




2-7-2018

Unaccompanied Refugee Children at the U.S. Border; a Moral Response Considering the Works of Thomas Aquinas

Linda Dakin-Grimm
Loyola Marymount University

Follow this and additional works at: <https://digitalcommons.lmu.edu/saysomethingtheological>

 Part of the [Catholic Studies Commons](#), [Christianity Commons](#), [Ethics in Religion Commons](#), and the [Religious Thought, Theology and Philosophy of Religion Commons](#)

Recommended Citation

Dakin-Grimm, Linda (2018) "Unaccompanied Refugee Children at the U.S. Border; a Moral Response Considering the Works of Thomas Aquinas," *Say Something Theological: The Student Journal of Theological Studies*: Vol. 1 : Iss. 2 , Article 4.

Available at: <https://digitalcommons.lmu.edu/saysomethingtheological/vol1/iss2/4>

This Article is brought to you for free and open access by the Theological Studies at Digital Commons @ Loyola Marymount University and Loyola Law School. It has been accepted for inclusion in Say Something Theological: The Student Journal of Theological Studies by an authorized administrator of Digital Commons@Loyola Marymount University and Loyola Law School. For more information, please contact digitalcommons@lmu.edu.

Unaccompanied Refugee Children at the U.S. Border; a Moral Response Considering the Works of Thomas Aquinas

Linda Dakin-Grimm

Between October 1, 2013 and September 30, 2014, U.S. Customs and Border Patrol apprehended 67,339 unaccompanied children (meaning minors traveling without a parent), who were attempting to cross the southern border of the United States. More than 75% of these children came from Central America's three "Northern Triangle" countries, Guatemala, El Salvador and Honduras.¹ While unaccompanied children had appeared at the border previously, this large number was more than twice the prior year's total. Some of the children hoped to reunite with family already in the U.S.; other children had no one to care for them in this country. The child refugee phenomenon was dubbed the "surge" by the press which, for a brief period in 2014, focused a spotlight on the issue. The press has largely lost interest in these children, but the crisis has not passed. Almost as many unaccompanied children presented themselves at the U.S. border in 2016 as during the 2014 "surge."

On June 2, 2014, then-President Barack Obama called the unaccompanied children at the U.S. Border an "urgent humanitarian situation."² The President directed that there be a "coordinated federal response" under emergency homeland security authorities.³ The President's use of the term "humanitarian" implied that the response would be one that was aimed at promoting the human welfare of the children themselves.⁴ The plain implication was that the U.S. "response" would be a *moral* one – that it would reflect the good or right action in human behavior. On June 30, 2014, Obama sent a letter to Congressional leaders declaring his intent to seek emergency funding to address the humanitarian emergency. The funding sought was not, however, to accommodate the child refugees' integration into this country, but instead was for "an aggressive deterrence strategy focused on the removal and repatriation of [the] recent border crossers."⁵ In the letter, the President acknowledged a "legal *and moral* obligation to make sure

1 "A Guide to Children Arriving at the Border: Laws, Policies and Responses," American Immigration Council (June 26, 2015) <http://immigrationpolicy.org/special-reports/guide-children-arriving-border-laws-policies-responses> (accessed April 14, 2016).

2 ABC News, "Obama Calls Surge of Children Across US Border 'Urgent Humanitarian Situation,'" <http://www.abcnews.go.com/blogs/politics/2014/06/president-obama-calls-surge-of-children-across-us-border-urgent-humanitarian-situation/> (accessed April 14, 2016).

3 "Guide to Children Arriving at the Border," *supra*.

4 See, *Webster's New Collegiate Dictionary*, (Springfield MA,: Merriam, 1981), 552, defining "humanitarian" as "promoting human welfare and social reform."

5 "Letter from the President – Efforts to Address the Humanitarian Situation in the Rio Grande Valley Areas of

we appropriately care for unaccompanied children who are apprehended,” **but only** for the time it takes to conduct deportation hearings and “quickly return unlawful migrants to their home countries.”⁶ The President's plan thus sought (and obtained) funding to deter immigrants from undertaking the journey to the U.S. in the first place, to increase law enforcement capacity for border enforcement and removal proceedings, and quickly to return would-be immigrants to their home countries.⁷ The plan expressly recognized that the immigrants were fleeing severe violence in their home countries and envisioned the commitment of resources to those countries to combat the “underlying issues that caused migration.”

Between 2014 and 2017, the U.S. Government put tremendous pressure on – and incentivized – Mexico to tighten *its* southern border, and to intercept and turn back child refugees arriving in Mexico before they get to *the U.S. Border*. In the Obama era, Mexico complied, intercepting and turning back tens of thousands of children each year. Nevertheless, Central American children have continued to present themselves *at the U.S. border* in huge numbers.⁸ For the period between October 2015 and January 2016, apprehensions of unaccompanied children at the U.S. Border more than doubled from the prior year and were up 24% over the year before that (2013-2014).⁹

In the era of Donald Trump, the dimension of this children's humanitarian crisis has exploded. Trump antagonized Mexico even before he became president by calling its citizens rapists and murderers, and by taunting Mexico with a “big and beautiful” border wall, for which Mexico would be forced to pay. Shortly after the inauguration, Trump personally offended Mexican president Pena Nieto in a well-publicized phone call over the wall issue, leading Pena Nieto to cancel an announced meeting at the White House.¹⁰ The U.S. can no longer count on Mexico's cooperation in turning back children (indeed any immigrants) before they reach the U.S.

In two executive orders issued on January 25, 2017, five day into his presidency, Trump

Our Nation's Southwest Border,” The White House, Office of the Press Secretary, <https://www.whitehouse.gov/the-press-office/2014/06/30/letter-president-efforts-address-humanitarian-situation-rio-grande-valley> (accessed April 14, 2016).

6 *Ibid.*

7 Existing U.S. law allowed migrants to seek “asylum” in certain very limited situations, and for child immigrants to seek “Special Immigrant Juvenile Status” under other circumstances; these remedies are almost impossible to obtain without a lawyer. The President's plan put removal proceedings for minors on a “fast track,” making it much less likely they would find lawyers to assist them in seeking these remedies.

8 Anecdotally, one of my clients (a 13 year old girl) who arrived in the U.S. in 2015 was twice intercepted in Mexico and returned to Guatemala, before making it to the U.S. Border on the third attempt. The pressure on Mexico to intercept children and return them to their home countries does nothing to address the desperate circumstances that make them determined to flee.

9 Scott Martelle, “Opinion: Amid Central American Violence, Refugee Rights Must Be Respected,” *Los Angeles Times* (April 1, 2016); <http://www.latimes.com/opinion-la/la-ol-unaccompanied-minors-mexico-immigration-20160401-story.html> (accessed April 14, 2016). Mr. Martelle further reports that apprehensions in Mexico increased by 30-55% between 2014 and 2015.

10 Azam Ahmed, “Mexico's President Cancels Meeting with Trump Over Wall,” *New York Times* (January 26, 2017); <http://www.nytimes.com/2017/01/26/world/mexicos-president-cancels-meeting-with-trump-over-wall.html> (accessed March 23, 2017).

implemented dramatic changes to change the “welcome” offered by the Obama administration. These executive orders (EO 13767 – Border Security, and EO 13768-Interior Enforcement) are not the executive orders that have twice been challenged in court as the “Muslim ban.” These orders have not received as much attention in the press. They are in place today.¹¹ Among other things, the orders:

- ☐ Contemplate a drastic expansion in the use of “expedited removal” (meaning deportation without *any* hearing)
- ☐ Force certain migrants to wait in Mexico for removal proceedings
- ☐ Alter protections from the Obama era for “unaccompanied children”
- ☐ Target family members of the unaccompanied children who are already in the U.S.
- ☐ Dramatically increase the use of detention;
- ☐ Targets those who “facilitate” the presence in the U.S. of undocumented immigrants for prosecution – including lawyers and volunteers.¹²

What does this mean for the unaccompanied children specifically? It means the U.S. will charge persons in the U.S. who are caught assisting Central American children in traveling to the border (including by paying coyotes to bring the children) with human trafficking. It means that lawyers who assist children beyond the strict confines of advocacy in formal proceedings can be charged with aiding and abetting a crime. It means that unaccompanied children will no longer be able to reunite with a parent or relative in the U.S., because to do so would result in their losing their “refugee” status, as had been the case under the Obama administration. As a result, children will be held in detention facilities.

Why are the children coming here? Unaccompanied refugee children consistently cite gang violence, in all its many incarnations, as the primary motivation for fleeing their countries. The gangs of Central America – called “Maras” – are highly sophisticated, ultra-violent, international crime networks, that were actually born in the ghettos of Los Angeles. The two principle gangs, Mara Salvatrucha (“MS-13”) and the 18th Street gang (“Mara 18”) were started by young Central American men who had come to Los Angeles in the midst of civil wars and violence in their countries in the 1980s. Our government was heavily involved in events in Central America in the 1980s, as part of its fight against “communism.” For example, the U.S. provided billions of dollars to the military-led Salvadoran government in the 1980s, as it was engaged in civil war with left-wing guerrilla groups.¹³ The U.S.’s extensive and prolonged attack

11 See, Justice for Immigrants Webinar Update on the Executive Orders and DHS Implementation Memos, March 1, 2017, <http://justiceforimmigrants.org/2016site/wp-content/uploads/2017/03/final-webinar-slides.pdf> (accessed March 23, 2017).

12 *Id.*

13 See, e.g., Theta Pavis, “Decades of U.S. Intervention in Central America Echo in Present Border Crisis,” *Huffpost Politics* (Sept. 21, 2014), http://www.huffingtonpost.com/theta-pavis/decades-of-us-interventio_b_5610684.html (accessed April 14, 2016).

on the Sandinista government of Nicaragua in the 1980s was undertaken from a military base in Honduras.¹⁴ Obviously the full history of U.S. involvement in the region is beyond the scope of this paper. But it is beyond dispute that the U.S.-sponsored wars drove a wave of immigrants to the U.S., fleeing violence at home.

Some 1980s era Central American refugees joined the L.A. gangs called “Crips” and “Bloods,” the Mexican gang, “EME,” and the Mexican Mafia, all of which were active in the poorest L.A. neighborhoods in which refugees settled. But others formed MS-13 and Mara 18 gangs, actually named for the Los Angeles streets on which members lived.¹⁵ This country then exported the Maras back to Central America, when gang members were deported at the end of their prison terms. MS-13 was established in San Salvador in 1992 by gang members deported from the U.S.; Mara 18 was similarly established in El Salvador in 1996.¹⁶

The U.S. long ago lost interest in the perceived threat of communism in Latin America. Today, MS-13 and Mara 18 operate in and across El Salvador, Guatemala and Honduras with virtual impunity. Governments and police in these three countries are widely acknowledged to be ineffectual and/or corrupt. The Maras engage in murder, robbery, rape, extortion, kidnapping, and drug trafficking.¹⁷ The police are either unable or unwilling to stop them. Some police actively collude with the Maras.¹⁸ In El Salvador, MS-13’s violence and pervasive influence is so powerful that the U.S. Office of Foreign Assets and Control (OFAC) has designated MS-13 a Transnational Criminal Organization.¹⁹ The U.S. Department of State has designated a critical crime rating to El Salvador based primarily on the violence inflicted by the Maras. In August of 2015 the homicide rate in El Salvador reached nearly 30 people *per day* in a country with a population of only approximately 6.4 million.²⁰ In contrast, the homicide rate in the *entire U.S.* was 44 murders per day in 2013, *in a population of 316.5 million.*²¹ Kidnappings are similarly escalating in the Northern Triangle countries, and the official kidnapping statistics are artificially

14 *Id.* There exists extensive documentation and analysis of U.S. involvement in affairs of Central American countries in the 1980s and 1990s. The topic is beyond the scope of this paper.

15 Steven C. Boraz and Thomas C. Bruneau, “Are the Maras Overwhelming Governments in Central America?,” *Military Review*, Nov.-Dec. 2006, p. 36.
http://calhoun.nps.edu/bitstream/handle/10945/43301/Boraz_Brunneau_Are_the_Maras_2006.pdf?sequence=1 (accessed April 14, 2016).

16 *Id.*

17 Congressional Research Service, *Gangs in Central America*, at 4; U.S. Dep’t of State, *Guatemala 2014 Human Rights Report 1* (2015).

18 State Dep’t 2014 HR Report, at 1; *accord World Report 2015: Guatemala*, Human Rights Watch, <https://www.hrw.org/world-report/2015/country-chapters/guatemala> (“Powerful criminal organizations engage in widespread acts of violence and extortion. Rampant corruption within the justice system, combined with intimidation and inefficient procedures, contribute to high levels of impunity.”); Maureen Taft-Morales, Congressional Research Service, *Guatemala: Political, Security, and Socio-Economic Conditions and U.S. Relations 2* (Aug. 7, 2014) (“The intimidation of judicial officials, widespread corruption, and the involvement of organized crime in violence and extortion are all widely seen as contributing to high levels of impunity and public mistrust in institutions.”) [hereinafter “Taft-Morales, *Guatemalan Conditions*”]

19 United States Department of State, Bureau of Diplomatic Security, *El Salvador 2015 Crime and Safety Report*

20 “El Salvador gang violence pushes murder rate to postwar record”, *The Guardian*, September 2, 2015, <http://www.theguardian.com/world/2015/sep/02/el-salvador-gang-violence-murder-rate-record>. (accessed April 14, 2016)

21 See, <http://www.cdc/nchs/fastats/homicide.htm>. (accessed April 24, 2016).

low.²² El Salvador has the highest per capita homicide rate for children in the world.²³ Similarly, the most recent study on the issue observed that 70 percent of Guatemala's homicides went unsolved.²⁴ And 98 percent of all crimes in Guatemala do not result in prosecutions.²⁵

As the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions noted, Guatemala remains “a good place to commit murder because *you will almost certainly get away with it.*”²⁶ Poor children are particularly targeted by gangs in these countries, with the ultimatum that they either work for the gangs or be killed. Young girls face particular risk of sexual violence by gang members.²⁷ This is the answer to why the children come to our border. They are escaping death.

Making the situation more complicated, perhaps not surprisingly, not all of the children thrive in the U.S. Many come seeking parents they have idealized but who cannot possibly offer the love or security they need. A few of the children have reportedly joined the very gangs they were purportedly escaping in their home countries. In the run-up to the presidential election in 2016, Fox News published a story headlined “Unaccompanied Minors Swelling Ranks of American Gangs, Experts Say.”²⁸ The article itself did not actually quote any experts who said that minors were swelling the ranks of gangs. It stated clearly that the “overwhelming majority of the kids are not criminals.” But it correctly observed that the process often “sends a steady stream of loosely supervised youths, lacking in language and coping skills” into communities where they are “ripe for recruitment.” In late March 2017, The Washington Post published the story of a girl who escaped the MS 13 in El Salvador to join her undocumented mother in the U.S. in 2014, only to associate with that same gang in Maryland when her relationship with her mother became strained. The girl was executed by MS 13 members, who themselves had come to the U.S. as unaccompanied minors.²⁹ Video of the execution appeared on Facebook.

22 United States Department of State, Bureau of Diplomatic Security, El Salvador 2015 Crime and Safety Report.

23 Refugees International, Field Report, “It’s a Suicide Act to Leave or Stay”: International Displacement in El Salvador, July 30, 2015

24 U.S. Dep’t of State, Guatemala 2013 Human Rights Report 13 (2014).

25 World Report 2013: Guatemala, Human Rights Watch, available at <https://www.hrw.org/world-report/2013/country-chapters/guatemala>.

26 United Nations General Assembly, Human Rights Council, Report of the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, Civil and Political Rights, Including the Questions of Disappearances and Summary Executions, at 17, U.N. Doc. A/HRC/4/20/Add.2 (Feb. 19, 2007) (emphasis added); accord 2015 Crime and Safety Report, at 2 (“Well-armed criminals know there is little chance they will be caught or punished.”); see also Freedom in the World—Guatemala, Freedom House, <https://freedomhouse.org/report/freedom-world/2015/guatemala>. (“The judiciary is hobbled by corruption, inefficiency, capacity shortages, and the intimidation of *judges and prosecutors* Police continue to be accused of torture, extortion, kidnapping, extrajudicial killings, and drug-related crimes.”).

27 “Closed Doors; Mexico’s Failure to Protect Central American Refugee and Migrant Children,” Human Rights Watch, (March 31, 2016), <https://www.hrw.org/node/287389/> (accessed April 14, 2016).

28 Joseph J. Kolb, “Unaccompanied Minors Swelling Ranks of American Gangs, Experts Say,” <http://www.google.com/amp/www.foxnews.com/us/2016/09/15/unaccompanied-minors-swelling-ranks-american-gangs-say-experts.amp.html> (accessed March 23, 2017).

29 Michael E. Miller, “She Fled Gangs in El Salvador, Only to Have Them Haunt Her Family in the U.S.,” *Washington Post*, http://www.washingtonpost.com/local/she-thought-shed-saved-her-daughter-from-ms13-by-smuggling-her-to-the-us-she-was-wrong/2017/03/20/a75b3b26-0986-11e7-93dc-00f9bdd74ed1_story.html (accessed March 23, 2017).

What is the “moral response” – to the children at the U.S. border? The Obama response in mid-2014 was essentially “take care of the children while they are briefly in the country, but give them minimal opportunities to find a way to stay here, return them to their violent home countries *as quickly as possible*. The rationale for this approach was simple, though it was not labeled as such: It was “America and Americans First.” The response was essentially that if the U.S. allowed the children who make their way here to stay, it would be an open invitation to virtually *the entire young populations of these countries*, since the conditions the children are escaping affect almost all young people. Thus, the approach was: “an aggressive deterrence strategy focused on the removal and repatriation of recent border crossers.”³⁰

Three years later, however, the violent situations in the three Northern Triangle countries have not improved, and there is no solution in sight. To return the tens of thousands of children who continue to appear at the Border to these countries is to guarantee them short lives filled with violence, desperation, and an early death. Under now-president Trump, the response has become *much more explicitly* “we first.” The approach now is to turn the children away, and remove any incentives they might have had to come here in the first place – by deporting their family members and punishing those who would help them.

What Would Thomas Aquinas Make of this Situation?

Aquinas³¹ plainly wrote no treatise on the plight of refugee children in the early 21st Century. It is nevertheless possible to deduce from his writings his likely response to the question “what is the moral response to children on our doorstep?”

Aquinas would begin with the foundational, anthropological question ‘what is a human person anyway?’ and its corollary ‘what is the purpose of a human?’ Essentially, he would start by considering what is a child and what is its value. Aquinas addressed the questions, relying on a modified version of Aristotle’s four aspects of “causation:”³² (1) **material cause** (i.e., what is it made out of?); (2) **formal cause** (what defines it as unique – a duck not a goose?); (3) **efficient cause** (what *moves* it from its potentiality to its actuality?) and (4) **final cause** (what is the purpose of this move from potentiality to actuality?) Aquinas identifies the *material* cause of humans as both matter *and* spirit. The *formal* cause of a human is both the form of a human body *and* a rational soul. The *efficient* cause of a human is likewise two; for the body, it is God who moves us from potentiality to actuality and for the soul it is *human action* – we become what we do. Aquinas identifies the *final* cause of a human as *to know and be God-like – to reach its perfection*.³³

30 “Letter from the President – Efforts to Address the Humanitarian Situation in the Rio Grande Valley Areas of Our Nation’s Southwest Border,” The White House, Office of the Press Secretary, <https://www.whitehouse.gov/the-press-office/2014/06/30/letter-president-efforts-address-humanitarian-situation-rio-grande-valley> (accessed April 14, 2016).

31 Aquinas (1225-1274) was a Dominican priest and philosopher and proponent of natural law/natural theology.

32 The analysis in this paper relies on (and is limited to) certain sections of his *Summa Contra Gentiles* and *Summa Theologica* found in Anton Pegis, ed., *Introduction to St. Thomas Aquinas* (New York: Random House, 1945). Aquinas’s use of Aristotle’s four causes does not appear expressly in these sections, but was discussed at length in class lectures. The Four causes are referred to obliquely at Pegis, *Introduction, Summa Theologica*, 562-565 (Q55, Art. 4) (Aquinas defines “virtue” by reference to the four causes.)

33 *Id.*

Aquinas answers that humans are *for* movement toward God. Thus, the children presenting themselves at our border, like all children, are human creatures who consist of both matter and spirit, and possess physical bodies and rational souls. *Each one of these children is precious*, as created by God, who moves them physically from potential to actuality, as they grow and develop. They have souls, which can grow to reach their potential, in part by their own human action. The children are oriented to know God and to become like him.³⁴

Aquinas identifies a process that can occur during (human) life, of *sanctification* – becoming more and more like God, becoming perfected. The process is “moved along,” in part, by human action. Aquinas explains that within a human, *reason* communicates with human *will*, fighting and negotiating over what will be our *action*.³⁵ This human reason is *somewhat* clear, and human will is *somewhat* good, though both are distorted by sin. The process of negotiation (between reason and will) over *right action* contains the real possibility for recognizing the good and conforming one's self to it. Although sin, in all humans, impairs the will and distorts the reason, Aquinas posits that humans nevertheless *can* move *toward* natural perfection.

Aquinas observes that all human beings act to an end – ultimately to one goal – to be happy (*beatitude*). But, he explains, happiness is not to be found in anything in this world, including wealth, fame, honor, pleasure, power, health or anything else.³⁶ Rather, in this world, we strive for natural perfection through virtuous actions, living according to the Natural Law.³⁷ We can choose to move toward natural perfection by acting virtuously *toward ourselves and toward others*.

Aquinas argues that humans move toward natural perfection by exercising their own freedom through “virtue.” (In contrast, “supernatural perfection” is only achievable as a gift of God's grace – it cannot be humanly obtained.) Aquinas writes that humans must repeatedly exercise virtue to form “operative habits.”³⁸ In this thinking, *how* we act as humans determines what we become. A human's own actions are part of the efficient cause of whether s/he moves toward “natural perfection.”

With regard to the problem presented in this paper – the moral response to children at the border, Aquinas would see both the humans already living in the United States and the children at the border as God's creatures, who consist of both matter and spirit, and possess physical bodies and rational souls. Aquinas would see both groups as having the potential to grow in natural perfection, in part by their own human action. Aquinas would see both groups as desiring happiness, but unable to achieve it through the acquisition of the things of this world, including wealth, fame, honor, pleasure, power or health. Per Aquinas, the children at the border have the free choice (the very same free choice as American children) to strive for natural perfection through virtuous actions.

Again following Aristotle, Aquinas answers questions of ethics (how should humans behave) by looking to the *end inscribed in human nature itself* – the desire for good. The

34 Pegis, *Introduction, Summa Contra Gentiles*, Ch. 17-20, 25.

35 Pegis, *Introduction, Summa Contra Gentiles*, Ch. 25-26.

36 Pegis, *Introduction, Summa Contra Gentiles*, Ch. 26-27.

37 Pegis, *Introduction, Summa Theologica*, 638-639 (Q94, Art. 3)

38 Pegis, *Introduction, Summa Theologica*, 566-67 (Q56, Art. 1).

principle driving good human action is virtue. Aquinas identifies four “Cardinal Virtues:” **prudence**,³⁹ **temperance**, **fortitude** and **justice**.⁴⁰ Aquinas counsels that humans must exercise these virtues to form habits that move us toward natural perfection.

Aquinas posits that the entire world is governed by what he calls the “Eternal Law,” or divine reason. Natural Law is *that part of Eternal Law which humans can both recognize and participate in*, as it is both etched in the human heart and observable in God's creation.⁴¹ Natural Law is universal, meaning it is the same for all humanity, and it is unchanging – not subject to the whims of culture.⁴² Nor can the Natural Law be erased or abolished from the hearts of humans.⁴³ In contrast, “Human Law,” which Aquinas agrees is necessary to safeguard the innocent from the wicked, can be erroneous. Quoting Augustine, he writes about human law, that “that which is not just seems to be no law at all.”⁴⁴

Aquinas identifies the “first principles” of Natural Law, that “*good is to be done and promoted, and evil is to be avoided.*” “All other precepts of the natural law are based on this.”⁴⁵ Aquinas explains that “every substance seeks the preservation of its own being, according to its nature; and by reason of this inclination, *whatever is a means of preserving human life, and of warding off its obstacles, belongs to the natural law.*”⁴⁶ Aquinas further identifies the “*education of offspring*,” as a first principle, and writes that “man has a natural inclination to know the truth about God, and *to live in society*; and in this respect, whatever pertains to this inclination belongs to the natural law.”⁴⁷

Aquinas's writings suggest the following as his likely response to the children on our doorstep: The children are humans, with the same dignity and value as persons on the U.S. side of the border. They are *seeking to preserve their own lives*, escaping inhuman violence, degradation and death. The first principle of Natural Law, “good is to be done and promoted, evil is to be avoided,” requires *that we help them simply to preserve their lives*. Looking away, and sending children to dangerous places ruled by violence and death, can never be justified as a moral act. We must make homes for the children who desire to be part of this society. We must educate them, as human offspring, consistent with the first principles of Natural Law. Aquinas would say that those who live on this side of the Border have the gift of an *opportunity* to exercise the Cardinal Virtues, to grow in their own natural perfection.

Some would respond, “our tax money can be sent to the home countries to fight the violence and corruption *there*, but we cannot allow the children to stay, because they have violated our law in coming here (without permission), and to allow them to stay would be an open invitation to the entire populations of countries to do the same. If we allowed this, there

39 Pegis, *Introduction, Summa Theologica*, 575-577 (Q57, Art. 5). (“Prudence is a virtue most necessary for human life...”)

40 Pegis, *Introduction, Summa Theologica*, 586-589 (Q61, Art. 1-2).

41 Pegis, *Introduction, Summa Theologica*, 617-619 (Q91, Art. 2).

42 Pegis, *Introduction, Summa Theologica*, 640-643 (Q. 94, Art. 4).

43 Pegis, *Introduction, Summa Theologica*, 644-45 (Q. 94, Art. 6).

44 Pegis, *Introduction, Summa Theologica*, 649 (Q 95, Art. 2).

45 Question 94, Second Article, p. 637. (Emphasis added.)

46 *Id.* (Emphasis added).

47 *Id.*, at 638. (Emphasis added).

would be less for us – our entire rule of law would be ignored, and our good standard of living would be reduced. We value freedom of choice, and our people do not choose to spend money on these foreigners. The children of Central America are not our problem.”

To this, Aquinas would respond, “do good, and preserve human life” are not guidelines that allow you to decide that some lives are not worth preserving. These are *first principles* of Natural Law, written on the human heart, and are part of humanity's participation in the Eternal Law. Although nation states are part of Natural Law, and thus countries may defend their existence, the obstacles you have placed before the children seeking to save their own lives are not part of Natural Law – they are human constructs. Your “human law,” that imposes impossible “advance permission” requirements on children is not just, hence it is “no law at all.”

Aquinas would say, “your free decision *not* to share resources with children will not only prevent them from reaching their potential – it will cause them to suffer and die. This decision is contrary to the Cardinal Virtues of prudence and justice. You mistakenly believe that you will achieve happiness by holding on to wealth, fame, honor, pleasure, power, health and other worldly things. You will only approach happiness if you exercise the moral virtues of prudence, temperance, fortitude and justice. Your wills and your reason are blinded by the sins of greed and idolatry. Your actions are grounded in fear of the loss of things that are not important. Ultimately, your refusal to save the lives of these children will result in *your own* eternal separation from God.”

Aquinas might further respond, “your perception that you are separate from these children, that they are 'not your neighbor,' and 'not your problem,' is also wrong. Your present material well-being was built on the fact that your country contributed to the circumstances that cause these children to suffer terribly and for their lives to be in danger.” In short, Aquinas would respond, “Change your minds. Your salvation depends on it.”

Conclusion

To Aquinas's arguments, I would add that from the beginning of human history, people have been migratory. It is an observable aspect of the nature of human beings that in the face of difficulties (natural disasters, diseases, wars, oppression) people move. It is one of our God-given abilities – to move as a means to adapt to difficulty. For those who happen to live in the United States at this specific point in history to deny this fact, and to pretend that they do not live here as a direct result of some ancestor's migration to escape some perceived difficulty is “fake history.”

For the Protestant Christian or the Catholic who declines to base an ethical argument on Natural Law, but instead looks to the Bible as the source of all normative ethical judgments, I would further argue that the Bible itself is full of migrants (starting with Adam and Eve's departure from the Garden, and including Abraham, Joseph, Jacob, Moses, all the Israelite people, Ruth and Mary and Joseph with Jesus). The Bible, thus, explicitly and repeatedly recognizes the moral imperative to welcome the migrant, in Exodus 22:21 (“You shall not wrong or oppress a resident alien; for you were aliens in the land of Egypt.”),⁴⁸ Leviticus 19:33-34

48 All Bible quotations are from the *Harper Collins Study Bible, Revised Edition, New Revised Standard Version*, ed. Harold W. Attridge et al. (New York: HarperCollins, 1989).

(“The alien who resides with you shall be to you as the citizen among you; you shall love the alien as yourself, for you were aliens in the land of Egypt: I am the Lord your God.”); Deuteronomy 10:18-19 (For the Lord your God...loves the strangers, providing them food and clothing. You shall also love the stranger, for you were strangers in the land of Egypt.”); Matthew 25:31-46 (“Then he will say to those on the left hand, 'depart from me you cursed...for I was a stranger and you didn't take me in...'”) and Jesus's statement of the greatest commandment: “and you shall love the Lord your God with all your heart and with all your soul and with all your mind and with all your strength. The second is this: Love your neighbor as yourself. No other commandment is greater than these.” (Mark 12: 30-31; *see also* Matthew 22:39; Luke 10:27).

Linda Dakin-Grimm is a third year student in the Masters in Theology program at Loyola Marymount University. She received a B.A. from Yale University, cum laude, and a J.D. From Harvard Law School. She and her physicist husband, Gary, are members of American Martyrs Parish in Manhattan Beach California, where they are Sacristans. Linda and Gary are members of the Advisory School Board of St. Michael's Parish and School in South Los Angeles. They are involved in similar work in two diocese in Peru. Linda is a member of the Joint Task Force on Immigration of the Archdiocese of Los Angeles, and the Diocese of San Bernardino and Orange.

Linda is a senior consulting partner of Milbank, Tweed, Hadley & McCloy, where she handled civil trials and arbitrations for many years. In 2015, she gave up business trial practice and began representing unaccompanied children from Central America in immigration proceedings on a pro bono basis.

Bibliography

Books

Anton Pegis, ed., *Introduction to St. Thomas Aquinas* (New York: Random House, 1945).

Webster's New Collegiate Dictionary, (Springfield MA,: Merriam, 1981).

U.S. Government and Other Documents

Center for Disease Control Homicide Report, <http://www.cdc/nchs/fastats/homicide.htm>. (accessed April 24, 2016).

Freedom in the World—Guatemala, Freedom House, <https://freedomhouse.org/report/freedom-world/2015/guatemala>.

Letter from the President – Efforts to Address the Humanitarian Situation in the Rio Grande Valley Areas of Our Nation's Southwest Border,” The White House, Office of the Press Secretary, <https://www.whitehouse.gov/the-press-office/2014/06/30/letter-president-efforts-address-humanitarian-situation-rio-grande-valley> (accessed April 14, 2016).

Maureen Taft-Morales, Congressional Research Service, *Guatemala: Political, Security, and Socio-Economic Conditions and U.S. Relations 2* (Aug. 7, 2014).

Refugees International, Field Report, “It’s a Suicide Act to Leave or Stay”: International Displacement in El Salvador, July 30, 2015.

United Nations General Assembly, Human Rights Council, Report of the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, Civil and Political Rights, Including the Questions of Disappearances and Summary Executions, at 17, U.N. Doc. A/HRC/4/20/Add.2 (Feb. 19, 2007).

U. S. Department of State, Bureau of Diplomatic Security, *El Salvador 2015 Crime and Safety Report*.

U.S. Dept. of State, *Guatemala 2015 Crime and Safety Report* 1–2 (2016)

U.S. Department of State, *Guatemala 2014 Human Rights Report* (2015).

U.S. Department of State, *Guatemala 2013 Human Rights Report* (2014).

World Report 2015: Guatemala, Human Rights Watch, <https://www.hrw.org/world-report/2015/country-chapters/guatemala>.

World Report 2013: Guatemala, Human Rights Watch, available at <https://www.hrw.org/world-report/2013/country-chapters/guatemala>.

Articles

ABC News, “Obama Calls Surge of Children Across US Border 'Urgent Humanitarian Situation,’” <http://www.abcnews.go.com/blogs/politics/2014/06/president-obama-calls-surge-of-children-across-us-border-urgent-humanitarian-situation/> (accessed April 14, 2016).

“A Guide to Children Arriving at the Border: Laws, Policies and Responses,” American Immigration Council (June 26, 2015) <http://immigrationpolicy.org/special-reports/guide-children-arriving-border-laws-policies-responses> (accessed April 14, 2016).

Steven C. Boraz and Thomas C. Bruneau, “Are the Maras Overwhelming Governments in Central America?,” *Military Review*, Nov.-Dec. 2006, p. 36. http://calhoun.nps.edu/bitstream/handle/10945/43301/Boraz_BrunEAU_Are_the_Maras_2006.pdf?sequence=1 (accessed April 14, 2016)

“Closed Doors; Mexico's Failure to Protect Central American Refugee and Migrant Children,” Human Rights Watch, (March 31, 2016), <https://www.hrw.org/node/287389/> (accessed April 14, 2016).

“El Salvador gang violence pushes murder rate to postwar record”, *The Guardian*, September 2, 2015, <http://www.theguardian.com/world/2015/sep/02/el-salvador-gang-violence-murder-rate-record>. (accessed April 14, 2016).

Scott Martelle, “Opinion: Amid Central American Violence, Refugee Rights Must Be Respected,” *Los Angeles Times* (April 1, 2016); <http://www.latimes.com/opinion-la/la-ol-unaccompanied-minors-mexico-immigration-20160401-story.html> (accessed April 14, 2016).

Michael Martinez and Holly Yan, “Showdown: California town turns away buses of detained immigrants,” *CNN* (July 3, 2014); <http://www.cnn.com/2014/07/02/us/california-immigrant-transfers/> (accessed April 14, 2016).

Theta Pavis, “Decades of U.S. Intervention in Central America Echo in Present Border Crisis,” *Huffpost Politics* (Sept. 21, 2014), http://www.huffingtonpost.com/theta-pavis/decades-of-us-interventio_b_5610684.html (accessed April 14, 2016).