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# REFLECTIONS ON THE RELEVANCY OF ULPIAN'S NATURAL LAW<sup>1</sup>

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**PROEMIUM.** When emperor Justinian constructed his 'Temple of Justice', the writings of one 'oracle of jurisprudence' were firmly imprinted into the Corpus Iuris<sup>3</sup>: the Tyre-born Ulpian (193–235). While Ulpian remains commanding respect by generations of lawyers, his conception of the Natural Law ("quod natura omnia animalia docuit") – that "unlucky phrase" in the words of Pollock<sup>6</sup> – receives a less warm reception nowadays. In what follows, Ulpian's conception of Natural Law will be briefly outlined (§1). Thereafter, we examine some of the criticism lobbed at Ulpian (§2). Lastly, we will argue in favour of what could be called an 'Ulpianistic' conception of Natural Law' (§3).

§1. Ulpian defined the Natural Law as: "that which nature has taught to all animals" (D.I.13; Inst. Lib. 1. II)<sup>7</sup>. Prima facie, one may suspect a rhetorical meaning; a metaphorical elevation of the Natural Law above mortal command (as in Cicero<sup>8</sup>) and an acknowledgement of its universal supremacy<sup>9</sup> — it rules all animals, including humans. However, instead of metaphorical elevation, Ulpian 'lowers his gaze' and intends an actual biological meaning. The following sentence makes this clear:

"[F]or it is not a law specific to mankind but is common to all animals — land animals, sea animals, and the birds as well. Out of this comes the union of man and woman which we call marriage, and the procreation of children, and their rearing. So we can see that the other animals, wild beasts included, are rightly understood to be acquainted with this law" (D.I.13; Inst. Lib. 1. Tit. II).

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<sup>&</sup>lt;sup>2</sup> E. GIBBON, *The history of the decline and fall of the Roman Empire (volume 3 and 4)* in *Penguin classics*, London, England; New York, N.Y, Penguin Books, 1995, vol. IV, Chap XLIV, p. 797.

<sup>&</sup>lt;sup>3</sup> Honoré, in his marvellous study of the digests, notes that: "Over 40 per cent of the Digest texts are expressly attributed by inscription to Ulpian. Nearly 60 per cent of the texts introducing titles are similarly attributed. A reader of the Digest is primarily reading a selected and revised version of Ulpian's writings, incorporating alternative versions of the law when appropriate"; T. HONORÉ, *Justinian's Digest: character and compilation*, Oxford [England]; New York, Oxford University Press, 2010, pp. 5–6.

<sup>&</sup>lt;sup>4</sup> For a biographical description (and further references), *see*, T. HONORÉ, *Ulpian: pioneer of human rights*, Oxford; New York, Oxford University Press, 2002, chap. 1.

<sup>&</sup>lt;sup>5</sup> There remains, between specialists, discussion about the origin of Ulpian's definition — i.e., whether it indeed was written by the great jurist or whether it could be a post-classical insertion or medieval gloss. However, given the important role of this version of the Natural Law – in particular its influence on later version – and the specificity of the discussion, I leave this matter open; *see*, M.Bertram. CROWE, *The changing profile of the natural law*, The Hague, Nijhoff, 1977, pp. 46–51. <sup>6</sup> F. POLLOCK, 'The History of the Law of Nature: A Preliminary Study', *J. Soc. Comp. Legis.* 1900, 2, afl. 3, (418) p. 421.

<sup>&</sup>lt;sup>7</sup> The following translations were used: *The Digest of Justinian I*, Philadelphia, University of Pennsylvania press, 1998; *The institutes of Justinian*, Clark, N.J. Lawbook Exchange, 2007.

<sup>&</sup>lt;sup>8</sup> "[...] law in the proper sense is right reason in harmony with nature. It is spread through the whole human community, unchanging and eternal, calling people to their duty by its commands and deterring them from wrong-doing by its prohibitions. [...] We cannot be exempted from this law by any decree of the Senate or the people; nor do we need anyone else to expound or explain it"; Rep. III. 33-34; M.T. CICERO, *The republic and The laws* in *Oxford world's classics*, Oxford; New York, Oxford University Press, 2008.

<sup>&</sup>lt;sup>9</sup> However, as Brouwer notes, the reliance upon 'nature' may – besides an expression of stoic principles – be motivated by political expedience (in particular, the edict of Caracalla), *see*, R. BROUWER, 'Ulpian's appeal to nature: Roman law as universal law', *Tijdschr. Voor Rechtsgeschiedenis Rev. Hist. Droit Leg. Hist. Rev.* 31 May 2015, 83, afl. 1–2, 60–76.

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While Ulpian forges a strong link between (natural) law and 'nature' 10, the character of this link remains somewhat murky — troubling the minds of many medieval jurists 11. For instance, what are these 'teachings' of nature? Are they biological impulses and (if so?) by this quality precepts of the Natural Law? Or, does Ulpian only denote a necessary but not sufficient condition — i.e., precepts of the natural law are anchored within nature but that, in itself, is insufficient?

Furthermore, the strong connection Ulpian forged between (natural) law and biological facts remains, in the words of Crowe, a "special case" While weak(er) connections with nature could sometimes be present, the focal point within the Natural Law tradition lies on 'reason'; on reason being part of and ruling human nature. For instance, compare how Diogenes Laertius describes Stoicism and St Aquinas with Ulpian:

"When, in the case of animals, impulse is added, by means of which they pursue what is appropriate for them, then for them what is natural is to be governed by impulse. And when reason, as a more perfect authority, has been bestowed on rational beings, then for them what is natural and proper is to be governed by reason. For reason, like a craftsman, overrides impulse"; 14

"All the inclinations of any parts whatsoever of human nature, e.g., of the concupiscible and irascible parts, insofar as they are ruled by reason, belong to the natural law, and are reduced to one first precept, as stated above [...]."15

**§2**. For contemporary thinkers the problem is not so much the vagueness of Ulpian's definition or its 'special' position within the Natural Law tradition, but the straightforward connection between law, ethics and nature c.q. biological facts. Legal and moral norms prescribe how people should live their lives. On the other hand, biological facts, are purely descriptive; they describe a state of affairs to the best of our current knowledge.<sup>16</sup>

Furthermore, nature 'teaches' more than only having offspring (setting aside whether procreation would *always* be moral); it also instructs violence, deceit and opportunism.<sup>17</sup> Leaving aside the logical problems

<sup>&</sup>lt;sup>10</sup> W. WALDSTEIN, 'Naturrecht bei den klassischen römischen Juristen' in R. MARCIC, D. MAYER-MALY, P.M. SIMONS, UNIVERSITÄT SALZBURG and BILDUNGSHAUS ST. VIRGIL (eds.), *Das Naturrechtsdenken heute und morgen: Gedächtnisschrift für René Marcic*, Berlin, Duncker & Humblot, 1983, p. 241.

<sup>&</sup>lt;sup>11</sup> See, R.A. GREENE, 'Instinct of Nature: Natural Law, Synderesis, and the Moral Sense', *J. Hist. Ideas* 1997, 58, afl. 2, 173–198; B. TIERNEY, 'Natura Id Est Deus: A Case of Juristic Pantheism?', *J. Hist. Ideas* 1963, 24, afl. 3, 307–322.

<sup>&</sup>lt;sup>12</sup> M.Bertram. CROWE, *The changing profile of the natural law, supra* vn. 5, p. 46.

<sup>&</sup>lt;sup>13</sup> "The natural law is therefore the complexes of all those prescriptions which flow from human nature, which are directed to the fulfilment of man's ultimate end, which are known by the light of reason and which appear in the consciousness of man armed with a claim to absolute obedience"; H. MEYER, Philosophy of St. Thomas Aquinas, St. Louis, B. Herder Book Co., 1944, p. 644.

<sup>&</sup>lt;sup>14</sup> DIOGENES LAERTIUS, *Lives of the eminent philosophers*, New York, Oxford University Press, 2018, p. 345 (VII.86). *See* also: A. TAITSLIN, 'Stoic natural law as Right Reason' in J. CROWE and C.Y. LEE (eds.), *Research Handbook on Natural Law Theory*, *s.l.*, Edward Elgar Publishing, 1 October 2019; J.W. ATKINS, 'Zeno's Republic, Plato's Laws, and the Early Development of Stoic Natural Law Theory', *Polis J. Anc. Greek Roman Polit. Thought* 5 May 2015, 32, afl. 1, 166–190, https://brill.com/view/journals/agpt/32/1/article-p166 8.xml (Accessed 30 December 2023).

<sup>&</sup>lt;sup>15</sup> ST.I-II.Q94.A2.C.3 (https://aquinas.cc/la/en/~ST.I); However, the cited passus should not viewed in isolation — a fortiori given the fact Aquinas uses the term 'natural' often in a loose sense; see, generally, S.J. JENSEN, Knowing the natural law: from precepts and inclinations to deriving oughts, Washington, D.C, Catholic University of America Press, 2015, pp. 47–59

<sup>&</sup>lt;sup>16</sup> H. KELSEN, General Theory of Law and State, Clark, N.J, Lawbook Exchange, 2009.

<sup>&</sup>lt;sup>17</sup> Some evolutionary psychologists argue, for instance, that the human mind is equiped with a 'cheater detection module'; L. COSMIDES, J. TOOBY, L. FIDDICK and G.A. BRYANT, 'Detecting cheaters', *Trends Cogn. Sci.* 1 November 2005, 9, afl. 11, 505–506. Generally, *see*, L. SUN, *The liars of nature and the nature of liars: cheating and deception in the living world*, Princeton, Princeton University Press, 2023. *See* also Aquinas (De Malo, 16.2.) noting that: "We can in a second way

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(deriving an 'ought' from an 'is'), on what basis do we select this teaching from nature (e.g. investing in children) while rejecting another (e.g., murdering a rival)? Ulpian's formula does not provide an answer.

**§3.** However, excessive attention towards the 'naturalistic fallacy' and adjacent problems obscures a cardinal lesson implicitly contained within Ulpian's Natural Law: *humans are and remain biological creatures*. <sup>18</sup> Consequentially, we share several challenges – albeit often more complex – with other (social) creatures. Who to trust? <sup>19</sup> Who and what qualities make – in the language of the biologist – a suitable mate? <sup>20</sup> Or, how should we cooperate and maintain cooperation? <sup>21</sup> (The referenced literature contains, for the curious reader, some useful entries).

**§3A.** Evolutionary inquiries seem, for understanding this part of our existence, especially informative<sup>22</sup>. Three elements deserve to be highlighted in this respect. First, evolutionary theory is occupied with so-called 'ultimate causes' — i.e., answers to why questions such as 'why do we dream?', 'why do we care about our reputation?' or 'why do male chimpanzees prefer older females?'<sup>23</sup>. We seek, to cite Mayr, "[to identify] causes that have a history and that have been incorporated into the system through many thousands of generations of natural selection"<sup>24</sup>.

Second, the influence of our evolutionary heritage is not limited to the working of our eyes or the shape of our legs. On the contrary, our ancestors' cognitive and social (including moral) capacities equally determined whether they would survive and reproduce. Indeed, as Boehm notes:

"[A]ll human groups frown on, make pronouncements against, and punish the following: murder, undue use of authority, cheating that harms group cooperation, major lying, theft and socially disruptive sexual behavior. [...] It's clear that 'biology' and 'culture' have been working together to make us adaptively moral".<sup>25</sup>

call things evil by their nature because they have a natural inclination to evil, as, for example, some human beings are irascible or lustful because of their constitution"; T. AQUINAS, On evil, Oxford; New York, Oxford University Press, 2003, p. 447.

<sup>&</sup>lt;sup>18</sup> See, although a different approach, L. ARNHART, 'Thomistic Natural Law as Darwinian Natural Right', Soc. Philos. Policy 2001, 18, afl. 1, 1–33.

<sup>&</sup>lt;sup>19</sup> P. SEABRIGHT, *The company of strangers: a natural history of economic life*, Princeton, N.J, Princeton University Press, 2010.

<sup>&</sup>lt;sup>20</sup> D.M. BUSS, 'Sex differences in human mate preferences: Evolutionary hypotheses tested in 37 cultures', *Behav. Brain Sci.* March 1989, 12, afl. 1, 1–14; D.M. BUSS, 'Human Mate Selection: Opposites are sometimes said to attract, but in fact we are likely to marry someone who is similar to us in almost every variable', *Am. Sci.* 1985, 73, afl. 1, 47–51.

<sup>&</sup>lt;sup>21</sup> M.A. NOWAK, 'Five Rules for the Evolution of Cooperation', *Science* 8 December 2006, 314, afl. 5805, 1560–1563; D.G. RAND and M.A. NOWAK, 'Human cooperation', *Trends Cogn. Sci.* 1 August 2013, 17, afl. 8, 413–425; M.A. NOWAK, 'Evolving cooperation', *J. Theor. Biol.*, in *Evolution of Cooperation* 21 April 2012, 299, 1–8.

<sup>&</sup>lt;sup>22</sup> I follow Wisman who remarks that: "Most social scientists and historians are also generally unaware of the deepest *forces* beneath human motivations. However, it is imperative that social sciences and history ground their analyses in the biological foundations set forth by Charles Darwin and subsequent evolutionary biologists"; J.D. WISMAN, *The origins and dynamics* of inequality: sex, politics, and ideology, New York, NY, Oxford University Press, 2022, p. 34.

<sup>&</sup>lt;sup>23</sup> N. TINBERGEN, 'On aims and methods of Ethology', *Z. Für Tierpsychol.* 1963, 20, afl. 4, 410–433; See also, R.M. NESSE, 'Tinbergen's four questions, organized: a response to Bateson and Laland', *Trends Ecol. Evol.* 1 December 2013, 28, afl. 12, 681–682. Although, as ÅGREN notes, this focus is comparatively more popular with British biologists, *see*, J.A. ÅGREN, *The gene's-eye view of evolution*, Oxford, Oxford University Press, 2021, pp. 18–25. Leading some, to qualify this adaptationists tendency as 'Neo-Paleyan'; T. LEWENS, 'Neo-Paleyan biology', *Stud. Hist. Philos. Sci. Part C Stud. Hist. Philos. Bioned. Sci.* 1 August 2019, 76, 101185.

<sup>&</sup>lt;sup>24</sup> E. MAYR, 'Cause and Effect in Biology [Reprinted]' in C.H. WADDINGTON (ed.), *The Origin of Life: Toward a Theoretical Biology*, I, New York, Routledge, 1968, pp. 45–46. See also, E. MAYR, *The growth of biological thought: diversity, evolution, and inheritance*, Cambridge, Mass., Belknap Press of Harvard Univ.Press, 1982, pp. 67–71.

<sup>&</sup>lt;sup>25</sup> C. BOEHM, Moral origins: the evolution of virtue, altruism, and shame, New York, Basic Books, 2012, p. 34.

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Third, our liberty to ignore these features is often not absolute. From men being less satisfied with their existent relationship after seeing numerous pictures of attractive women (which, in essence, follows from an evolved psychological complex saying, 'see all these beautiful women, you can improve your current situation!')<sup>26</sup>, to being evolved to spot animals and other humans faster than cars<sup>27</sup>: our evolutionary heritage cannot simply be discarded.

**§3B**. On the contrary, our evolutionary heritage needs to be studied and understood instead of being discarded. First, our biology influences (and sometimes limits) which patterns of social organisation – and, ultimately, their legal articulation – are possible. For instance, Peter Turchin (an evolutionary biologist turned historian) notes:

"Long-term social 'experiments' – attempts to impose a new morality from above – show that social norms and institutions which go strongly against human nature do not 'take', no matter how hard they are promoted. [... For example, the Soviets] abolished marriage. This innovation did not 'take. Marriage was brought back in the 1940s, and by the time I was growing up in the 1960s and 1970s, very few couples who lived together with children were unmarried".<sup>28</sup>

Second, it provides an explanatory role for many principles of positive law. For instance, would 'exclusion' (including the unsatisfactory feelings accompanied by it) be an issue if humans were solitary instead of social animals? Indeed, concerning our positive law, the same reason as Fukuyama developed vis-à-vis the foundations of our political institutions applies:

The recovery of human nature by modern biology, in any case, is extremely important as a foundation for any theory of political development, because it provides us with the basic building blocks by which we can understand the later evolution of human institutions".<sup>29</sup>

Third, there are more practical reasons. Here, one aspect deserves particular attention: our intuitions — i.e., reactions which are fast, implicit and difficult to control.<sup>30</sup> Without a doubt – following our evolutionary scheme – the ability to act fast and unreflective proves handy when facing a boa constrictor or jaguar. However, intuitions are not restricted to the bread-and-butter aspects of survival. On the contrary, our *moral judgements* are often dominated by these fast, automatic, and emotional processes instead of 'moral reasoning'.<sup>31</sup>

This idea was tested by Haidt's moral 'dumbfounding studies'. The crux is as follows: participants are confronted with stories characterized by 'highly original' behavior – from having intercourse with a chicken or eating your

<sup>&</sup>lt;sup>26</sup> D.M. BUSS, *The evolution of desire: strategies of human mating*, New York, Basic Books, 2016, chaps 3, Media Effects on Standards.

<sup>&</sup>lt;sup>27</sup> L. PAPEO, 'Twos in human visual perception', *Cortex* 1 November 2020, 132, 473–478; A. ÖHMAN, 'Has evolution primed humans to "beware the beast"?', *Proc. Natl. Acad. Sci. U. S. A.* 16 October 2007, 104, afl. 42, 16396–16397.

<sup>&</sup>lt;sup>28</sup> P. TURCHIN, *Ultrasociety: how 10.000 years of war made humans the greatest cooperators on earth*, Chaplin, Connecticut, Beresta Books, 2016, p. 146.

<sup>&</sup>lt;sup>29</sup> F. FUKUYAMA, *The origins of political order: from prehuman times to the French Revolution*, London, Profile Books, 2012, p. 28.

<sup>&</sup>lt;sup>30</sup> I follow Kahneman's who characterised intuitions as "typically fast, automatic, effortless, associative, implicit (not available to introspection), and often emotionally charged; they are also governed by habit and are therefore difficult to control or modify"; D. KAHNEMAN, 'A perspective on judgment and choice: Mapping bounded rationality', Am. Psychol. 2003, 58, (697) p. 698.

<sup>&</sup>lt;sup>31</sup> P.H. ROBINSON, *Intuitions of justice and the utility of desert*, Oxford, Oxford University Press, 2013, p. 5; J. GREENE and J. HAIDT, 'How (and where) does moral judgment work?', *Trends Cogn. Sci.* 1 December 2002, 6, afl. 12, 517–523; J. HAIDT, *The righteous mind: why good people are divided by politics and religion*, London, Penguin Books, 2013; Comp. D.A. PIZARRO and P. BLOOM, 'The intelligence of the moral intuitions: A comment on Haidt (2001)', *Psychol. Rev.* 2003, 110, 193–196.

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dead pet to sexual activity between siblings – coupled with an absence of harm. Despite the absence of injury and damage, participants quickly qualify the behavior as immoral.<sup>32</sup>

Moreover, when they are reminded of the lack of harm (e.g., the siblings used birth control, hence no danger for interbreeding), participants say something such as: "I don't know, I can't explain it, I just know it's wrong" — indicating, as Haidt suggests, the primacy of moral intuitions (the feeling that something is wrong) to moral reasoning.

What would happen to our legal systems when these moral intuitions would be gravely contravened? Robinson and Darley elegantly<sup>34</sup> argue – at least concerning criminal law – that:

"[T]he effective operation of the criminal justice system depends upon the cooperation or at least the acquiescence of those involved in it—offenders, judges, jurors, witnesses, prosecutors, police, and others. To the extent that people see the system as unjust or failing to do justice, as in conflict with their judgments about justice, that acquiescence and cooperation is likely to decline and even disappear. But more than that: to the degree that these deviations are frequent and morally consequential, active forces of subversion and resistance are generated in the community."<sup>35</sup>

**§3**C. Instead of its current 'airy' and almost detached character, 'moral intuitions' and biological features belonged to the Natural Law. Helmolz, for instance, notes:

"Although the two senses of the term natural might appear to stand at odds – the one a basic instinct shared by animals and humans, the other a more refined sense of justice – the primary and secondary senses of the law of nature were not then regarded as opposites". <sup>36</sup>

Indeed, Natural Law was, historically, a living and breathing instrument — intimately connected to the moral intuitions of ordinary people, their 'hunches' – to use Hutchinson's terms<sup>37</sup> – and their moral gut feeling.<sup>38</sup> Up until 1905, these 'gut feelings' or 'moral instincts' found their way, as Natural Law, into case law. For instance, the Supreme Court of Georgia stated:

"[T]he right of privacy has its foundation in the instincts of nature. It is recognized intuitively [...] A right of privacy in matters purely private is therefore derived from natural law".<sup>39</sup>

<sup>&</sup>lt;sup>32</sup> J. HAIDT, 'The emotional dog and its rational tail: A social intuitionist approach to moral judgment', *Psychol. Rev.* 2001, 108, 814–834. Generally see, J. HAIDT, *The righteous mind, supra* vn. 31.

<sup>&</sup>lt;sup>33</sup> J. HAIDT, 'The emotional dog and its rational tail', *supra* vn. 32.

<sup>&</sup>lt;sup>34</sup> For a contrasting perspective, *see*, C. PATRICK, 'Evolution is the source, and the undoing, of natural law', *Evol. Hum. Behav.* 11 January 2023.

<sup>&</sup>lt;sup>35</sup> P.H. ROBINSON, *Intuitions of justice and the utility of desert, supra* vn. 30, p. 156; P. ROBINSON, 'Natural Law & Lawlessness: Modern Lessons from Pirates, Lepers, Eskimos, and Survivors', *Univ. Ill. Law Rev.* 1 January 2013; P.H. ROBINSON and J.M. DARLEY, 'Intuitions of Justice: Implications for Criminal Law and Justice Policy', *South. Calif. Law Rev.* 2008 2007, 81, afl. 1, 1–68. *See* also, for example, Newson and Richerson noting that: "Modern towns and cities tax their residents to invest in policing and punishment systems that work to 'keep the peace'. But a population can only feel safe and comfortable when its members are part of community and have similar ideas about right and wrong behavior. If people who live in the same neighborhoods have internalized the same 'neighborliness' norms, police don't need to patron very often"; L. NEWSON and P.J. RICHERSON, *The story of us: a new look at human evolution*, New York, NY, Oxford University Press, 2021, p. 96.

<sup>&</sup>lt;sup>36</sup> R.H. HELMHOLZ, *Natural law in court: a history of legal theory in practice*, Cambrige, Massachusetts, Harvard University Press, 2015, p. 3. *See* also, S. BANNER, *The decline of natural law: how American lawyers once used natural law and why they stopped*, New York, NY, Oxford University Press, 2021, pp. 16–17.

<sup>&</sup>lt;sup>37</sup> J.C.Jr. HUTCHESON, 'Judgment Intuitive The Function of the Hunch in Judicial Decision', *Cornell Law Q.* 1929 1928, 14, afl. 3, 274–288.

<sup>&</sup>lt;sup>38</sup> S. BANNER, *The decline of natural law, supra* vn. 36, pp. 16–17.

<sup>&</sup>lt;sup>39</sup> Pavesich v. New England Life Ins. Co., 122 Ga. 190 (Ga. 1905).

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§3D. How do we make sense of this? On the one hand, humans face the constraints of their nature, particularly their biological nature. On the other hand, many 'teachings of nature' are problematic (supra. §2). Not surprisingly, Aquinas seems to offer an interesting refinement. The great doctor of the Church starts by distinguishing three inclinations - in ascending order – present within human nature.

First, there is the inclination we share with "all substances" (e.g., seeking self-preservation). Second, there is the inclination we share with other animals "and", writes Aquinas, "in virtue of this inclination, those things are said to belong to the natural law, which nature has taught to all animals" (e.g. procreation). Third, there is the inclination proper to humans, the capacity for reason 42 (e.g., knowing the God, communal life...). Hence, while we share certain inclinations with plants respectively animals, human nature is much richer.

Ulpian, by limiting himself to these two inclinations misses, according to Aquinas, our most distinguishing feature, our reason, our capacity to pursue – without being simply dependent upon instinct – our ingrained end, our capacity to live a human life instead of merely following natural cravings. Indeed, as Budziszewski writes:

"We seek not bare life, but a human life, which is a considered life. We seek not the bare union of male and female, but marriage — the sole mode of union suffused with the meaning of union, with the awareness of mutual self-gift between beings who can mutually make, and thoughtfully care for, new life. We not only follow our inclinations, but wonder about them and inquire into them, just as we wonder about all things.<sup>43</sup>

Nevertheless, this does not imply the insignificance of our biological heritage. On the contrary, and here proves Ulpian his worth, it may inspire us to ask new questions, to study the integral human condition, to follow the questioning spirit of the psalmist who asks:

"When I see your heavens, the work of your fingers, the moon and stars that you set in place— What is man that you are mindful of him, and a son of man that you care for him?"<sup>44</sup>

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<sup>&</sup>lt;sup>40</sup> ST.I-II.Q94.A2.C. jo. Sent.IV.D33.Q1 (https://aquinas.cc/la/en/~Sent.I).

<sup>&</sup>lt;sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>&</sup>lt;sup>43</sup> J. BUDZISZEWSKI, Commentary on Thomas Aquinas's Treatise on Law, New York, NY, Cambridge University Press, 2016, p. 252.

<sup>&</sup>lt;sup>44</sup> Psalm 8:4-5.

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CONCLUSION. While Ulpian's conception remains vague (§1) and faces numerous philosophical problems (§2), it 'puts' – if lawyers are allowed to use 'catchphrases' – the natural back into 'Natural Law' which is a rewarding exercise for a couple of reasons. First, it challenges us to take human nature seriously, especially considering its biological roots. Certainly, 'man does not live by bread alone', but bread or, in this case, our biological roots, cannot be neglected. Second and adjacently, it invites us to examine our limits, the limits of our social organisation and ultimately, the law by which the patterns of our associations are expressed. Third, it helps with explaining the 'ultimate' ratio behind certain principles of positive law. Fourth and last, an 'Ulpianistic' conception would (re)connect the Natural Law with modern science — or, how the jurist from Tyre remains relevant in this day more than ever.

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