has so far been largely misinterpreted. Therefore, the discussion of Vitoria’s theory of natural law will take up more space than the discussion of Suárez’s theory of natural law.
6 STh 1–11, q. 90, a. 4.—All quotes from Aquinas’s *Summa theologiae* are taken from http://www.corpusthomisticum.org/iopera.html, last retrieved 7 April 2014.
7 There may well be considerable disagreement between Vitoria and Suárez with respect to other aspects of law, but I will focus on this one, because it is, in my view, the most important one with respect to their contrary views of natural law.