

## QUESTION 92: THE EFFECTS OF LAW

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#### **Question 92: The Effects of Law**

By Thomas Aquinas

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#### THE EFFECTS OF LAW

1. [Is an effect of law to make men good?](#)
2. [Are the effects of law to command, to forbid, to permit, and to punish, as the Jurist states?](#)

#### ARTICLE 1. WHETHER AN EFFECT OF LAW IS TO MAKE MEN GOOD?

**Objection 1.** It seems that it is not an effect of law to make men good. For men are good through virtue, since virtue, as stated in [Aristotle's] [Nicomachean Ethics](#), 2.6 is "that which makes its subject good." But virtue is in man from God alone, because He it is Who "works it in us without us," as we stated above ([Question 55, Article 4](#)) in giving the definition of virtue. Therefore the law does not make men good.

**Objection 2.** Further, Law does not profit a man unless he obeys it. But the very fact that a man obeys a law is due to his being good. Therefore in man goodness is presupposed to the law. Therefore the law does not make men good.

**Objection 3.** Further, Law is ordained to the common good, as stated above ([Question 90, Article 2](#)). But some behave well in things regarding the community, who behave ill in things regarding themselves. Therefore it is not the business of the law to make men good.

**Objection 4.** Further, some laws are tyrannical, as the Philosopher [Aristotle] says ([Politics](#), 3.6). But a tyrant does not intend the good of his subjects, but considers only his own profit. Therefore law does not make men good.

**On the contrary,** The Philosopher [Aristotle] says ([Nicomachean Ethics](#), 2.1) that the "intention of every lawgiver is to make good citizens."

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**I answer that,** as stated above (Question 90, [Article 1](#), Reply 2, and Articles [3](#) and [4](#)), a law is nothing else than a dictate of reason in the ruler by whom his subjects are governed. Now the virtue of any subordinate thing consists in its being well subordinated to that by which it is regulated: thus we see that the virtue of the irascible and concupiscible faculties consists in their being obedient to reason; and accordingly “the virtue of every subject consists in his being well subjected to his ruler,” as the Philosopher [Aristotle] says ([Politics](#), 1). But every law aims at being obeyed by those who are subject to it. Consequently it is evident that the proper effect of law is to lead its subjects to their proper virtue: and since virtue is “that which makes its subject good,” it follows that the proper effect of law is to make those to whom it is given, good, either simply or in some particular respect. For if the intention of the lawgiver is fixed on true good, which is the common good regulated according to Divine justice, it follows that the effect of the law is to make men good simply. If, however, the intention of the lawgiver is fixed on that which is not simply good, but useful or pleasurable to himself, or in opposition to Divine justice; then the law does not make men good simply, but in respect to that particular government. In this way good is found even in things that are bad of themselves: thus a man is called a good robber, because he works in a way that is adapted to his end.

**Reply to Objection 1.** Virtue is twofold, as explained above (Part I-II, [Question 63, Article 2](#)), viz. acquired and infused. Now the fact of being accustomed to an action contributes to both, but in different ways; for it causes the acquired virtue; while it disposes to infused virtue, and preserves and fosters it when it already exists. And since law is given for the purpose of directing human acts; as far as human acts conduce to virtue, so far does law make men good. Wherefore the Philosopher [Aristotle] says in the second book of the *Politics* ([Nicomachean Ethics](#), 2.1) that “lawgivers make men good by habituating them to good works.”

**Reply to Objection 2.** It is not always through perfect goodness of virtue that one obeys the law, but sometimes it is through fear of punishment, and sometimes from the mere dictates of reason, which is a beginning of virtue, as stated above (Part I-II, [Question 63, Article 1](#)).

**Reply to Objection 3.** The goodness of any part is considered in comparison with the whole; hence Augustine says ([Confessions](#), 3.8[15]) that “unseemly is the part that harmonizes not with the whole.” Since then every man is a part of the state, it is impossible that a man be good, unless he be well proportionate to the common good: nor can the whole be well consistent unless its parts be proportionate to it. Consequently the common good of the state cannot flourish, unless the citizens be virtuous, at least those whose business it is to govern. But it is enough for the good of the community, that the other citizens be so far virtuous that they obey the commands of their rulers. Hence the Philosopher [Aristotle] says ([Politics](#), 2.2) that “the virtue of a sovereign is the same as that of a good man, but the virtue of any common citizen is not the same as that of a good man.”

**Reply to Objection 4.** A tyrannical law, through not being according to reason, is not a law, absolutely speaking, but rather a perversion of law; and yet in so far as it is something in the nature of a law, it aims at the citizens’ being good. For all it has in the nature of a law consists in its being an ordinance made by a superior to his subjects, and aims at being obeyed by them, which is to make them good, not simply, but with respect to that particular government.

## ARTICLE 2. WHETHER THE ACTS OF LAW ARE SUITABLY ASSIGNED?

**Objection 1.** It would seem that the acts of law are not suitably assigned as consisting in “command,” “prohibition,” “permission” and “punishment.” For “every law is a general precept,” as the jurist states ([Pandectarum Justiniani](#) [[Pandects of Justinian](#)], 1.3.1). But command and precept are the same. Therefore the other three are superfluous.

**Objection 2.** Further, the effect of a law is to induce its subjects to be good, as stated above ([Article 1](#)). But counsel aims at a higher good than a command does. Therefore it belongs to law to counsel rather

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than to command.

**Objection 3.** Further, just as punishment stirs a man to good deeds, so does reward. Therefore if to punish is reckoned an effect of law, so also is to reward.

**Objection 4.** Further, the intention of a lawgiver is to make men good, as stated above ([Article 1](#)). But he that obeys the law, merely through fear of being punished, is not good: because “although a good deed may be done through servile fear, i.e. fear of punishment, it is not done well,” as Augustine says ([Contra duas Epistolas Pelagianorum \[Against Two Letters of the Pelagians\]](#), 2). Therefore punishment is not a proper effect of law.

**On the contrary,** Isidore [of Seville] says ([Etymologies](#), 5.19): “Every law either permits something, as: ‘A brave man may demand his reward’”: or forbids something, as: “No man may ask a consecrated virgin in marriage”: or punishes, as: “Let him that commits a murder be put to death.”

**I answer that,** just as an assertion is a dictate of reason asserting something, so is a law a dictate of reason, commanding something. Now it is proper to reason to lead from one thing to another. Wherefore just as, in demonstrative sciences, the reason leads us from certain principles to assent to the conclusion, so it induces us by some means to assent to the precept of the law.

Now the precepts of law are concerned with human acts, in which the law directs, as stated above (Question 90, Articles [1](#) and [2](#); [Question 91, Article 4](#)). Again there are three kinds of human acts: for, as stated above (Part I-II, [Question 18, Article 8](#)), some acts are good generically, viz. acts of virtue; and in respect of these the act of the law is a precept or command, for “the law commands all acts of virtue” (Aristotle, [Nicomachean Ethics](#), 5.1). Some acts are evil generically, viz. acts of vice, and in respect of these the law forbids. Some acts are generically indifferent, and in respect of these the law permits; and all acts that are either not distinctly good or not distinctly bad may be called indifferent. And it is the fear of punishment that law makes use of in order to ensure obedience: in which respect punishment is an effect of law.

**Reply to Objection 1.** Just as to cease from evil is a kind of good, so a prohibition is a kind of precept: and accordingly, taking precept in a wide sense, every law is a kind of precept.

**Reply to Objection 2.** To advise is not a proper act of law, but may be within the competency even of a private person, who cannot make a law. Wherefore too the Apostle, after giving a certain counsel (1 Corinthians 7:12) says: “I speak, not the Lord.” Consequently it is not reckoned as an effect of law.

**Reply to Objection 3.** To reward may also pertain to anyone: but to punish pertains to none but the framer of the law, by whose authority the pain is inflicted. Wherefore to reward is not reckoned an effect of law, but only to punish.

**Reply to Objection 4.** From becoming accustomed to avoid evil and fulfill what is good, through fear of punishment, one is sometimes led on to do so likewise, with delight and of one’s own accord. Accordingly, law, even by punishing, leads men on to being good.

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