The Historic Footprint of the Law in Legal Systems: From Its Educational Value to Social Engineering. Some Examples.

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Abstract

"The people must fight for its law as for its (city) walls". These are the words of Heraclitus who, in the 5th century BC, was already perfectly aware of the immense influence that the law has on shaping the identity of the people. Because not only do laws have an effect on institutions, but indeed they also transform the minds and even the hearts of individuals. In this article, we will try to understand what the law is and what its purpose is. We will ask ourselves if it is legitimate, and if it is possible, to leave the educational value of the law aside in order to use it as a tool for social change. This is why we must resort to the concept of law throughout history in order to understand its value and its virtuosity.

Key words: law - social change - social engineering – legal history

1. From the Educational Value to the Transformative Power of the Law

"What is the law?" may seem like an easy question to answer, however, we will soon find out that this is not the case. The term has been defined in many ways throughout history, arriving at the most diverse meanings. And not only because each school of thought understands it differently, but because, as indicated by Millán-Puelles, it is not a univocal term, rather it is an analogous term (Millán-Puelles, 2002, 381), as it can be applied to various realities that bear a certain connection and coherence between them.

We begin with the Thomist definition of law as *"... an ordinance of reason for the common good, made by him who has care of the community, and promulgated."* (Aquinas, 1993). Thomas Aquinas started by addressing the subject of law in general, and from a theological point of view, going on to raise the issue from the perspective of social harmony, in other words, of the human positive law. In general terms, he began by stating that: *"The law is a rule and measure of our acts whereby man is induced to act or is*

restrained from acting; for law is derived from binding because it binds one to act." (Aquinas, 1993).

We therefore see that this presents us with three common characteristics of the different types of law, particularly relating to the positive human law:

1. The law as a prescribed act of reason. In this respect, according to Thomas Aquinas, the law cannot be explained without its rational significance. He only justifies it by its means of rationality, embodying a prudential ruling imposed on free men who aim to achieve a certain degree of social good. The law is also a rational principle, but of a practical nature. It possesses its own *imperium*, not for the external coercion that it may exert, but because, rather than being an authoritarian order that was imposed as a blindly-guided superior will, it was an adjusted demand of the regulations for the social purpose fostered. It is important to remember that, with the words *ordinatio rationis*, will is not excluded because all law is wished by the lawmaker (as well as wished, it must also be known by the aforementioned) (Millán-Puelles, 2002, 384), but emphasis is placed on right reason.

2. The common good as the purpose of the law. The purpose of the law shall be the common good, as a true element of social life. In addition, it affirms that there are as many types of law as types of existing human associations. This is why laws are distinguished and classified in accordance with the various orders of human harmony, in response to the purposes of each one of the associations. The common good being precisely "common" does not call for all members of the community to be the same or to fulfil an identical role, but quite the opposite; difference will allow this common good to prosper.

3. Authority as an efficient cause of the law. The law as a precept directed towards the social common good is a product of anyone who possesses *auctoritas.* The purpose and role of the human leader shall be to look after/ protect this common good. He must do and impose everything within his reach in order for the laws to be necessary and appropriate with regard to this purpose. He himself shall state, be ordained by and subject to these laws. Furthermore, he shall be under an obligation to notify these laws, in other words, enact them.

According to Thomas Aquinas, the law is, above all, an external direction of man towards moral good. It does not hinder the freedom of man, rather the opposite; it is the mechanism required to achieve plenitude in social life, thus contradicting some subsequent interpretations, particularly those which emerged after the Enlightenment.

In this respect, Thomas Aquinas understood the law as a rule of social conduct which is, strictly speaking, human, and which possesses the empire that consents to complying with it in a mandatory nature, for the pursuit of the common good.

In Question 92, when he studies the effects of laws, he states: *"The aim of every law is to be obeyed by those who are subject to it. Thus, the proper effect of the law is to lead its subjects to their own virtue... therefore, the effect of the law itself is to make those subject to it good, whether in an absolute sense or in a merely relative sense."* (Aquinas, 1993). The law is above all a mandate, a mandate to those who are subject to it. The law is not just any mandate, because it has a purpose, because it pursues certain effects. The purpose of the law is no other than the pursuit of the common good: *"Because if the lawmaker intends to achieve real good, which is the common good governed in accordance with divine justice, the law will make men good..."* (Aquinas, 1993).

Thomas Aquinas recognises that the law has a certain educational effect. What makes men good is virtue, not the law. But the law may contribute to men being good because the mandates that are laid down in it order virtue: *"When one is accustomed to avoiding bad actions and practising good actions due to fear of punishment, at times one does so with pleasure and on one's own accord. Thus, through punishment the law also contributes to making men good."* (Aquinas, 1993).

We can perceive that in the law, Thomas Aquinas discovers the educational role of the will of man in his search for achieving the moral good. It is true that the purpose of human actions is none other than virtue, but it cannot be forgotten that man needs the law in order to "train himself" and head towards the good of the political society in which he lives and of which he is part. *"Such is the discipline itself of laws, its educational condition which promotes conduct while seeking justice and peace... thus it was necessary to ordain laws in order to realise peace among men and achieve virtue."* (Osuna, 1993, 693).

In all of these ideas, Thomas Aquinas summarises a tradition dating back many years. In his thinking, we find repeated references to the Holy Scriptures (particularly the

Pentateuch and the Pauline Epistles) and the domain of the Roman legal world. The latter confirms to us that Aquinas was an expert in the Code of Justinian in the *Corpus Iuris Civilis*. Furthermore, it would be impossible to deny the extent to which he was influenced by Augustine of Hippo, Isidore of Seville and, closer to his time, Albertus Magnus. (Osuna, 1993, 696 and 697). Nonetheless, one influence par excellence was the discovery and the "Christianisation" of the Greeks, particularly of Aristotle, which is reflected in the development of his entire thinking. He was aware that in the Greek experience, there was a connection between Law and Ethics, which therefore revealed the educational and pedagogical nature of Law.

The law was conceived in this way for a long time (as a result of the Greek-Latin and Judeo-Christian tradition, in addition to the contribution by Thomas Aquinas) until political thinking began to change.

Change in political thinking was supported and strengthened by a widespread change in mentality at the start of the Early Modern Period: an anthropotheocentric world view turned into an anthropocentric world view. In basic terms, this led to a radical split with the Greek-Latin world and with the Christian worldview. Modernity came to break with the ontological humility of the human being, typical of the Middle Ages, in an aim to appoint man as the lord and the unconditioned possessor of nature: *"For by them I perceived it to be possible to arrive at knowledge highly useful in life; and in room of the speculative philosophy usually taught in the schools, to discover a practical, by means of which, knowing the force and action of fire, water, air, the stars, the heavens, and all the other bodies that surround us, as distinctly as we know the various crafts of our artisans, we might also apply them in the same way to all the uses to which they are adapted, and thus render ourselves the lords and possessors of Nature."* (Descartes, 1996, 127).

The start of the Early Modern Period gave rise to philosophical and legal tendencies, which brought about reductionism in the concept, in the meaning and in the purpose of laws.

The first of them (of theological origin at the hands of William of Ockham), on a legal plane, came to disregard the rationality of the law, considering it to be on a second plane in relation to will (Gallego, 2005, 102) and mysticism (or sentimentality), basic attitudes

of the Franciscan mysticism. It burst in with the notion of subjective law to which the idea of *potestas* or *facultas* is connected. (Gallego, 2005, 102).

The contractarians of the 16th century and beyond also had something to say in relation to laws. On the one hand, in his philosophical theory, Hobbes warns us that man, in his natural state, is a wolf to man as he is a slave to his own passions (mainly due to his self-conservation instinct he will see a constant threat in the "other man", which will put him in a permanent state of alert and distrust): *"... if any two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies; and in the way to their end (which is principally their own conservation, and sometimes their delectation only) endeavour to destroy or subdue one another. "* (Hobbes, 1980, 223). This means that a "pact" must be formed in order to guarantee social harmony. However, for this pact to exist, human beings must accept a change to their rights, which entails renouncing the aforementioned, in order to combine all wills into one, in other words, to choose a representative which shall be the holder of all the rights which have been renounced, thus implying the creation of an artificial or fictitious party: "Leviathan", which, as it holds all of the rights, may not be subject to any restriction: *"...for by art is created that great Leviathan called a Commonwealth, or State (in Latin, Civitas), which is but an artificial man, though of greater stature and strength than the natural, for whose protection and defence it was intended."* (Hobbes, 1980, 117). According to Hobbes, the law shall be that laid down by the "sovereign power": *"It is the will of the sovereign that artificially creates the law without the aforementioned committing the sovereign to the just and unjust. Refusing any possibility of disturbance of the subjects, thus implies the pride of judging the good and the bad, which is the sole responsibility of the sovereign."* (Lozano, 2008, 161). Compliance with the law shall be based on fear and shall have no element which is in any way volitive or much less rational.

Rousseau proposes something similar with his "Social Contract" theory, starting from the premise that man is good by nature (this is the nuance that differentiates Rousseau from Hobbes). The "noble salvage" is socially represented based on a contract signed by free and equal citizens under the authority of the laws which are self-imposed: *"Through the social agreement we have given existence and life to the political body; it is now important to set it in motion and provide it with will by means of legislation."* (Rousseau, 1995, 36). These laws are given by the people to the people themselves, expressed as "popular will". Laws, in this respect, may not be unjust, as set forth, because no man is

unjust with himself. Thus, laws are merely a series of necessary conditions of civil society, and the people subject to them are their author, their sovereign: *"In accordance with this idea, we are not allowed to ask to whom the legislative power belongs; laws are only expressions of the public will; it may not be asked, whether a prince is above the law, for he too is a member of the State."* (Rousseau, 1995, 37).

In light of the wilful, negotiating and contractual doctrines, modern absolutisms are built, whose positivist philosophies are the ideological roots of the totalitarianisms typical of the end of the 19th century and the start of the 20th century. (Gallego, 2005, 114).

On its part, Enlightenment reformism paved the way for extremism of the people as a sovereign under its slogan "liberty, equality and fraternity". The power of the prince was replaced by the sovereign power of the people's will which dictated their own laws and rules for social harmony.

On a legal plane, strictly speaking, the intrusion of the regulatory revolution also negatively contributed to these totalitarianisms. This revolution, which took place at the end of the 19th century, led to a transformation in terminology (Martínez-Sicluna, 2012). A consequence of this change was the law being replaced for the regulation. Thus, the rationality and purpose of the common good, typical of the classic notion of the law, yielded their space to the will (of the State or lawmaker) and coerciveness which are, according to positivists, truly important in a regulation: *"Almost all jurists of the 19th century agreed to consider the legal regulation as a coercive regulation, which prescribes or permits the use of coercion, and to admit that coercion is the distinctive character of the legal regulation. In this regard, the Pure Theory of Law continues the positivist tradition of the last century."* (Kelsen, 2009, 57).

The legal theories at the start of the 20th century began to understand the law as an agent of social change in line with American Legal Realism and some schools of Legal Sociology. Along with these movements and schools, the elements of the law (in accordance with the classic and Thomist configuration) gradually disappeared. In other words, the essential elements of the law were replaced by others, thus reason was replaced by will and the purpose of the common good was replaced by the regulation of social conduct.

Among the ideas developed by North American Legal Realism (Campos and Sepúlveda, 2013, 20 and 21), we can briefly highlight the following:

1. An instrumental conception of Law, as a means for social ends. This idea had great pragmatic inspiration which coincided with the political progressivism of that time.

2. A dynamic view of society and institutions (these fluctuate but must maintain a certain degree of balance). This was connected to the acceleration of the social changes revealed, as would be explained, the lack of dogmatic methods that had been developed up until that time because the creation and implementation of Law had to be adapted to the new social conditions and demands.

3. Assessment of the effects of regulations. They insisted on the idea of assessing any part of Law based on its effects. They aimed to make the regulation effective from a utilitarian approach.

4. A focus on Law from the perspective of real cases and problems. The formalist approach to creating the law, with the lawmaker being the only creator of Law, is exceeded by the legal practice itself. This therefore explains the preponderance of the judge and his function to create Law by means of jurisprudence.

In short, of the ideas developed by American Legal Realism the most characteristic consists of its representatives trying to minimise the regulatory and prescriptive element of Law and maximise the empirical and descriptive element of the aforementioned. Law is therefore converted into a set of facts, rather than a set of regulations. Its postulates are not, of course, limited to the ideas expressed here, due to the specific variety of clarifications, theoretical distinctions and marked differences in doctrines which, in all fairness, would have to be specified in the development of the particular theories outlined by each one of the authors belonging to this movement.

It must be stressed that all of these legal theories contributed, in one way or another, to the prevailing totalitarianisms at the beginning of the 20th century with an instrumental conception of Law, with a changing view of the institutions, and an assessment of a utilitarian nature of the regulations in which only their effects are considered, with a legal focus resulting in social problems. A factor common to all of them is to understand the

law as a tool to govern the conduct of men and these theories are, therefore, accepted to be focused according to the instructions of the person who has power.

The influence of the authors who we recognise as North American realists and the schools of Legal Sociology is particularly relevant to this thesis, not only due to the great critical contribution to Law in force at that time, but also because of the particular influence that they left as a legacy in the field of Law teaching.

Despite the injustice of not studying all relevant authors of the aforementioned schools in detail, we have chosen Roscoe Pound to further explore his legal approach as the founder of the Sociological Jurisprudence movement. (Braybrooke, 1958, 288-325). We focus on one of his most significant ideas which appears in several of his articles: the consideration of the law in its power to change social reality.

We begin by stating that among the definitions that Pound provides of the law (despite being rather reluctant to do so), we stress that all the meanings that he offers inexorably refer to one idea: that of social control. The law makes social control possible because it is: *"(1) a regime of adjusting relations and ordering conduct by systematic and orderly application of the force of a politically organized society, otherwise called the legal order. (2) a body of authoritative materials of or grounds of or guides to determination, whether judicial or administrative. This body of materials may be described more minutely as made up of authoritative precepts, an authoritative technique of development and application, and a background of received ideals of the social and legal order. (3) the judicial and administrative processes… If the three meanings can be unified, it is by the idea of social control."* (Pound, 1958, 13). Pound therefore offers a provisional definition of the aforementioned as: *"a highly specialized form of social control, carried on in accordance with a body of authoritative precepts, applied in a judicial and an administrative process."* (Pound, 1921, 195 and 196).

When considering the law as a highly specialised form of social control: What is the purpose of the law? What, therefore, is its aim? Over his forty years of investigative work, Pound answered with complete conviction: its aim is "social engineering". (Pound, 1921).

Social engineering was the basis, the grounds and the purpose of the legal order for Pound and the members of American Legal Realism at the beginning of the 20th century.

Furthermore, as is logic, this notion of law and rights has many consequences which are reflected in our society today.

The question should therefore be: how did Pound establish the idea of social engineering? First of all, he started from what he called the five stages of legal development (Pound, 1914), with all of them linked in order to detect the limits of the law in each one. In the fifth stage, referred to as: *socialization of the law*, there is a double task: to maintain order and peace in "civilization" (Braybrooke, 1958, 288-325) and to promote it, in other words, to be a promotion agency for social development, thus social engineering.

In response to what civilization is (beyond the definition of Kholer, which is appropriated by Pound) and how the law progresses throughout each of these stages, Pound put forward his five jural postulates of civilized society (Braybrooke, 1958, 288-325).

From several articles published by Pound, Braybrooke deduced that the aforementioned defined "civilization" as "*the social development of human powers toward their highest possible unfolding*." (Braybrooke, 1958, 288-325). In order to create optimum conditions for the development of "civilization", the five jural postulates of civilized society (which, according to Pound, are the essential preconditions of the Anglo-American civilization of the 20th century) must be used as a guide. In turn, in order to satisfy the maximum of human claims, wants and desires with the minimum of friction and waste ("engineering value") and generally described by Pound as "interest") (Pound, 1958, 37), the aforementioned must be categorised as individual interest, public interest or social interest (Abhipsa and Pritam, 2010), in accordance with a previously outlined catalogue. Pound proceeds to state that the structure of this catalogue is arbitrary and only responds to the interests of those who hold the power of the administration of justice, of political power.

According to Pound, the force that calls for social engineering to be introduced is only that emanating from conflict of interest. He stated that the only thing that can "balance" these conflicts is the law. In other words, this means that the law must work in order to establish the balance of interests in society in order for it to be more beneficial.

With regard to social control, Pound believed that interest is the only thing that must be considered and the law is the means by which to do so. In relation to possible frictions or contradictions between individual, public or social interests, Pound did not clarify which of them would have supremacy over the rest, although it may in some way be deduced

that this theory attaches fundamental importance to social or public interests which is greater than individual interest and if this is strictly interpreted, it may therefore result in the elimination of individual interests, where necessary.

The three contributions of Pound may be summarised as follows:

1. His "definition" of law as an *"instrument of social control is a coercive order, operated through both judicial and administrative processes (each having a special part to play in the overall functioning of law) utilizing precepts of varying degrees and generality and flexibility, applied and developed in accordance with received techniques varying within different legal orders."* (Braybrooke, 1958, 288-325).

2. In the development of the five jural postulates in civilized society, social control is introduced as *social engineering.*

3. The law exercises this social engineering on the basis of conflicts of interest, giving social or public interests priority over individual interests.

All legal philosophies have attempted to clearly show and meet the needs of one specific period and the case of Pound was no exception. The need of the North American society itself at the beginning of the 20th century was, for the Philosophy of Law, to provide a practical legal theory according to the interests valued. We understand that his proposal of "social engineering" (with his jural postulates) offers a judgement which is reductionist, provisional (only applicable to one specific society, such as that of his time) and dangerous because it again leaves aside the true meaning of the law and, in short, rights.

2. Some Examples in History

Understanding the law as social engineering is not a mere theoretical construction which is simply speculative, rather it has become a reality many times throughout history. Many people have used their knowledge of the law as a transformative power in order to achieve their ideological aims.

By means of example, we can mention the change experienced by families in the Union of Soviet Socialist Republics.

A series of exhaustive and well-prepared efforts was introduced in Bolshevik Russia in order to "reinvent" society. It was therefore necessary to transform certain institutions, starting with the most deeply rooted and with the most natural makeup of all: family. The main figure of these efforts was first the woman and then the family. Criticism of the traditional bourgeois family, questioned in the lucubration regarding the aforementioned in Marx and Engels (Engels, 1972), made "social engineering" in this respect possible. The "social revolution" started with the announcement of the Family Codes of 1918, 1926 and 1936. These ideas were expressed in the aforementioned codes by means of specific measures, such as the abolition of the inferior legal status of women, rendering religious marriage invalid and only legally validating civil marriage once registered, the establishment of divorce at request of either spouse, with no justification required; the extension of the same guaranteed alimony for men and women, recognition of children born to unmarried parents, and legalization of the right to abortion. (Recuero, 2011, 140). The objective of these policies, like that of all policies in the Russian communist regime, was solely to introduce *scientific socialism* where all the authority was assumed by the State (Leviathan). This is who decides what is good and what is bad and it therefore requires a man who is completely weakened (only considered as material and who is only valid if useful), a woman freed from housework (who works the land because her labour is also valuable) and a broken family.

The *Code of Laws on Acts of Marital Status, Law of Marriage, Family and Guardianship* of 1918 regulated:

With respect to marriage: from article 52 to 132, communism condemned marriage, but the Russian lawmaker temporarily regulated marriage in order to avoid completely abolishing registration, which would result in influences of tradition leading the Russians to perform the canonical form of marriage, which was the only way established before. Marriage was thus subject to a register of a secular and civil nature, as a public act which had to be held before the chief of the local Civil Registry, and was only considered to have taken place when it had been registered (Article 62).

With respect to family: from article 133 to 183 it was determined that: *"as marriage is maintained in this Russian Code, despite it being contrary to Russian principles, the family institution is also accepted, even though it is rejected by communism, however, due to temporary political reasons."* The Russian Code did not establish marriage as the

basis of family, rather in Article 133 it stipulated: *"Actual descent is the basis of family. There is no difference between children born to unmarried parents and those born to married parents."* Blood ties were therefore established. Thus, complete equality of rights was introduced between children born to married parents and those born to unmarried parents. This principle, stipulated in Article 133, was paramount as regards family Law as all other principles derived from the aforementioned in heading III of the Soviet Code.

In Soviet society, all of these measures, encouraged the relaxation of customs and the social trivialization of the family institution as a vital cell of society, which caused the Russian citizens to recognise the State as a type of "fatherhood" in a situation of such helplessness: *"... all children deprived of family care, without looking to see if they have possessions or not, their wealth or their poverty, are protected under the care of the common institutions of the State."* (Del Olmo, 1930, 23).

Another historical experience of exploitation of the law to transform society in a very particular way was that brought about by the National Party in South Africa with the introduction of the apartheid in 1948, when they had only just come to power. The word itself literally means distancing. The aim of the apartheid was to further increase the racial segregation that had historically existed in South Africa since the age of colonisation. After a century and a half of British rule, descendants of the Dutch and French colonists who were originally from South Africa had regained control of their country. Thus, what they tried to restore, with this entire set of laws, was the supremacy of their traditional social values in order to reassume unequivocal rule over their compatriots to make them inferior in terms of race and culture. In short, the aim of these regulations was none other than the perpetuation of a brutal system of racial inequality. The fact that this was a global legislative project is of great significance.

Therefore, throughout the period of over forty years that they were in power, they developed a series of programmes and infrastructures that contributed to this belief of supremacy, on the one hand, and of submission, on the other hand. The apartheid involved various factors, with very complex interactions which do not cease to show evidence of the supreme role played by legal culture in the social change produced. This is clearly demonstrated by the fact that more and more restrictions and sanctions were legislated each year as a result of the aforementioned being violated. By means of example, of the more than two hundred established over the many years that the apartheid was in force,

we quote two: *Population Registration Act* and *Residential Segregation Statutes*. After so many years of racial segregation, what happened in South Africa seemed irreparable. Nonetheless, history has shown us that this was not the case and today South Africa continues very naturally with its racial reconciliation process.

The experiment of South Africa in the manipulation of social processes through the use of legal sanction is one of the clearest examples of the way in which the law may be effective as a social engineering tool.

Laws transform institutions and shape collective consciousness, although at times lawmakers are not fully aware of their effects. In Spain, we may recall that in 1981, the Minister of Justice at the time, Francisco Fernández Ordoñez, assured the whole country that half a million couples were eagerly awaiting the divorce law in order to formalise the break-up of their marriages. However, the total number of married couples who filed for divorce in the two years after the passing of the law was below 7% of what had been predicted. Although thirty years later, in 2011, 103,604 divorces were granted. The technique to exaggerate data of a supposed social "clamour" was once again used to justify the passing of the divorce law. Furthermore, over the years, this law has significantly changed the way in which marriage is perceived.

The same technique has been used more recently to justify the need to put same-sex unions on a level with marriage. When presenting the draft bill passed by the Cabinet, the vice-president of the Government at the time, María Teresa Fernández de la Vega, stated that there were around 4,000,000 homosexual people in Spain waiting for the law to be passed in order to get married. If we look at the data registered in the National Statistics Institute, we can see that of the 168,556 marriages registered throughout Spain in 2012, same-sex marriages only accounted for 2% of this total; in 2014, of the 158,425 marriages registered, same-sex marriages represented 2.1% of the total (in other words, there were 3,300 same-sex marriages).

It seems clear that laws are very often not limited to including the changes demanded by society, but they actively generate these changes.

3. Conclusions and Critical Evaluation

We have made use of the social engineering model of Pound because we consider it to be the most accessible and the least visited in order to theoretically show how the exploitation of laws may give rise to real social change. We are aware that the thinking of Pound alone does not exhaust the idea of social engineering which is present in many other authors, not even with the clarifications that the emergence of American Legal Realism caused him to raise, or the theory developed, in this respect, by the schools of Legal Sociology.

In modern times, laws have been considered from other points of view, which are completely different to those considered by Thomas Aquinas. One of the most common points of view until now has been that of social order. Therefore, laws have been understood as orders of human conduct for the purpose of society, the definition of areas of freedom, the resolution of possible conflicts of interest, the control and order of social relations, social engineering, etc. All of the aforementioned undoubtedly present some observations which contain a certain degree of truth, but in our opinion, none of them seems to be as accurate as that put forward by Thomas Aquinas: in short, the law is a prescription of reason, in view of the common good, promulgated by the person whom has care of the community.

The stripping of its content and the process of manipulation to which the concept of law has been subject, from Thomas Aquinas to the present day, involves altering the same essence of the law, leaving it in the service of an ideological programme which, in all cases, confers excessive power to the State, which inexorably leads to totalitarianism.

The sense of law is not the coerciveness of the aforementioned or the sovereign will of the lawmaker, of the people or of the State, but the rational will ordered for the common good (which may be summarised as the harmony that this must keep between the objective reality of man and of things).

We agree with Thomas Aquinas in the respect that the essential purpose of law is not social change, but to achieve the common good. It is sometimes the case that in order to achieve the common good, a social change takes place. This is logical and even necessary, however it would pose a problem in the event that this social change gave rise to an ideological purpose of greater importance than the common good. What makes men good

is virtue, not the law. This does not mean that laws may contribute to this task, due to their educational value.

The exploited law may cause negative, unexpected and unwanted effects in society, rendering it "senseless" which causes the development and fulfilment of both the people and the institutions (family and State) to become non-viable.

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