

There are a few minor difficulties in the book. Each chapter ends with a set of review questions that some may find superfluous, even at the college level. Additionally, the authors at times try too hard to make a direct connection between free enterprise and evangelism when it is not necessary to do so. Simply stated, free enterprise provides a firm social platform from which the church can apply and accelerate its work. This connection may not be immediately obvious to some, even though communities have flourished this way for centuries. Nevertheless, the book offers a helpful reminder of Genesis's cultural mandate ("to rule and subdue") and will be a vital resource for those involved in communities that suffer from spiritual and material poverty.

Rundle and Steffen have written a book needed by missions courses at the college and seminary level. It will help seminaries think more creatively about missions, given our current global economic climate. Pastors and parishioners will also find the book valuable in developing strategies for innovative and progressive approaches to international missions.

—Anthony Bradley
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Law & Custom: The Thought of Thomas Aquinas and the Future of Common Law

David VanDrunen

New York: Peter Lang, 2003 (192 pages)

It is a welcome surprise to find a new book on the role of custom at a time when legislation seems to have taken over as the paradigmatic source of law. The surprise is all the more welcome if the book draws inspiration from the teachings of such a powerful mind as Thomas Aquinas, as does David VanDrunen's *Law & Custom: The Thought of Thomas Aquinas and the Future of Common Law*.

The book is divided into five chapters. The opening one, "Law and Custom in the Western Legal Traditions," sets the historical context by outlining the importance of custom in Roman law, which had a strong hold on continental law through the medieval period and was influential in the Anglo-American common-law tradition. VanDrunen concludes that custom had great practical significance as a source of law in the Middle Ages. This, he argues, is crucial for understanding the environment in which Aquinas lived and wrote.

Chapter 2 focuses on the contribution of Aquinas to the theory of custom. This is preceded by a lucid synthesis of Aquinas' theory of law, which VanDrunen calls "theology of law." We are reminded here of the fourfold classification of law: eternal law, natural law, human law, and divine law. Next, the author turns to what he refers to as "the legal functions of custom" in the thought of Aquinas. The key passage is *Summa Theologiae* I-II q. 97 a. 3c, which discusses custom as a source of creation, abrogation, and interpretation of law. According to VanDrunen, this text grants a paramount role to

custom within legal systems. Perhaps this is to overstate the case, as Aquinas' brief reference to custom is made against the more general and extensive background of his "Treatise on Law" in which enacted legislation undoubtedly has a prime position. At any rate, a topic that should have deserved more attention is the nature of custom itself. VanDrunen affirms that Aquinas does not identify custom with law. It is not clear, however, why custom would not qualify as a particular type of (human) law. Finnis's thorough treatment of the topic in *Natural Law and Natural Rights* contributes to an understanding of this difficult question.

Chapters 3 and 4 set out to show why Aquinas came to his conclusions regarding the role of custom. They are supposed to deal, respectively, with the anthropological and ethical foundations of the legal authority of custom, but the connection between custom and the philosophical reflections undertaken in these chapters is far from clear. However, the reflections—on reason and freedom in Aquinas' thought, among others—are interesting and well argued. VanDrunen concludes that, for Aquinas, to make law through custom is to act in an even more reasonable way than to make law through legislation. Unfortunately, this sweeping statement does not seem to be supported by Aquinas' scanty references to custom.

Chapter 5 proposes the revival of common law, in a legal culture dominated by statutes and administrative regulations. Aquinas, it is argued, can contribute decisively to this project through his teachings on the role of custom. This assumes, of course, that the common law *is* a sort of custom—a difficult question that deserves more attention than VanDrunen is willing to grant it. The author's argument in favor of common law has a certain libertarian flavor (quotations of Hayek abound) the main contention being that common law, understood as custom, requires the free participation of all citizens, whereas enacted legislation is made by a select few. This purportedly democratic view of common law seems to exaggerate the real extent to which ordinary people, as opposed to judges, participate in the formation of the common law.

This book certainly constitutes a valuable contribution to a much-neglected jurisprudential topic, that of custom, and to the study of Aquinas' legal theory in general. However, perhaps out of enthusiasm for the subject matter, the author overstates the case for the role of custom in the thought of Aquinas. At one point, we even find him warning the reader against concluding that Aquinas repudiated legislation altogether. Such a conclusion should be out of the question, as is very clear from his "Treatise on Law" in the *Summa Theologiae*, wherein Aquinas reserves a central place in his account of law for enacted law. Custom, on the other hand, is paid little attention, and it is on the few passages Aquinas devotes to it that VanDrunen holds to make his lengthy argument, filling with his own harvest many things Aquinas left unsaid.

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