

SAMUEL PUFENDORF

---

*On the Duty of Man  
and Citizen According  
to Natural Law*

EDITED BY

JAMES TULLY

*Associate Professor of Political Science and Philosophy,  
McGill University*

TRANSLATED BY

MICHAEL SILVERTHORNE

*Associate Professor of Classics, McGill University*

 CAMBRIDGE  
UNIVERSITY PRESS

## On men's natural state

### I

1. We must next inquire into the duties which fall to man to perform as a result of the different states in which we find him existing in social life. By 'state' [*status*] in general, we mean a condition in which men are understood to be set for the purpose of performing a certain class of actions. Each state also has its own distinctive laws [*ius*].
2. Men's state is either natural or adventitious. Natural state may be considered, in the light of reason alone, in three ways: in relation to God the Creator; or in the relation of each individual man to himself, or in relation to other men.
3. Considered from the first point of view, the natural state of man is the condition in which he was placed by his Creator with the intention that he be an animal excelling other animals. It follows from this state that man should recognize and worship his Creator, admire His works, and lead his life in a manner utterly different from that of the animals. Hence this state is in complete contrast with the life and condition of the animals.
4. From the second point of view, we may consider the natural state of man, by an imaginative effort, as the condition man would have been in if he had been left to himself alone, without any support from other men, given the condition of human nature as we now perceive it. It would have been, it seems, more miserable than that of any beast, if we reflect on the great weakness of man as he comes into this world, when he would straight away die without help from others, and on the primitive life he would lead if he had no other resources than he owes to his own strength and intelligence. One may put it more strongly: the fact that we have been able to grow out of such weakness, the fact

that we now enjoy innumerable good things, the fact that we have cultivated our minds and bodies for our own and others' benefit — all this is the result of help from others. In this sense the natural state is opposed to life improved by human industry.

5. From the third point of view, we consider the natural state of man in terms of the relationship which men are understood to have with each other on the basis of the simple common kinship which results from similarity of nature and is antecedent to any agreement or human action by which particular obligations of one to another have arisen. In this sense men are said to live in a natural state with each other when they have no common master, when no one is subject to another and when they have no experience either of benefit or of injury from each other. In this sense the natural state is opposed to the civil state.

6. The character of the natural state, furthermore, may be considered either as it is represented by fiction or as it is in reality. It would be a fiction if we supposed that in the beginning there existed a multitude of men without any dependence on each other, as in the myth of the brothers of Cadmus,<sup>1</sup> or if we imagined that the whole human race was so widely scattered that every man governed himself separately, and the only bond between them was likeness of nature. But the natural state which actually exists shows each man joined with a number of other men in a particular association, though having nothing in common with all the rest except the quality of being human and having no duty to them on any other ground. This is the condition [*status*] that now exists between different states [*civitates*] and between citizens of different countries [*respublicas*], and which formerly obtained between heads of separate families.

7. Indeed it is obvious that the whole human race was never at one and the same time in the natural state. The children of our first parents, from whom the Holy Scriptures teach that all mortal men take their origin, were subject to the same paternal authority [*patris potestas*]. Nevertheless, the natural state emerged among certain men later. For the earliest men sought to fill the empty world and to find more ample living space for themselves and their cattle, and so left the paternal home scattering in different directions; and individual males established their own families. Their descendants dispersed in the

<sup>1</sup> Phoenix and Cilix, eponymous ancestors of, respectively, the Phoenicians and the Cilicians.

same way, and the special bond of kinship, and the affection that goes with it, gradually withered away leaving only that common element that results from similarity of nature. The human race then multiplied remarkably; men recognized the disadvantages of life apart; and gradually, those who lived close to each other drew together, at first in small states [*civitates*], then in larger states as the smaller coalesced, freely or by force. Among these states the natural state [*status*] still certainly exists; their only bond is their common humanity.

8. The principal law of those who live in the natural state is to be subject only to God and answerable to none but Him. In that respect this state has the name of natural liberty. By natural liberty every man is understood to be in his own right and power and not subject to anyone's authority without a preceding human act. This is also the reason why every man is held to be equal to every other, where there is no relationship of subjection.

Since, moreover, men have the light of reason implanted in them to govern their actions by its illumination, it follows that someone living in natural liberty does not depend on anyone else to rule his actions, but has the authority to do anything that is consistent with sound reason by his own judgement and at his own discretion. And owing to the inclination which a man shares with all living things, he must infallibly and by all means strive to preserve his body and life and to repel all that threatens to destroy them, and take measures necessary to that end; and since in the natural state no one has a superior to whom he has subjected his will and judgement, everyone decides for himself whether the measures are apt to conduce to self-preservation or not. For no matter how attentively he listens to the advice of others, it is still up to him whether he will take it or not. It is, however, essential that he conduct his government of himself, if it is to go well, by the dictates of right reason and natural law.

9. The state of nature may seem extraordinarily attractive in promising liberty and freedom from all subjection. But in fact before men submit to living in states, it is attended with a multitude of disadvantages, whether we imagine individuals existing in that state or consider the condition of separate heads of households. For if you picture to yourself a person (even an adult) left alone in this world without any of the aids and conveniences by which human ingenuity has relieved and enriched our lives, you will see a naked dumb animal, without resources, seeking to satisfy his hunger with roots and grasses and his

thirst with whatever water he can find, to shelter himself from the inclemencies of the weather in caves, at the mercy of wild beasts, fearful of every chance encounter. Those who were members of scattered families may have enjoyed a somewhat more developed way of life but in no way comparable with civil life; and this not so much because of poverty, which the family (where desires are limited) seems capable of relieving, as because it can do little to ensure security. To put the matter in a few words, in the state of nature each is protected only by his own strength; in the state by the strength of all. There no one may be sure of the fruit of his industry; here all may be. There is the reign of the passions, there there is war, fear, poverty, nastiness, solitude, barbarity, ignorance, savagery; here is the reign of reason, here there is peace, security, wealth, splendour, society, taste, knowledge, benevolence.

10. In the natural state, if one does not do for another what is due by agreement, or does him wrong, or if a dispute arises in other ways, there is no one who can by authority compel the offender to perform his part of the agreement or make restitution, as is possible in states, where one may implore the aid of a common judge. But as nature does not allow one to plunge into war on the slightest provocation, even when one is fully convinced of the justice of his cause, an attempt must first be made to settle the matter by gender means, namely, by friendly discussion between the parties and an absolute (not conditional) mutual promise or by appeal to the decision of arbitrators.

Such arbitrators must be fair to both sides and not show prejudice or favour in giving their verdict; they must look only at the merits of the case. For the same reason a man is not appointed as arbitrator in a case in which he has greater expectation of benefit or glory from the victory of one of the parties than from the other, and so has an interest in one party winning the case no matter how. So there must be no agreement or promise between the arbitrator and the parties, to oblige him to pronounce in favour of one rather than the other.

If the arbitrator cannot ascertain the state of the facts either from the common admissions of the parties or on the basis of reliable documents or of arguments and evidence that admit no doubt, the facts will have to be ascertained from statements by witnesses. Natural law, and in many cases the sanctity of an oath, constrain witnesses to tell the truth; but it would be safest not to accept as witnesses those

who have such feelings about either of the parties that their conscience must struggle so to speak with friendship, hatred, vindictiveness or some other strong emotional impulse, or even with some more intimate bond; not everybody has sufficient firmness to overcome these feelings. Sometimes litigation may be avoided by the mediation of mutual friends, which is rightly considered to be among the most sacred duties. But in the natural state, the individual is responsible for execution of the judgement, when one party will not voluntarily render what is due.

11. Nature herself has willed that there should be a kind of kinship among men, by force of which it is wrong to harm another man and indeed right for everyone to work for the benefit of others. However, kinship usually has a rather weak force among those who live in natural liberty with each other. Consequently, we have to regard any man who is not our fellow-citizen, or with whom we live in a state of nature, not indeed as our enemy, but as a friend we cannot wholly rely on. The reason is that men not only can do each other very great harm, but do very often wish to do so for various reasons. Some are driven to injure others by their wickedness of character, or by lust for power and superfluous wealth. Others, though men of moderation, take up arms to preserve themselves and not to be forestalled by others. Many find themselves in conflict because they are competing for the same object, others through rivalry of talents. Hence in the natural state there is a lively and all but perpetual play of suspicion, distrust, eagerness to subvert the strength of others, and desire to get ahead of them or to augment one's own strength by their ruin. Therefore as a good man should be content with his own and not trouble others or covet their goods, so a cautious man who loves his own security will believe all men his friends but liable at any time to become enemies; he will keep peace with all, knowing that it may soon be exchanged for war. This is the reason why that country is considered happy which even in peace contemplates war.

## On the duties of marriage

2

1. The first of the adventitious states in which a man is set by some prior human act is marriage. Marriage may be called the first example of social life and at the same time the seed-bed of the human race.
2. And first of all it is a settled point that the burning attraction of the sexes to each other has not been designed by the Creator in His great wisdom for the satisfaction of empty pleasure; for taken by itself it was bound to generate extreme nastiness and disorder in the human race. But it has been given to enhance relations between man and wife and to encourage them to put themselves to the trouble of having children and of bearing the difficulties which attend their birth and upbringing.

It follows from this that any employment of the genital members which deviates from these purposes is repugnant to natural law. Under this heading come forbidden lust directed towards a different species or towards persons of the same sex; any kind of filthy impurity; and all extra-marital intercourse, whether by mutual consent or against the woman's will.

3. The obligation to contract marriage may be considered either with respect to the human race as a whole or with respect to individuals. In the first respect the obligation is that the propagation of the human race must absolutely not proceed by way of casual and promiscuous intercourse. It should always be bound by the laws of matrimony and therefore only practised within marriage. Without this a decent and well-ordered society among men and the development of civil life are inconceivable.

In the second respect individuals are obliged to enter into marriage

when a suitable opportunity occurs. This is determined not only by age and the capacity to beget, but also by the chance of a suitable match and the capacity to support the wife and any children there may be; also by whether the man is fit to take on the role of head of the family. An exception is made for anyone who has the temperament to lead a chaste life as a single person, and feels that he can achieve more good for the human race or for his country by not marrying than by marrying, especially when there is no fear of a shortage of children.

4. There usually is, and always should be, an agreement made between those who are about to enter into matrimony. A regular and complete agreement will consist of the following articles:

- (1) It is appropriate to the character of both sexes that the contract should be initiated by the man. Since the man's purpose surely is to have children of his own – not supposititious children or children of adultery – the woman should solemnly promise to the man that she will not grant the use of her body to anyone except him. In return the wife usually receives the same solemn promise from the husband.
- (2) Nothing is more incompatible with the character of social and civil life than a casual and vagabond way of life, with no fixed abode and no settled property. The most advantageous way of bringing up a child (who belongs to both the parents) is by their combined efforts. Moreover, living together without interruption is a great joy for couples who are well-suited and also gives the husband greater assurance of his wife's fidelity. For all these reasons a wife gives her husband this further promise to live with him without interruption and to make the closest association of their lives together and form one family. Implicit in this is a mutual promise that they will behave to each other as the nature of this association requires.
- (3) It is particularly in keeping with the natural condition of both sexes not only that the man's position should be superior, but also that the husband should be the head of the family which he has established. It follows that the wife should be liable to the direction of her husband in matters concerning the marriage and the household. Hence it is for the husband to decide where they will live, and the wife may not go away against his will or sleep apart from him. It does not, however, seem necessary to the

essence of marriage that his authority should include the right of life and death, severe punishment, or full power to dispose of any or all of the wife's property, though such authority is established in some places by particular agreement between the spouses or by the civil laws.

5. Though it is plainly against natural law that one woman should live at the same time with more than one man, it has been the custom among very many peoples, including formerly the Jewish people itself, that one man may have two or more wives at the same time. Nevertheless, even apart from the original institution of marriage as related in Holy Scripture, it is established on the basis of right reason itself that it is much more appropriate as well as more useful that one man be content with one woman. And this has been the custom approved among all the Christian nations that we know of these many centuries.

6. The close nature of this union indicates no less clearly that marriage should be perpetual, to be terminated only by the death of one of the spouses, unless the terms of the original marriage agreement have been violated by adultery or wilful desertion. In the case of incompatibility of character which does not have the same effect as wilful desertion, simple separation as to bed and board is the accepted custom among Christians, without permission to make a second set of marriage vows. One of the reasons for this is to prevent the capacity for divorce from encouraging wilful immorality, and to give an incentive to spouses to be flexible and tolerant of each other, because they have no hope of a second marriage. However if the terms of the marriage contract have been broken, the injured party alone is released from the bond; the bond remains in force for the other party, in case the injured party may desire to be reconciled and deigns to do so.

7. Any man can legitimately contract a marriage with any woman where the civil law poses no obstacle, if the age and physical condition appropriate to marriage are present, unless an obstacle exists in the form of a moral impediment. There is a moral impediment against either a man or a woman taking another spouse if either of them already has a spouse.

8. Another factor held to be a moral impediment to legal marriage is too close a relationship of blood or affinity. This is the reason why natural law, too, considers marriages between ascendants and

descendants, however far apart, to be sinful. Marriages on the transverse line, for example with an aunt on either side, or with a sister, and likewise, in terms of affinity, with a stepmother, mother-in-law or stepdaughter, are abominated not only by divine law but also by the laws of civilized nations and the consensus of Christians. Moreover, the civil laws of many peoples have banned certain more remote degrees, in order to throw as it were a hedge around the more solemn degrees previously mentioned, so that there would be some barrier to easy violation of them.

9. In other contracts and transactions the civil laws have normally added certain definite requirements, lack of observance of which destroys their validity in a civil court. So it is in the case of marriage, in that certain solemnities are required by the civil laws in some places for the sake of decency and good order. Though these things are outside the scope of natural law, those who are subject to civil laws will not contract a legal marriage without them; or at least a union of that kind will not have the same effects in the state as a regular marriage.

10. The duty of a husband is to love, support, govern and protect his wife; of a wife to love and honour her husband, and to be a helpmate to him, not only in bearing and raising children, but also in taking upon herself some of the concerns of the household. On both sides the close character of the union requires the spouses to be partners in good and bad fortune alike, and if either is struck by disaster, the other is obliged to give support. Each should also show common sense and temper their behaviour to preserve mutual harmony, though in this role it is more for the wife to give way.

Those, too, who live in natural liberty or above the civil laws may make an agreement that it is the mother's right, not the father's, that prevails.

But in states — and states have certainly been formed by men, not women — the right of the father will prevail, since a contract of marriage normally originates with the man and he becomes the head of the family. Consequently, though children certainly owe their mother respect and gratitude, they need not obey her orders if these conflict with reasonable instructions from their father. However, if the father dies, his right over the children, at least until they are adult, seems to accrue to the mother; and if she enters a second marriage, it passes to the stepfather, since he takes over the responsibility and the concern of the natural parent. And when someone undertakes to raise as a free man a child who has been abandoned or orphaned, he may (in his own right) insist upon filial obedience from him.

4. For a more precise understanding of the extent of parents' power over their children, one must distinguish among heads of households between those who live independently of each other and those who have submitted to a state, and between the authority a father has as such and the power he has as head of his household.

Nature has imposed a duty upon a father to bring up his children properly so that they may turn out to be good members of human society. Hence a father is permitted the power necessary for this purpose. But this power certainly does not go so far as to permit parents to abort the embryo in the mother's womb or to abandon and kill the new-born. For though it is true that the offspring is of the substance of the parents, still it shares the same human condition as the parents and is capable of being wronged by them. Nor does this parental authority seem to extend as far as to the exercise of the right of life and death for wrongdoing, but is limited to reasonable chastisement. For we are dealing with a tender age, when such atrocious crimes as meretricious death scarcely occur. Nevertheless, if a boy pertinaciously rejects all discipline, and there is no hope of improvement, he may be expelled from his father's house and disowned.

5. Parental power in this limited sense may be considered next in terms of the different stages of a child's development.

At the first stage, when the use of reason is still undeveloped, all children's actions are subject to the control of parents. If at this stage

### 3 On the duties of parents and children

1. The issue of marriage is children; paternal power [*patria potestas*] has been established over them. It is the oldest as well as the most sacred form of authority [*imperium*]. It binds children to respect the orders of parents and to acknowledge their preeminence over themselves.

2. Parents' authority over children has its origin in two chief causes. The first is that the natural law itself, in commanding men to be sociable, imposes on parents a care for their children. To prevent negligence, nature has implanted in parents a most tender affection for them. Exercise of that care requires the power [*potestas*] to direct the children's actions for their own security, which they do not yet discern for themselves since they lack judgement.

Secondly, this authority rests also on the tacit consent of the child. One may rightly assume that if the infant had had the use of reason at the time of birth, and had been able to perceive that he could not survive without his parents' care and the government implied by that care, he would gladly have agreed to it, and stipulated in return that they give him a good upbringing. In practice parents' authority over children is established when they acknowledge them, feed them and undertake to shape them into good members of human society.

3. The mother contributes as much as the father to the generation of a child and so in a physical sense the offspring belongs equally to both of them. One must therefore inquire carefully which has the superior right to the child.

Here one must make a clear distinction. If the child was conceived outside of marriage, it will belong primarily to the mother. The reason is that the father can only be identified by the mother's testimony.

any property is transferred by others to the minor, it should be accepted and administered by the father for the son, though the ownership goes to the son; but it is reasonable that the profits should fall to the father until the son reaches maturity. Similarly the father rightly claims for himself whatever gain or emolument results from the son's labour and must for his part provide for his nurture and upbringing.

6. When the children in adult years are endowed with mature judgement but still form part of the paternal family, one must consider separately the authority which a father has as begetter and that which he has as head of the family. Since in the former case he has as his aim the proper raising and discipline of the children, it is clear that grown children too should follow the guidance of their parents as wiser than themselves.

And whoever wishes to be maintained from his father's property and later to succeed to it should accommodate himself to the ways of the father's house, the governance of which is in any case the father's privilege.

7. But heads of households before they entered into states had exercised in their homes a sort of princely authority. Hence while the children remained in their households, they had a duty to regard their fathers' authority as supreme.

But afterwards household authority (along with other rights) was adapted to the use and style of the state; and in some places much authority, in others little, was left to the fathers. Hence we see that in some states fathers have had the right of life and death over their children, to be exercised in cases of wrongdoing, but in others that right was taken from them, for fear that they would misuse their power to the detriment of the public good and the wicked abuse of their children; and so that their children's vices would not be indulgently overlooked by paternal affection and later erupt and cause public disaster; and to relieve fathers from the obligation of pronouncing so harsh a sentence.

8. But when the child has left his father's house for good, and has set up a new household of his own or joined another, the father's power is dissolved. The debt of gratitude and respect remains, however, because it is founded in the parents' deserts, which, it is generally believed, children never or very rarely requite. Those deserts consist partly of children's owing their life to their parents, which is the *sine*

*qua non* of all their blessings. The parents also undertook the laborious and expensive task of bringing them up and making them fit members of human society, and have given them the means to lead comfortable and prosperous lives.

9. Although nature lays the obligation of raising children on the parents, this is no bar to delegating the execution of the task to someone else, if it is necessary or to the child's advantage. However, the parent does reserve to himself the right of supervising the delegate.

This justifies a father in entrusting the instruction of his son to suitable teachers. It also justifies his giving his son for adoption if the son is likely to derive some profit from it.

And if there is no other means of supporting his child, a father may give up his son as a pledge for a loan, or sell him into endurable slavery rather than let him die of want, at least on the condition that these acts may be revoked, when the father achieves a better fortune or a relative is willing to buy back the child. However, if a parent exposes and abandons the child from sheer inhumanity, whoever takes him up and raises him also succeeds to the father's rights, so that the foster-child owes filial obedience to the person who is bringing him up.

10. A father should not expel a child from his household, while it still needs to be helped and brought up, without the gravest reasons. Likewise, a child should not leave his father's household without the father's permission. Now, it is usually on the occasion of marriage that children leave their father's household, and it is in any case a matter of importance to the parents whom their child is to marry and from whom their grandchildren will be born. Consequently, a child's filial duty plainly requires that children obtain their father's consent in this matter and not take a spouse against his will. However, if children have in fact contracted and consummated a marriage against their parents' will, it seems that it is not invalid by natural law, especially when they do not intend to be a burden on the father's household any longer and the match is not unsuitable in other ways. Hence, if in some places such marriages are held to be invalid or unlawful, that is a matter of the civil laws.

11. The duty of parents consists principally of properly supporting their children, of forming body and mind by an appropriate and intelligent upbringing, so that they become decent and useful mem-



bers of human and civil society, honest, intelligent and of good character. They should also put them in the way of a suitable and honest occupation, and establish and advance their fortune so far as means and opportunity allow.

12. The duty of children, on the other hand, is to honour their parents, that is, to show respect for them not only by outward signs but much more in their own inner valuation of them, as authors of their life and of so many other benefits; to obey them; to take care of them, so far as they can, especially in need or old age; to do nothing of great importance without their advice and authority; and finally to bear patiently with any fretfulness or faults they find in them.

## On the duties of masters and slaves<sup>1</sup>

### 4

1. After the human race had begun to multiply, and the advantage had been realized of having one's domestic affairs looked after by the service of others, the custom was early introduced of admitting slaves [*seruus*] to one's household to perform the required labours. In the beginning slaves probably offered themselves of their own free will; their motive was poverty, or a sense of their own lack of intelligence. They committed their services to the master in perpetuity, stipulating for a perennial provision to themselves of food and other necessities. Subsequently, as wars everywhere became more frequent, most peoples adopted the custom that prisoners of war in return for their lives be taken into servitude together with any offspring they might subsequently have. However, many peoples have no servitude of this kind in current use, but have all their household tasks performed by wage-earners hired for a period.

2. As there are different degrees of servitude, so the power of masters and the condition of the servants vary.

A temporary wage-earner is owed an agreed wage by his master, and owes him in return an agreed service. In this contract the master has the superior standing; and so an assistant of this kind is obliged to show respect to the master in proportion to the latter's dignity; he is liable to punishment when he does his work badly or negligently, but it should not go so far as to inflict serious physical injury and much less death on the master's own authority.

3. The kind of servant who has bound himself to someone of his own

<sup>1</sup> 'Seruus': Pufendorf uses this term to cover both 'servant' and 'slave'.

free will for perpetual servitude is owed by his master food and the other necessities of life for ever. In return he has to do whatever services the master requires and faithfully account to the master for whatever profits he makes. In all this, however, the master will have a humane regard for the slave's strength and skill and will not brutally insist on labour that exceeds his strength. He is subject also to the master's correction, in the sense not only of putting an end to negligence in doing his work, but also of conforming his manners to the dignity and tranquillity of the household. However, such a slave may not be sold to another against his will because he voluntarily chose this master, not another one; and it matters to him whom he serves. If he commits a serious crime against a person outside the family, he is subject, in states, to the penalty of the civil power; where the household lives separately, he may be expelled from it. But when the crime is against a separate household itself, he may be given even the extreme penalty.

4. Slaves captured in war were usually treated quite harshly at first because something of the anger one feels towards an enemy was still felt against them, and because they had themselves made an extreme attack upon ourselves and our fortunes. However, as soon as a mutual agreement of association in the household has been made between victor and vanquished, all past enmity is deemed to be remitted. After that it is a wrong on the part of the master even in the case of a slave so acquired either to fail to provide him with the necessities of life or to be harsh to him without reason, much less to put him to death, unless he has committed a capital crime.

5. In the case of slaves who had been reduced to that condition by the violence of war, as well as those who had been bought, it was the custom that they might be transferred to whomever we pleased, just like our other property, and be put up for sale in the manner of merchandise; the slave's actual body was understood to belong to the master. But since humanity bids us never to forget that a slave is in any case a man, we should by no means treat him like other property, which we may use, abuse and destroy at our pleasure.<sup>2</sup> And when one decides to transfer to another a slave of this kind, one should take even more pains than the slave deserves to ensure that he is not sent somewhere where he will be treated inhumanely.

<sup>2</sup> Cf. the Romanist definition of ownership as '*jus utendi fruendi abutendi*'.

6. Finally, a point everywhere recognized: the offspring of slave parents is itself of servile status, and belongs, as a piece of property, to the owner of the mother. This practice is defended by the argument that it is reasonable that the product that issues from the body should belong to the body's owner; and because that offspring would obviously not have been born if the master had exercised the right of war against the parent; and because the parent has no means of support for her offspring except from the master's property, since she has nothing of her own. Since, therefore, the master provides maintenance for such an offspring long before he can be useful by his services, and since his subsequent services do not usually exceed the cost of maintaining him at the time, he will not be allowed to leave his servitude against the master's will. It is however clear that since such house-born slaves enter slavery by no fault of their own, there is no excuse for treating them more harshly than the condition of perpetual wage-earners admits.

## 5 On the impulsive cause of constituting the state

1. There seems to be hardly any amenity or advantage that cannot be secured by the duties and conditions [*status*] we have so far discussed. Nevertheless we must now investigate why men have not been content with those first small associations [*societas*], but have constituted large associations which go by the name of states [*civitas*]. For this is the basis from which we must derive the justification of the duties which go with men's civil state [*status civitatis*].
2. It is not enough to say here that man is drawn to civil society [*societas civitatis*] by nature herself, so that he cannot and will not live without it. For man is obviously an animal that loves himself and his own advantage in the highest degree. It is undoubtedly therefore necessary that in freely aspiring to civil society he has his eye on some advantage coming to himself from it. Again, man was likely to be the most miserable of animals without association [*societas*] with his fellows; yet his natural desires and needs could have been abundantly met by the earliest societies and by duties based on humanity or agreements. We cannot therefore infer directly from man's sociality [*sociabilitas*] that his nature tends precisely to civil society.
3. This will become clearer if we consider: (1) the human condition which results from the constitution of states; (2) the requirements for a man to be truly said to be a political animal, i.e., a good citizen; and finally, (3) the observed features of human nature which are repugnant to the character of civil society.
4. (1) In becoming a citizen, a man loses his natural liberty and subjects himself to an authority whose powers include the right of life

and death. At its command he must do much he would otherwise avoid; and he must not do much that he would otherwise powerfully desire to do. Again, in most of his actions he must take into account the good of society, which often seems to conflict with the good of individuals. Yet he has a congenial tendency to want to be subject to no one, to act at his own discretion, and to set his course for his own advantage in everything.

5. (2) By a truly political animal, i.e., a good citizen, we mean one who promptly obeys the orders of those in power; one who strives with all his strength for the public good, and gladly puts his own private good second — one, in fact, who believes nothing to be good for him unless it is also good for the state; one, finally, who is well disposed to his fellow-citizens. But there are few whose natures are spontaneously attuned to this end. Most people are barely restrained by fear of punishment. Many remain bad citizens throughout their lives and not political animals.

6. (3) No animal is fiercer than man, none more savage and prone to more vices disruptive of the peace of society. For besides the desires for food and sex to which the beasts also are subject, man is driven by many vices unknown to them, such as, an insatiable craving for more than he needs, ambition (the most terrible of evils), too-lively remembrance of wrongs, and a burning desire for revenge which constantly grows in force over time; the infinite variety of his inclinations and appetites, and stubbornness in pressing his own causes. And man has such a furious pleasure in savaging his own kind that the greatest part of the evils to which the human condition is subject derives from man himself.

7. Therefore the true and principal cause why heads of households abandoned their natural liberty and had recourse to the constitution of states was to build protection around themselves against the evils that threaten man from man. For just as, after God, man may do more good for his fellow-man than anything else, so he may do most harm. And they judge rightly of the evil of men, and the remedy of that evil, who formulated the saying: 'Without courts of law, men would devour each other.'

But after men had been brought into order by means of states, and so could be safe from injuries from each other, the natural consequence followed of a richer enjoyment of the benefits which tend to come to man from his fellows; for example, the advantage that they

are steeped from their earliest years in more suitable habits of behaviour and discover and develop the various skills by which human life has been improved and enriched.

8. The cause of the constitution of states will become still clearer if we reflect that no other means would have been adequate to restrain the evil in man.

Admittedly, natural law teaches that men should refrain from all infliction of injuries. But respect for that law cannot guarantee a life in natural liberty with fair security. There may indeed be men of such good character that they would not want to wrong others even with a guarantee of impunity; others too who would somehow repress their desires through fear of consequent evil. However, there are also a great many men to whom laws mean nothing in the face of an expectation of profit, and who have confidence in their own strength or cunning to repel or elude their victims' vengeance. Everyone who loves his own security seeks to take precautions against such men, and the most appropriate way of taking precautions is by means of states. It is not enough that some persons should have given each other a pledge of mutual assistance; unless there is something which unites their judgements and firmly binds their wills to keep their pledge, it is vain for them to expect sure help from each other.

9. Finally, though natural law gives adequate warning that those who wrong others will not go unpunished, yet neither the fear of God nor the sting of conscience are found to have sufficient force to restrain the evil that is in men. For there are many who, by fault of their upbringing and manner of life, are inattentive to the force of reason. They pay attention only to the present with little care for the future; and are only moved by what is before their eyes.

Divine vengeance tends to proceed at a slow pace; and this gives opportunity to the wicked among mankind to ascribe the sufferings of the impious to other causes, especially as they often see them abundantly provided with those things by which the vulgar measure happiness. There is also the fact that the stings of conscience which precede a crime do not seem to be as strong as those which follow it, when what has been done no longer can be undone. Truly the effective remedy for suppressing evil desires, the remedy perfectly fitted to the nature of man, is found in states.

## On the internal structure of states

### 6

1. We have next to inquire into the means by which states have been instituted and what are their internal bonds of cohesion. In the first place it is clear that the individual finds in other men a more useful and effective defence against the evils that human depravity threatens to inflict on him than in fortifications, weapons or dumb animals; and since a man's power is of limited extent, it was necessary for him to combine with other men to achieve that end.

2. It is equally obvious that a combination of two or three cannot provide that kind of security against other men. For it is easy for enough persons to conspire to overcome these few as would give them full assurance of victory; and their expectation of success and impunity would also give the conspirators the confidence to make the attempt. It is therefore necessary to this end, that there be a union of an overwhelming number of men so that the accession of a few to the enemy would not tip the scales towards victory for the latter.

3. Among these many individuals who come together for this purpose, there has to be a consensus on adopting means likely to achieve it. If they do not agree among themselves, but are distracted in their opinions and tend to different ends, they will achieve nothing, no matter how many they are. Alternatively, there may be a temporary agreement under the impulse of a passion, but they will soon go their separate ways, men's minds and inclinations being as changeable as they are. Though they may promise on the basis of agreement that each will bring his individual strength to the common defence, yet even this method will not provide a guarantee that the group will last. Rather, those who have once consented to peace and mutual help for

the common good must be prohibited from dissenting thereafter, whenever their own private good seems to be in conflict with the public good.

4. There are two principal faults in human nature which prevent a number of independent [*sui iuris*] men who are not subordinate to one another from achieving durable cooperation in a common end. One is the diversity of inclinations and judgements in deciding what is most conducive to that end. This is often found in combination with obtuseness in selecting from several options the one which is most advantageous, and a stubbornness in defending tooth and nail whatever option one has taken up. The other fault is indolence, and disinclination to do what is useful, when there is no compulsion to force them to stop procrastinating and to do their duty willy nilly. The first fault is countered by a perpetual union of the wills of all; the second by constituting some power [*potestas*], which shall be directly before their eyes, capable of inflicting suffering on those who oppose the common interest.

5. The only means by which the wills of many may be united is that each submit his will to the will of one man or one assembly, in such a way that from that time on whatever that man or that assembly wills in what concerns the common security be taken as the will of all and everyone.

6. Similarly, such a power as all men may fear can only be constituted among a number of men if each and every one [*omnes & singuli*] obliges himself to use his force as he shall determine to whom all have resigned the direction of their forces.

Only when they have achieved a union of wills and forces is a multitude of men brought to life as a corporate body stronger than any other body, namely a state [*civitas*].

7. Two agreements and one decree are required for a state to form in regular fashion.

First of all, when those many men who are understood to be placed in natural liberty assemble to form a state, they agree one with another individually that they wish to enter into a single and perpetual union and to administer the means of their safety and security by common counsel and leadership; in a word, that they wish to become fellow-citizens. Each and every one must consent to this agreement; anyone who dissents remains outside the future state.

8. After this agreement there must be a decree on the form of

government to be introduced. Until this is determined, no measures of public safety will be able to be effectively instituted.

9. After the decree on the form of government, a second agreement is needed, when the man or men are appointed on whom the government of the infant state is conferred. By this agreement he or they bind himself or themselves to provide for the common security and safety, and the rest bind themselves to obedience to him or them. By this agreement, too, all submit their will to his or their will and at the same time devolve on him or them the use and application of their strength to the common defence. And only when this agreement is duly put into effect does a complete and regular state come into being.

10. A state so constituted is conceived as one person [*persona*], and is separated and distinguished from all particular men by a unique name; and it has its own special rights and property, which no one man, no multitude of men, nor even all men together, may appropriate apart from him who holds the sovereign power or to whom the government of the state has been committed. Hence a state is defined as a composite moral person, whose will blended and combined from the agreement of many is taken as the will of all so that it may employ the forces and capacities of every individual for the common peace and security.

11. The will of the state as the principle of public actions expresses itself either through one man or through one assembly, according as supremacy has been conferred on the one or the other. When the government of the state is in the hands of one man, the state is understood to will whatever he has decided (assuming that he is sane) in anything within the purpose of a state.

12. But when the government of a state has been conferred on an assembly consisting of several men each of whom retains his own natural will, it is normal to take as the will of the state what the majority of those who compose the assembly have agreed to, unless an express arrangement has been made as to what proportion of the assembly is required to give its consent to represent the will of the whole body. When two conflicting opinions have equal weight, no action will be taken, but the matter will remain as it was. When there are several conflicting opinions, that one will prevail which gets more votes than any other, provided that so many agree in it as can represent the will of the whole body in other cases according to public law.

13. In a state so constituted, the bearer of government is called a monarch, a senate or a free people according to whether it is one man, or an assembly of a few, or an assembly of all. The rest are called subjects or citizens, taking the latter word in its wider sense. However, in a narrower sense, the word 'citizens' is often applied only to certain persons by whose union and consent the state was originally formed, or their successors, i.e., the heads of households.

Further, citizens are either native or naturalized. The former are those who either were party to the birth of the state at the beginning, or are descended from them, and are usually called indigenous. The latter are those who come from abroad into a state when it is already formed, to settle there.

Those who are living in a state only for a time, though they are subject to its government during that time, yet are not held to be citizens, but are called foreigners or residents.

14. This account of the origin of states does not imply that civil authority [*imperium civile*] is not rightly said to be of God. For God wills that all men practise natural law, but with the multiplication of mankind such a horrid life was likely to ensue for men that there would scarcely have been a place left for natural law. It is the institution of states which most favours the practice of natural law. And therefore (since he who commands the end is held also to command the necessary means to that end), God too, is understood to have given prior command to the human race, mediated through the dictates of reason, that when it had multiplied, states should be constituted, which are so to speak brought to life by sovereign power. In the Holy Scriptures too He expressly gives His approval to their order and assures the sanctity of that order by special laws and so demonstrates His particular concern for it.

## On the functions of the sovereign power<sup>1</sup>

### 7

1. The functions of the sovereign power [*summi imperii*] and the means by which its force operates in states may be clearly inferred from the nature and purpose of states.

2. In a state all have subjected their own will to the will of those in power in matters affecting the state's security, so that they are willing to do whatever the rulers wish. For this to be possible, those in power must signify to the citizens their will in such matters. They do this not only by instructions addressed to individuals on particular matters, but also by general rules, so that there may always be certainty as to what is to be done and what is not to be done. This is also the normal means by which it is determined what each must regard as his own and what as another's; what is to be taken as lawful in that state, what as unlawful; what as good, what as bad; what remains of each man's natural liberty, or how each must reconcile the enjoyment of his own rights with the tranquillity of the state; and what each man of his own right may require of another and in what manner. Clear definition of all these matters makes a vital contribution to the dignity and tranquillity of the state.

3. The over-riding purpose of states is that, by mutual cooperation and assistance, men may be safe from the losses and injuries which they may and often do inflict on each other. To obtain this from those with whom we are united in one society, it is not enough that we make agreement with each other not to inflict injuries on each other, nor

<sup>1</sup> [*De partibus summi imperii*]. '*Imperium*' is translated as 'power' or 'authority' depending on context.