

From Synteresis to the Ground of the Mind: Melanchthon and the Transformation of the Ontological Grounding of Natural Law Theory in Early Modern German Theologico-moral Thought¹

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Synopsis

An important offshoot of the current interest in the legal philosophy of the German Reformation is the focus on Philip Melanchthon's legal theory. A problematic aspect of Melanchthon's legal philosophical thought is his orientation of justice and natural law towards particular notitiae which provide the human mind with philosophical knowledge in a fundamental sense. This essay argues that Melanchthon's use of notitiae should be understood in the light of the late-Medieval German Christian tradition's use of the term.

Samenvatting

Van synteresis tot die grond van die intellek: Melanchthon en die transformasie van die begronding van die natuurreg-teorie in die vroeg-moderne teologiese denke

'n Belangrike uitvloeisel van die huidige belangstelling in die regsfilosofie van die Duitse Reformasie is die fokus op Philip Melanchthon se regsdenke. 'n Problematiese aspek van Melanchthon se regsfilosofiese denke is sy oriëntasie van ge-

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regtigheid en die natuurreg aan bepaalde notitiae wat die mens met fundamentele filosofiese kennis toerus. In hierdie artikel word gargumenteer dat Melanchthon se gebruik van notitiae verstaan moet word teen die agtergrond van die laat-Middeleeuse Christelike denktradisie se gebruik van die term.

1. Introduction

The increasing interest in the contribution of the Lutheran Reformation to legal philosophy and legal culture is reflected in a number of ways in Virpi Mäkinin's recent work *Lutheran Reformation and the Law* (2006). Not only do the contributors to this publication investigate the broad impact of the Lutheran Reformation in the Nordic Countries, they also consider some of the effects of the Lutheran Reformation on particular aspects of law and legal reform.² It needs to be added though that Mäkinin's interest in the effects of Lutheran legal thought on the Western idea of law is representative of a number of recent studies in the field.³

An important offshoot of the increase in scholarship on the German Reformation, is the "renewed" focus of academic scholarship on Philip Melanchthon's philosophical and legal philosophical work, contributing towards transforming German intellectual thought generally and legal philosophy in particular at the advent of the early modern epoch. Whereas Sachiko Kusukawa's edited version of Melanchthon's *Orations on philosophy and education* (1999) cultivated a better understanding for and appreciation of Melanchthon's contributions towards German philosophical and moral discourse, John Witte and Harold J. Berman contributed more substantially to the understanding of their philosophical underpinnings and to introducing his contributions on natural law and its ontological basis to a wider audience of scholars interested in natural law.⁴

John Witte in his book *Law and Protestantism* (2002:121) regards the "theoretical moves" made by the Lutheran jurists and moralists (inclusive of Melanchthon) as

2 E.g. Virpi Mäkinen & Antti Raunio, "Right and Dominion in Luther's Thought and its Medieval Background"; Pekka Kärkkäinen, "Nominalist Psychology and the Limits of Canon Law in Late Medieval Erfurt"; Reijo Työriñoja, "Communio Sanctorum: Remarks on the Ideal Community"; Mia Korpila, "Lutheran Marriage Norms in Action: The Example of Post-Reformation Sweden"; Heikki Pihlajamäki, "Executor Divinarum et Suarum Legum: Criminal Law and the Lutheran Reformation"; Kaarlo Arffman, "The Lutheran Reform of Poor Relief: A Historical and Legal Viewpoint".

3 Cf. e.g. Harold J. Berman & John Witte, 1989: 1573; Guido Kisch, 1967 & 1963, (2): 135; Abby Phyllis Knobler, 1991; Kaarin Maag, 1999.

4 Cf. John Witte, Jr., *Law and Protestantism. The Legal teachings of the Lutheran Reformation* (2003) & Harold J. Berman, *Law and Revolution II. The Impact of the Protestant Reformation on the Western Legal Tradition* (2003).

important shifts in the legal developments of early German legal discourse. With regard to Melanchthon's contributions in the field, he quotes H. Fild's remarks to the effect that Melanchthon's legal teachings "deserve to be viewed alongside the teachings of an Aristotle, a Thomas Aquinas, a Leibniz, and ... the German school of jurisprudence of the nineteenth century" (1953:150).

Whereas Witte applies the traditional legal-historical methods for stating the broad structure of Melanchthon's legal theory and its implications in the history of German legal thought, Berman's work *Law and Revolution II*, is more robust in its investigation of the philosophical impact of the Protestant Reformers on the theoretical roots of the Western legal tradition. Berman's appreciation of Melanchthon's creativity in the shaping of Western legal theory goes deeper than that of Witte. To Berman, Melanchthon's legal-philosophical work penetrated to the level of offering "a radical new theory of the ontology of natural law" (2003:79).

Although Berman's comments on Melanchthon's natural law theory are not clearly systemised in terms of broad theologicoo-philosophical categories impacting upon and giving shape to Melanchthon's legal views, one could extract a few areas for evaluating (considering) Melanchthon's "transformative" contributions at the end of the late medieval period of Scholasticism, and the beginning of the early modern epoch in German protestant thought: the first is the transformation of the theologicoo-philosophical profile of late medieval German Christianity; the second is the transformation of the legal-philosophical context of late medieval Christian thought in Germany, together with the transformation of the theologicoo-philosophical paradigm of the human being's knowledge of law.

The theologicoo-philosophical transformation of late medieval German Christian thought anticipated Melanchthon's reformative views on the ontological grounding of natural law in a number of respects. The first was the early Lutheran views on knowledge, culminating in an effort at transcending the narrow enclaves of the autonomy of human reason in the domain of morals and law, and the second was the philosophico-moral view of locating the deepest seat of spiritual motivation impacting upon the human being's comprehension of the law of nature, understanding the nature of the ground of the mind and stating its implications for human social life, over and against the views of scholastic legal thought.

This article reflects an analysis of the Lutheran transformation of the legal-historical transformation from late medieval thought to the early modern epoch, with specific emphasis on Melanchthon's work in this regard. In conclusion, some of the implications of Melanchthon's "transformed" natural law ontology are briefly reflected upon, and some critical observations made about Berman's evaluation of Melanchthon's contributions in this regard.

2. The transformation of the theologicoo-philosophical profile of late medieval German Christianity

2.1 Thomism and the Eckhartian gnoseological turn in the ground of human knowledge

Ironically, both Thomistic Scholasticism and late medieval Lutheran thought trace their origins to particular elements of Augustinian gnoseology. The medieval scholastic tradition took as its point of departure St Augustine's acceptance of the view that the eternal law is transferred into the human heart, not by passing from one place to another, but by imprinting itself on the human heart, as the image of a ring passes into the wax "without abandoning the ring" (*HT*, bk. 14, c. 15). This metaphor, expressing the *image* of the eternal law being transferred to the human mind without becoming one in *substance* with human reason, served as the foundation for St Thomas' teaching that natural law is not different from the eternal law but only a participation in that law. Therefore, St Thomas could observe that natural law is simply the rational creature's *participation* in the eternal law (*S.T.*, P(1)(2), Q(91), A(2)). Thomas adds that the argument concerning the rational creature's participation would be acceptable if the natural law, which is only a participation in the eternal law, *differed from the eternal law* (*S.T.*, P(1)(2), Q(91), A(1)).

Such a *participation* does not amount to natural law being an "instinct", as some passages might suggest, for St Thomas expressly adds that human beings, as opposed to animals, share *intellectually* and *rationally* in the eternal divine mind. Therefore, natural law is ontologically grounded in the human faculty of reason. St Thomas emphasises the rational grounding of natural law by adding that participation in the eternal law on the part of the rational creature is properly called law, because law can belong only to reason. Thus in irrational creatures there is no law, except by similitude (*S.T.*, P(1)(2), Q(91), A(2)(3)).

The classical scholastic grounding of natural law in human reason carries a number of important implications in its wake. First, because of the rational nature of natural law, it is not accessible to the same degree by all human beings. So, for example, children cannot make use of natural law,⁵ although it is impressed as a habit in them, as is the principle of knowledge. Second, the participation of natural law in the eternal law is often described as a *light* impressed in the natural

5 See e.g. *S.T.*, P(1)(2), Q(94), A(1)(3)): "Sometimes we cannot use what we possess habitually because of some impediment, just as we cannot use the habit of knowledge during sleep. In the same way, the very young child cannot make use of the habit of intelligence, of principles, or of natural law which is habitually present within it."

reason of the human being, and having moral authority. After alluding to the words of the Psalmist (Psalm 4:6), “(t)he light of your face, O Lord, is signed upon us”, St Thomas adds: “as if the light of natural reason, by which we discern good from evil, and which belongs to the natural law, is simply the impression of divine light in us”. He continues: “Hence it is clear that the natural law is simply the rational creature’s participation in the eternal law” (S.T., P(1)(2), Q(91), A(2)).

Late medieval German Christianity’s preferences for establishing a more intimate link between God and man, the experiential mode of faith and the work of God’s Spirit in the essential ground of the human being contributed significantly towards establishing a source of knowledge interiorly providing the human being with subsistent knowledge in addition to the contingent impressions gleaned through sensual perception and the internal reflections by the human intellect. Within the broad context of late medieval German Christianity, Christian mysticism proved to be a dominant force in shaping early Lutheran thought on justification and the moral implications thereof (Hägglund, 1971).⁶ Although Luther turned from Aereopagitical mysticism and criticised the Romance mystics (Bernard, Hugo of St Victor and Bonaventure), he found shared theological ground (or commitments) in the early medieval Augustinian mysticism from Eckhart to Tauler and the Frankfurter (the anonymous author of the *Theologia Germanica*).⁷ For purposes of appreciating this “line” of Augustinian influence on Luther’s natural law views, the following points of mystical impact on the early German Reformation are of particular importance: first, that the *homo deificatus* (justified man) is the result of man’s unification with God at the deepest level of human existence⁸; second, that such “deification” produces the love of that which is good, righteous and true, not as an “attribute” (i.e., which he can ascribe to himself), but only as God himself is that which is good and perfect – the deified man is committed only to doing

⁶ Hägglund (1971: vi) identifies the two “dominant forces in the theology of the later Middle Ages” as being mysticism and nominalism. For purposes of reference to mysticism, Hägglund’s definition of mysticism could suffice, namely mysticism being a “type of religion which puts the emphasis on immediate awareness of relation with God, on direct and intimate consciousness of the Divine Presence”. Also cf. Rufus M. Jones, 1923: xv.

⁷ Note Hägglund’s observations that the tendency among scholars of earlier times was to discount any connection between Luther and his predecessors in this area. However, Hägglund adds that it is possible to see that the Reformer made distinctions between the mystical traditions, “attacking the Neoplatonic strain, praising and also criticizing Bernard, and giving the German mystics consistently good marks” (1971:vi).

⁸ Note Luther’s remarks in WA, 7:54, 31-32 (LW, 31:351), where Luther describes the work of faith uniting the soul with Christ as a “bride is united with her bridegroom”; “Christ, the Bridegroom, and His bride occupy a private chamber” (WA, 40:1, 241, 13.14 (LW, 26:137)). For the imagery in Luther’s thought concerning the bride-bridegroom analogues, cf. Hoffman, 1976:156.

God's will, and he loves the good and the perfect not only when he possesses it himself, but also when he must forego it (Hägglund, 1971:6)⁹; third, the ultimate essence of the soul is a passive capacity (*capacitas passiva*) having the *possibility* to know and to love God (Hägglund, 1971:1), which passive capacity to be unified with God is associated with the original image of God in man, because man – different from the beasts – has within himself the possibility to know and to love and to become one with God through the work of the Holy Spirit and the restoring of the image of God in man (Hägglund, 1971:12).¹⁰ The restoring of God's image in the ground of the soul is not accomplished through a holiness by works (*facere quod in se est*) or the merit of the human being, but man is justified in the ultimate essence of the soul through the “birth of God” (Hägglund, 1971:14-15). Through justification (the birth of God in the *Seelengrund*) the human person pursues the good, the righteous and the truth, as a manifestation of selfless love; the deified human person does good in accordance with his transformed nature, as the sun shines without merit or reward (Hägglund, 1971:14).

n Eckhart's theologico-philosophical view the shared (or common) human existence of human beings and the moral implications thereof are related to the image of God shared by all human beings and the common being all humans share in lieu of God's image in the human soul.¹¹ The human being's detachment from his own self (“I-ness” or “selfhood”) and God's birth in the soul is only possible through renunciation of self-will. The detachment¹² of the human being and the

9 Luther's exhortation of letting “God be God”, and allowing oneself to be deprived of deity and brought to nothing by “falling into the hands of God” (WA, 5:167, 38-168, 7) (1519-1521), highlights his views on theology not based on human wishes, but upon the will of God; also note his views on justifying faith, paying what it owes and making man righteous (WA, 40:1, 360, 2-361, 1) (1523)).

10 Justification is received in faith – when man comes to faith, Christ enters into him and the Holy Spirit is given to him when he begins to believe. Cf. e.g. WA, 22:222: “When anyone hears and believes this preaching, he is encouraged and comforted by it; now he no longer flees from God but turns to him. And since he finds and feels such grace and mercy in God, he again begins to be reconciled to God and starts to call him from his heart and respect and honor him as his loving God. The stronger such faith and comfort are, the more he loves God's commands and desires to obey them.”

11 For the parallel view of the divine image in the ground of the soul, cf. Schlüter, 1961:147f. In the line of Eckhart's influence on late medieval German Christianity, the “superintellectualis cognitio” goes to the root of the unity with God. On this point the German mystics part ways with Aquinas' view that the divine image is reflected in all man's higher powers of the intellect, memory and will. To Eckhart, Tauler and other German mystics, the divine image is located much deeper – in the deepest ground of the soul. Eckhart follows the typical Eckhartian line: “Der inwendige edle Mensch ist aus dem edlen Grund der Gottheit gekommen und nach dem edlen lauteren Gott gebildet und wird wieder dorthin eingeladen und hineingerufen und hingezogen, dass er all des Gutes teilhaftig zu werden vermag, das der edle, wonnigliche Grund von Natur besitzt, das kann die Seele durch göttliche Gnade erlangen” (JTP, 6:40).

12 Detachment (“wahre Abgeschiedenheit”) in the late medieval German mystical tradition signifies a turn from everything earthly, towards God. Tauler (JTP, 23:154) describes this as an act of

renunciation of the self-will have important consequences for man's ability to obtain knowledge and for the shared being of humankind from a moral point of view. To move among things in detachment, according to Eckhart, is to live "in one and the same light with God"; to the human person who detaches himself from the sensually perceptible images, this is reality because "all things are present in their essence". Because the image of God is attached to the ground of the mind, and because mental schemes are not contained in the human mind (intellect) "essentially" (in "essence") according to the traditional Platonic theory of images, but only "accidentally", things are joined together "essentially" only in God. Translated into the vocabulary of the "form" of being (that which is), knowledge amounts to existence according to the form of the known; but this form is received in the human mind (intellect) not as form giving being to the thing. In the human mind the form is presented in "a purely noetic mode", not in substance (Schürmann, 1978:34). Eckhart fuses the traditional Platonic view with a modified approach to Aristotle's view that the human mind is capable of harbouring ideas, provided it is understood to be only of the potential to know all that there is. Although in its original openness the human mind is capable of receiving representations, the being of objects remains a stranger to it (Schürmann, 1978:34). Different from Plato, the intellect is no longer that part of the human being by which he remains in natural communication with subsistent ideas: the human mind is now able to acquire knowledge as a consequence of its having all possible representations¹³, in its detachment from what it actually knows, it contains the "ideas" or models of all things in themselves. In other words: through man's detachment from "I-ness" and "self-will" he is no longer the place of contingent "representations", but of subsistent knowledge in the form of ideas (Schürmann, 1978:35).

The implications of Eckhart's reworking of the traditional Platonic and Aristotelian views on image and substance, for the being of man, and the moral implications thereof, represent an important turn in late medieval German thought.

turning away from everything that is not "pure and simple God": "dass er mit dem Lichte seiner Vernunft alle seine Werken, Worte und Gedanken betrachte, verständigen Geistes, ob da in dem Grunde nicht irgend etwas sei, das nicht ausschliesslich Gott sei oder nicht gäenzlich nach Gott verlangt in allen Dingen, im Tun und lassen; und findet et etwas, das auf anderes als Gott zielt, dass er das absondere und hinaustue."

13 The effects of the Aristotelian views on ideas are described by Petersen (1921:13) as a re-orientation of the world of ideas to the world of sensory perception: "Dabei hat Aristoteles das Verdienst, die Übersinnlichkeit der Ideenwelt widerlegt und diese in ein richtigeres Verhältnis zur Sinnenswelt gebracht zu haben, ohne die Idee, als die Macht des Gedankens, welche in der Welt den göttlichen Gedanken verwirklicht, der Materie, dem nackten Stoff, zu opfern."

Regarding image and substance, for example, Eckhart holds that outside of likeness, one cannot speak of an image: “An image is not of itself; nor is it for itself. It has its origin in that of which it is the image.¹⁴ To that it belongs properly with all that it is. It does not belong to what is foreign to this origin, nor does it owe anything to this. An image receives its being immediately from that of which it is an image. It has one being with it and it is the same being” (Schürmann, 1978:94).¹⁵ This means that the detached man “with all that he is” belongs to Him whom he reflects as an image; with Him he has one being and is the same being.¹⁶

Although Luther probably did not share all the implications of Eckhart’s mystical views, the Eckhartian turn towards the divine image in the human soul as the fount of true knowledge, marked an important turn from the rational to the pre-rational grounds of human knowledge in the early Lutheran Reformation.

2.2 *The early Lutheran turn from the Scholastic autonomy of reason to God’s image in man*

In his transition from Scholasticism to a view of law inspired by the Spirit working love in the heart of the human person, elements of rational natural law theory occasionally surfaced in Luther’s natural law views. In his early works Luther occasionally alludes to the scholastic notion of *synteresis*: the natural “longing” in human nature, because the “synteresis and desire for the good is inextinguishable in man” (WA, 5:144, 21, 1 250).¹⁷ Elsewhere he maintains that

14 In Eckhart’s sermon, Quasi vas auri solidum ornatum omni lapide pretioso (Eccl. 50:10) (FP xiv (67(22)-71(9)) the relatedness of likeness to image is explained in some detail: “Dà treit din sèle daz göttliche bilde und ist gote gelſch. Bilde mac niht sín âne geficheit, aber geficheit mac wol sín âne bilde. Zwei eiger sint gelſch wíze und einz ist doch des andern bilde niht: wan daz des andern bilde sol sín und muoz von sínér nátuire kommen sín unde muoz von ihm geborn sín und muoz ime gelſch sín.”

15 In the same sermon Eckhart awards the image two properties: first, the image is not of itself; second, it is for itself. Image is the same as that of an image received in the eye: it neither originates in the eye nor has its being in the eye; it depends solely on that of which it is the image. Therefore, it is neither of itself nor for itself, because it proceeds from that of which it is the image and belongs to it totally – from this it takes its being, and it is the selfsame being (“... des bilde ez ist, und ist im alzemâle, und von dem nimet ez sin wesen und ist daz selbe wesen” (69(18)-(19)).

16 God’s image in man is restored, and the *imago Dei* is “resurrected” as it were. In German Christian mysticism this “deification” (or “justification”) implies the human being becoming immersed in God. Regarding this “immersion” Preger (1962:216) quotes from Tauler (Eckhart’s pupil) as follows: “Dann wird des Menschen Wesen also mit dem göttlichen Wesen durchgangen, dass er sich selber da verliert, recht als ein Tropfen Wasser in einem grossen Fass guten Weins. Also ist der geist des Menschen versunken in Gott in göttlicher Einigkeit, dass er da verliert alle Unterschiede.”

17 Generally speaking synteresis in medieval thought comprises a “top quality in man’s (intellectual) equipment” (cf. Hoffman, 1976:141).

“through tribulation a man enlarges his *synteresis*” (*LW*, 10:197 (Psalm 42:8)); it is the inward hearing of the conscience as the “murmuring of *synteresis*”, albeit in the sense of being the “joy and gentle whispering of the Holy Spirit” in the human mind (*WA*, 1:32, 1ff. & 36:11ff.). In his early work on the Psalms (Psalm 81:7) Luther postulates a duality of reason and conscience: the conscience (*synteresis*) testifying to the good and reason objecting and stirring up “clamor and tumult in the ears of God (*LW*, 11: 108 (Psalm 81:7)).¹⁸ The testimony of the human conscience is described as “groans” with a burdened conscience (*LW*, 11:8 (Psalm 77:2); when the soul has sinned, immediately there begins the clamor and growling of the conscience (*synteresis*)” (*LW*, 11:17 (Psalm 77:2)).¹⁹ However, this does not imply, for Luther, that the will has this *synteresis* (*LW*, 11: 108 (Psalm 82:5)).

By 1525 a much stronger commitment to the work of the Holy Spirit in steering man’s affections and decisions in the moral domain is manifest in Luther’s thoughts. In *Sermon on Romans* 13:8 (1525) Luther stresses that the divine law is the law of love – the law of God commands love, and it is the love *in* the ²⁰Spirit which should govern all the external laws in society (*WA*, 17(2):94, 17-19). The principle central to Luther’s thoughts on the pneumatically inspired nature of natural law, is that because the real aim of all laws is love, all external laws should be passed, ordered and kept in order to practise love. Because love realises itself when the need of the neighbour is fulfilled, one should refrain from all works not performed in love to the neighbour (*WA*, 17(2), 94, 24-31).²¹

The universal testimony of natural law in the minds of human beings is not the work of the power of reason, but natural law is in the hearts of all human beings, and everyone has to acknowledge that it is true and correct because this is fundamentally the testimony of the Spirit of God. Because natural law is written in the hearts of all human beings, everyone has to acknowledge that it is true and correct when the natural law states that what you want to have done or left undone to yourself, should also be left undone to another. This light of the Spirit testifies and shines in the reason of all human beings, because they have “a living book in their hearts, and it would tell them what they should do and what they should leave, how to judge things and what to receive and reject” (Raunio, 2006:37).

18 Cf. E.g. also *LW*, 11:8 (Psalm 77: 2).

19 Cf. *LW*, 25:262 (Romans 15:33; *LW*, 11:108 (Psalm 82:5)).

20 “Darumb steht geschrieben Deutero. XXXIII., das zu der rechten hand Gottis sey eyn feurig gesetz. Das ist der liebe ym geyst, das soll regirn alle gesetze zur lincken odder eusserlich auff der wellt.”

21 “So sollten nu allerley gesetz dazu gegeben, verordenet und gehalten werden, das sie nicht fuer sich selbs noch umb der werck willen gehalten wurden, sondern alleyn umb ubunge willen der liebe, wilche auch ist die rechte meynung des gesetzs, wie hie S. Paulus sagt: Wer den andern liebt, hat das gesetz erfullet.”

In contradistinction to the classical Scholastic view that natural law is the participation of the human reason in the eternal divine law, Luther's view is that the natural law of love is constantly dictated in the hearts of all people (*WA*, 2:580, 8-23). The universal sharing of the spiritual law of love is contained in the commonly shared idea of the image of God inscribed in the hearts of all human beings. Whereas the Holy Spirit can be regarded as the *catalyst* in engendering natural law as a universal law of love in a material sense, the idea of the image of God in man serves as the formal element in providing the platform for the whole of humanity to share in natural law inspired by the Spirit.²²

Luther's turn from the scholastic autonomy of reason brought him to a deeper commitment to a theology of the Cross in terms of which Christ enters into the soul. Christ is "formed in us" and we are "formed according to his image" (cf. *WA*, 3:479, 17ff. (1513-1516) (*LW*, 10:418-419); *WA*, 39:1, 204, 12, 1537). Although Luther in his later writings refrained from using the term *synteresis*, and used *fides* to depict the reawakening of God's "substance" in man in the spiritual rebirth of man, he remained in agreement with Tauler's view that the old man is material for the new man in the rebirth of man (cf. Hägglund, 1967:84-94).

3. The transformation towards subsistent ideas in the human mind in late German medieval Christianity

3.1 Subsistent ideas and the being of the ground of the human mind – the Eckhartian philosophical turn

The Thomistic views on the autonomy of human reason in formulating moral precepts left little room for acknowledging the acquiring of knowledge through the existence of subsisting ideas in the human mind (*S.T.*, P(1), Q(14), A(8)): "Suum esse est suum intellegere". Questioning the existence of divine ideas, and bearing in mind that in Greek "idea" is termed in Latin "form", Aquinas argues that "idea" designates the form not insofar as it exists in a thing and confers being on it, but such as exists outside it. This separate existence Aquinas has in mind, can be either a principle of knowledge, the form of which is found in the human intellect, or a model of the thing as it exists in God. In its first intelligible manifestation, the form can exist in any being whatsoever endowed with reason, created or uncreated, whilst in the second it is rightly reserved to a creating cause

22 Ivor Asheim (1961:202-225) distinguishes between the philosophical and theological views on God's image in man. The engendering of the *imago Dei* through the Word and the Spirit would correspond with that which he calls the theological perspective; in other words from the perspective of "man in God" (*WA*, 39:1, 175, 3-15, 36f.).

alone, thereby possessing in itself the primal image of the thing that will be produced. To Aquinas the original meaning of the “idea” is located here, namely the title for the pre-existence of an effect in the creating cause – the idea “precedes” the created object in the intention of the creator (cf. Schürmann, 1978:35).

Whereas the bond between God and the human person was conceived in classical Scholasticism to be primarily of a rational nature, late medieval German Christianity grounded the essential bond between God and man in a much higher level of human existence. In his sermon “Like a vase of massive gold” – an expression comparing St Augustine’s insights through faith to a “vase of firm and stable gold set with all kinds of precious stones” Eckhart establishes the deepest seat of the human being’s bond with the divine: the being of the ground of the mind (God’s image in man) is of the same substance as that which the image originally represents (Schürmann, 1978:107).²³ A number of fundamentally important implications flow from Eckhart’s views on the divine image and the being of the ground of the mind expressed in this sermon: the mind’s natural and created being (or intellect) does not reflect the truth; deeper than the created nature of the mind, the image of God is both “closely related to God” and “identical to him” (Schürmann, 1978:107); when the mind reaches the original image (of which it is a reflection) and finds itself alone in it, then it finds God (Schürmann, 1978:107); the ground of the mind (God’s image in man) and the ground of God are one sole essential being (Schürmann, 1978:107).

However, Eckhart takes the implications of St Augustine’s metaphor of the ring’s impression in the molten wax a step further: God’s image (the being of the ground of the mind) is not one in substance with the created reason; natural reason, to Eckhart, is unable to express (or contain) God’s being, because of its created nature; not man or human reason, but the *image of God* is the being of human nature. Therefore, neither reason nor man as such reflects the being of God, but only the ground of the mind *is* the image of God and the being of human nature; the ground of the mind is *the image of God*, “because he is *capax divinae essentiae*, capable of receiving the divine essence”²⁶.

According to Eckhart, the intellect has to be distinguished from the ground of the mind: the *gemüete* (the intellect), which is rooted *in* the mind’s being, and which

23 FP, 68(39)-69(4).

24 FP, 69(4)-69(10). For a similar view in Tauler, cf. JTP, 29: 200: “... Gott ist in diesem Bild, und er (selbst) ist dieses Bild auf eine alle Sinnenkraft übersteigende Weise.”

25 FP, 69(18)-(20).

26 Cf. Preger, 1962:412: “Der Grund Gottes und der Grund der Seele sind Ein Wesen”.

looks within the mind (heart or soul); thus it is opposed to reason, which is turned towards the outside (Schürmann, 1978:148). The duality of sensible impressions and reflective knowledge, of the faculties being turned towards man's existence in the world, and those reflecting on God's operation in the mind, produce a dichotomy of *being* and *acting*: since “the spark of the intellectual power”, or the “higher part of the spirit”, is still man's own activity, what pertains to the mind and is “of” the mind is either the correlate of the world “or the place where the self possesses the self” (Schürmann, 1978:150).²⁷

Eckhart's distinctions between *being* and *acting* brings him close to St Augustine's phrase that God is more intimate to the mind than the mind is to itself (cf. Schürmann, 1978:249 n. 22) – there is a fundamental distinction between the “active region” that unites man to what is worldly and the “passive region” that unites him to the divine (cf. Schürmann, 1978:150). Turning from the classical Scholastic view of the concept, the principle of knowledge in the human mind, he substitutes the idea, the principle of creation in God. In the intellect detached from “I-ness”, all things are found “essentially”, *wesentlich*; the adverb formed out of the word *wesen* (or *esse*); in *essence* this implies a return of the intellect upon the ground of the mind – the image of God in man.

The submission to divine being as a consequence of detachment also implies the submission to all *essences* reflecting the image of God: the acknowledgement of the being of God wherever it is found. The attitude of the detached man inquiring, in Eckhart's thought, says Schürmann (1978:64), amounts to no longer asking for a reason for whatever is, “the inquirer finds its unique reason: the being of God; no longer looking for a why among the created, he discovers its unique why: the uncreated”. Such an inquirer, says Schürmann, “alone is the true God-seeker on earth; he searches without a why, he is no longer looking for anything” (Schürmann, 1978:64).

Because the detached man knows the why and wherefore of creatures, he knows that their being belongs to God, and through them, in them, he worships God; the detached man has found God,²⁸ and with him the truth, justice, goodness, as well as all things in their first origin.²⁸ Because all things in the universe are dependent on God, all *individual perfections* (or limited properties) called justice, goodness and

27 Thus there are three “species” of knowledge: sensible representations, reflective knowledge, and the knowledge produced by the “essence of the mind” (“being”, “image of God”, “ground” or “ground of the mind”).

28 Eckhart follows the medieval tradition in this respect. Thomas Aquinas held that “every created thing has its being from another, and, considered in itself, is nothing ...” (S.T., P(2a), Q(109), A(2), RO(2)).

truth, are nothing, because all individual perfections draw their being from general perfections; a just man, considered as just, is nothing: he is just only in Justice (the being of justice); a good man, as good, is nothing; he is good only in Goodness; a true man, as truthful, is nothing, he is true only in the Truth (Schürmann, 1978:65).

To Schürmann (1978:65) the essential difference between Eckhart and Aquinas on *being* consists in the fact that the word “being” for Aquinas designates first the sensible substance: being is created, material, and it falls under the experience of the senses; likewise to Aquinas goodness, justice and truth are said first of good, just and truth of creatures. Different from Aquinas, Eckhart maintains that a good man is dependent upon Goodness as the creature is dependent upon the Creator; goodness “makes” the man good, just as God “makes” the world. Therefore, Goodness is God, Truth is God, Justice is God (Schürmann, 1978:66). The turning of the intellect towards itself and the knowledge within itself produces insights relative to the “contingency” of the ideas within its own; the intellect turning towards the ground of being²⁹ produces “subsistent ideas”, as the general perfections of uncreated Being.

The connection between God’s image in man, the working of the Spirit and subsistent knowledge surfaces much more transparently in the thought of Eckhart’s student, Johannes Tauler’s, reflections of God’s image and the divine substance in the human soul. In typical Eckhartian parlance, Tauler maintains that God is “in” the divine image in the ground of the mind, and “is” that image in mysterious ways (*JTP* (2), 60d (104f.)). In the Eckhartian line, Tauler deviates from Aquinas’ views that the divine image is contained in the active or higher powers of the mind, namely the memory, reason and will, by locating the divine image in the “most intimate, completely obscured, deepest ground of the soul” where God is contained “essentially and real and operative”; where God “works and exists” (*JTP* (2), 60d (105f.)). The Holy Spirit, as an inexpressible love and joy, enters the ground of the mind with lovely gifts leading man on the path to virtue: the gifts of goodness and knowledge; the knowledge (understanding) to distinguish that

²⁹ In his sermon *Modicum et iam non videbitis me* (John 16:17, 19) (FP XLII (140(35)-145(6), at 142(25f.)), Eckhart likens ideas to the light for the senses, through which man perceives: “Daz ouge unde diu sèle ist ein solich spiegel, daz allez daz dar inne erschinet daz dar engegen gehabet wirt. Dar umbe sihe ich niht die hant oder den stein, mér: ich sihe ein bilde von dem steine, aber daz selbe bilde daz ensihe ich niht in eim andern bilde oder in eime nitel, mère: ich sihe ez âne mitel und âne bilde, unt daz bilde ist daz mitel, wan bilde ist âne bilde unde loufen âne loufen: ez machet wol loufende, unde groezi ist âne groezi, mér: si machet grôz, unde dâ von ist bilde âne bilde, wan ez wirt gesehen in eim andern bilde. Daz êwic wort ist daz mittel unde daz bilde selbe, daz dâ ist âne mitel und âne bilde, üfdaz diu sèle in dem êwigen worte got begrifet unde bekennet âne mitel und âne bilde.”

which is to man's well-being; as well as the talents of reason and wisdom, and so forth (*JTP* (2), 60d (106-107)). The central idea reflected in the Eckhartian view of knowledge is also present in Tauler's reflections on the divine image in the ground of the mind: the objectivisation of being in the image is the condition for the emergence of the potential of the personality [and true self-knowledge] from its being and for its self-manifestation (cf. *GDM*, 152).³⁰

3.2 Luther on idea and being

3.2.1 The bond between God and man

Parallel to Eckhart, Luther formulated views in many respects similar to Eckhart's statements. Luther expresses the bond between God and man in terminology reminiscent of classical German Christian mystical thoughts on the continuity between man's and God's being. This essential bond between God's being and man's being culminates in a number of important interrelated principles: Luther's views on the soul of man, man's unification with God, man's *a priori* knowledge of God, and man created in the image of God.

In his reflections on the *Magnificat*, Luther distinguishes between the soul and the body of man. The spirit is the house in which faith and God's Word live, whereas the soul is the seat of the rational knowledge and feelings of the human being, whilst man's sensory and rational faculties (body and soul) are ruled by the spirit: the spiritual man is governed by God's Spirit in faith. For man to become restored in God, the human person must be ruled by God's spirit in faith, working through man's spirit (*WA*, 7:550, 19-551, 27; *LW*, 21: 303-304).³¹ The spirit of man is the house, the abode of God in the faithful person (cf. Bengt Hoffman, 1976:138).

3.2.2 The intellect and the ground of the mind

The intellect (or rational soul) contains *a priori* knowledge of God: "The knowledge of God ... is divinely imprinted upon all men's minds under the sole guidance of nature. All men know that God is, without any acquaintance with the

30 The essence of the gnoseological turn represented by late medieval German mysticism is that the "superintellectualis cognitio" transcends human reason and exists in the unity with God (cf. *JTDM*:148).

31 Bornkamm (1961:84) captures the inability of the moral principles in man's reason to facilitate the spiritual rebirth in the soul, and man's deification is only possible through the working of God's Spirit: "Es ist hoffnungslos, die Funken dieser angeborenen sittlichen Ideen im Menschen anzublasen, sondern es muss eine Flamme von aussen hinzukommen, die den ganzen Menschen entzündet, die Flamme des Heiligen Geistes." Bornkamm adds: "Darum muss der Mensch mit dem lebendigen Gott in Berührung kommen, in jener verdichteten Atmosphäre von treffendem Wort und erwecktem Glauben."

arts or sciences” (*WA (TR)*, 5:368 Number 5820). Man has a natural idea of God’s existence. To this end Luther appeals to “reason’s call” and the human subject’s sense of the divine (*synteresis*) (cf. *WA*, 51:2, 1 & 113:5). The authoritative appeal emanating from the idea of God’s divine being in natural reason, says Luther, makes itself heard “even here where there is no holy scripture to grant it [namely the truth that the human reason possesses many true cognitions of what ‘God is in himself or in his innermost essence’], convinced by its own judgment”. He adds: “For all men, as they hear it treated of, finds this belief written in their hearts, and acknowledge it as proved, even unwittingly: first, that God is omnipotent and can neither err nor be deceived ... These two things are admitted by heart and feeling” (*WA*, 18:719, 20-26; *LW*, 33:191; *W (TR)*, 3, transl. Otto, 1975:138 n. 1). Second, Luther maintains that a knowledge of God, pre-naturally impressed upon man’s mind (or intellect) is present in man, which implies that in the order of nature all human beings know what God is, without any acquaintance with the arts and other fields of science, because the human subject’s very denial of God is in fact a concession that God is – no human subject can deny that of which one has no knowledge. Luther states: “Wherefore all the Gentiles knew that there is a God, however much they were Epicureans, however much they maintained that there is no God. Did they not confess God’s being in that very denial of Him? For no one can deny that of which he has no knowledge. Wherefore, although men have all their lives been occupied in the greatest sins and have lived just as though there were no God, yet they have never been able to cast forth from their minds the conscience that testifies and affirms that God is. And although that conscience has been overborne for a time by evil and perverse opinions, yet it comes back to convict them in their life’s final breath” (*WA (TR)*, 5:368, 20-26, transl. Otto (1975:139 n. 2)).

Whereas the spiritual eye turned “outward” – to use late medieval German Christian terminology – reflects the human person’s being possessed by the world of sensible knowledge, the eye of the spirit turned “inward”, provides the human person with knowledge to be found only in the “invisible realities” of the human spirit, opening up to the word of God, which itself speaks of invisible goods, “of the true goods of the human spirit” (Jared Wicks, 1968:273-274. Also cf. *WA*, 4:10, 35). Herbert Olsson (1971:249) puts the essential bond between God and man even more intimate: man’s existence is rooted in God, and “(t)he fact that man is created with his own *Wesen* (essence, being) and thereby exercises self-activity, must be taken for granted in any Christian view”. He adds: “For the opposite would mean that man’s existence as creation, i.e., God’s creation as such, would be sin.”

The continuity prevailing between the human and the divine is activated through detachment from “I-ness” and submission to God’s being; thus Luther, alluding to

the German mystic Tauler, observes: “Thus as he [Tauler] says here, salvation is through resignation of one’s will in all things” (Otto, *The Idea* ... 206). Thus through detachment (“Abgeschiedenheit”) the ground is prepared for the entry of God’s Spirit and the reawakening of God’s image in man.

3.2.3 *Image and substance*

Luther’s treatment of God’s image in man reflects his conviction that the being of the divine image in the mind transcends the human capacity of reason. Luther’s distinction between *image* and *substance* follows the pattern of St Augustine’s metaphor of the image of the ring on the molten wax, and Eckhart’s treatment of the *mystical presence of the being of the divine image in the ground of the mind sharing the same being as that which it depicts*.³² To Luther the distinction between *image* and *substance* demarcates the sphere of creation from divine nature. To Luther all images are defective in that they do not have and are not composed of the same single substance or nature of that which they are an impression. To Luther all images are defective in that they do not have and are not composed of the same single substance or nature of that which is depicted. They are thus composed of different substances (or natures): when a painter, a woodcarver, or a sculptor depicts a king or a prince on a canvas, in wood, or in stone with all the exactness that he can possibly produce, then although it is indeed an image or “counterfeit”, it is still not the substance or nature, “nor has it arisen from his nature or come into being and of his nature either” (*LW*, (*AE*), 34:220 (TS)). Thus it remains and must remain an image of the person fashioned out of a different substance or nature (*LW*, (*AE*), 34:220 (TS)). Applied to God’s image and similitude in man, this means that even if man were to be regarded as the “counterfeit” of God, man can in no way be regarded as partaking in the divine substance or nature (*LW*, (*AE*), 34:220 (TS)).

Luther’s reluctance to subscribe to an interpretation of Augustine’s view in *On the Trinity* (IX-XI), that the image of God is the power of the soul-memory, the mind or intellect, and the will (*LW*, (*AE*), 1:59 (LG, Genesis 1)), is to be understood firstly in the light of his fear that one or more aspects of man’s existence will be clothed in divinity – in particular views concerning free will, which have their origin in that image (*LW* (*AE*), 1:60 (LG, Genesis 1)). Secondly, Luther’s focus on the divine image in the ground of the mind represents a shift from the classic Scholastic view that the divine image is reflected in the powers of the mind.

32 Note Eckhart’s statement to the effect that the being of the divine image in the ground of the mind, is of the same substance as that which it depicts.

Because of this mystical turn in Luther's psychologico-anthropological views on the theologicoo-ethical predisposition in the ground of the mind, Luther opposes the Scholastic stance that the intellect, memory and will reflect God's image: in all respects, to Luther, man remains the product of God's creative work, without any divine qualities or abilities. Although man is a product of God's creative work, there is a mysterious side to man's existence – man is unable to find the being or end of his person, and therefore is unable to understand himself completely (cf. *LW*, (AE), 4:63 (LG, Genesis 21)). The being of man transcends man's capacity of reason and is of a higher order than the capacities located in the human mind.

Luther's expositions on image and substance do not invalidate the integrity of the Augustinian metaphor of the ring and the wax: the impression of the image on the molten wax does not change the substance of the wax. The wax and the ring are composed of two totally different substances (or natures), each with its own unique material composition and profile, yet the image of the one is impressed upon the other. Although the ring and the wax differ in substance, the wax bears the image of the ring's impression. The waxy image has the same being as the image on the ring; the being of the waxy image is of the same substance as the being of the image on the ring, the impression of which is reflected on the wax. Applied to Luther's arguments on image and substance, and the concerns about the possibilities of postulating a continuity between God's substance and the substance of man: man is not of the same substance as God; the being of the image of God in the ground of the mind of man is of the same substance as that which it represents; in the deepest essence of man there is a latent potential of God-likeness which is only reawakened through the Word and the Spirit. God's presence in the human soul provides the key to Luther's views on God's being in the deepest seat of human existence.

3.2.4 God's substance in the human soul

Luther's remarks on God's "substance" (or being) in the human soul (or mind) expressed in his *Table Talk* casts valuable light on the essential bond between God, man and the whole of creation. In his *Table Talk* Luther proceeds from the view that all created being takes its being from God's uncreated being. Luther's argument develops through three steps: first, God is universally present in creation: "God is not bound to a locality ... He is even in the lowliest creature, in a leaf or a blade of grass, yet He is nowhere". Second, Luther responds to the question of whether God is universally present *potentialiter* or *substantialiter*: "(I)n both ways in each creature. The creature acts by virtue of *qualitas* but God acts ... *essentialiter*". Third, Luther answers the question as to whether God can be

present in two (or three) different places at the same time – on the cross, in Mary’s womb and in the devil: “Don’t you believe that God is at the same time on the cross and in the virgin Mary’s womb? In either case it is impossible for our reason to believe. As God can be housed in the virgin’s womb, He can also be housed in the creature,” adding that God can also be in the devil: “Yes, certainly in substance even in hell ... as Psalm 139 says: ‘If I make my bed in Sheol, thou art there’” (*W (TR)*, 1:101, 27-37 & Hoffman, 1976?:143 & 248 n. 63). In essence, therefore, Luther maintains that God is both *potentialiter* and *substantialiter* present in each creature (cf. *W (TR)*, 1:101, 27-33 (1532)). Although, therefore, man is not of the same *substance* as God; God is both *potentialiter* and *substantialiter* mysteriously operative in the human being. These “divine operations” in the ground of the mind are of foundational importance in transforming the human being’s capacities to obtain knowledge, both of a contingent and a subsistent nature.

True spiritual knowledge in the moral sphere cannot be gleaned from impressions received through the senses; true moral knowledge is produced by the ideas emanating from the ground of the mind. Through detachment from human “I-ness” and submitting to God’s being, the true, good and just are expressions of God’s presence *substantialiter*, not in the form of notions rationally conceived, but as an expression of God’s own being. The presence of God *potentialiter* finds expression in God’s working *substantialiter* in the ground of the human mind. The transformation from God’s presence *potentialiter* to His working in the ground of the mind *substantialiter* is only possible through the work of the Word and through faith worked by the Spirit. The measure to which the human being submits to God’s being, both in the sense of the divine being and God’s image in man, is determinate for the “kindling” of the ideas present in the human intellect. Such an acknowledgement of being has profoundly important implications for man’s moral relations in the world.

The platform for Melanchthon’s views on moral philosophy generally and natural law in particular, is to be sought in the convergence of the Augustinian-Eckhartian-Lutheran treatment of reason, the mind’s capacity of producing subsistent ideas, and the role of the divine image in producing knowledge of a subsistent nature.

4. Melanchthon and the transformation of natural law ontology in early modern German thought

4.1 The theologico-moral context of natural law

Luther’s collaborator and colleague, Philip Melanchthon, contributed largely towards the systemising of the early Lutheran theologico-moral views generally

and their reliance on the Word and on faith; secondly, he refined Luther's views on natural law in particular, in the process of arguing the practical implications of such natural-moral principles in society. Harold J. Berman's (2003:77) remarks to the effect that whereas Luther taught the justice of God, Melanchthon taught "the justice of society", should be appreciated against the backdrop of Melanchthon's more systematic approach to the theologicomoral context of natural law precepts impacting upon man's legal and moral life in society. Melanchthon's work at systemising early Lutheran theologicomoral principles were throughout oriented towards Luther's theological insights, and enjoyed the support of Luther. For example, Luther was so inspired by Melanchthon's work in his lectures on Corinthians that he published these without Melanchthon's consent (cf. Raath & Swartz, 2006:74).

Following the basic structure of Luther's theological views, Melanchthon, in his *Loci Communes Legum Theologicarum* (*MWA, LCT* (1521)), already at an early stage of his career, committed himself to the basics of Luther's teachings on morals. In his first publication of Protestant dogmatics, his *Loci Communes*, he expounds the great main themes concerning the relationship between God and man, as revealed in Jesus Christ and devoting particular attention to the sinful nature of man, knowledge of sin through law and man's redemption through the death of Christ.³³ He concludes his *Loci* by reflecting on specific ethical issues in which he explains how the Christian should practise his faith and love in the world. The unrest at Wittenberg in 1521 and 1522 caused Melanchthon to consider whether man's natural reason contains ethical requirements universally valid and binding on all men (cf. Raath & Swartz, 2006:75). Building on Luther's views on love-inspired precepts of natural law inhering in the human mind, apart from the scriptural justification by faith in Christ, Melanchthon maintains that though the keeping of the natural moral laws cannot justify man with God, the rationality of man and communal living demand such external discipline (*MWA, LC*, 1521: xi (Preface)).

From the classical Lutheran views on man's internal justification before God through the Word and faith, and man's external conduct in the world, expressed in his *The Freedom of a Christian Man*, Melanchthon develops his moral views on inward and outward piety: the redeemed person would wish to obey God's commandments because of the indwelling of the Holy Spirit and not in order to

³³ Melanchthon's primary aim is to expound the principle that knowing Christ does not concern the peripheral issues expounded by the Scholastics, but rather concerns knowledge of the living relationship between Christ and the believer.

merit justification; the unredeemed should abide by the Ten Commandments, at least externally, because they are specific expressions of God's divine natural law which, but for the Fall, would be clear to man's natural light (*LCT*, (1555): xii (Preface)). In his *Loci Praecipui Theologici* of 1559, Melanchthon's mature views on natural law as a category within the broad structure of law emphasises both its moral and spiritual sides. The two dimensions of natural law flow from their coinciding with that part of divine law which is called morals (*MWA, LPT* (1559): 280 (30-32)).³⁴ These moral laws are external judgments and rules of God, dealing with the recognition of God in the mind, the obedience of the heart towards God, as well as the virtues towards man, justice, chastity, truth and temperance (*MWA, LPT* (1559):281 (21-24))³⁵, and represent the eternal rules of the divine mind. They compose the law of God, enjoining us regarding "what we should do and what we should refrain from doing" (*MWA, LPT* (1559):279 (1f.)).

The moral law, in effect, is a restatement of God's divine law, demanding complete obedience towards God and the neighbour (*MWA, LPT* (1559):278 (11-13)), and it is a steadfast rule of the divine mind and judgment over sins (*MWA, LPT* (1559):278 (1f.)). At times Melanchthon's description of the working of the Spirit is reminiscent of Luther's (and the Scholastics') remarks on *synteresis*; for example, the view that the true nature of man is not of a kind practising a "firm belief" in God "and everlasting affection", and that natural law serves as a judgment which condemns sin in our nature (*MWA, LPT* (1559):279 (18f.)). Sachiko Kusukawa (1995:95, 105, 111) shows however that Melanchthon's treatment of *synteresis* differs from the classic Scholastic view in this regard: following Luther, Melanchthon reinterpreted *synteresis* as a practical principle "useful for regulating civil conduct" to imply that all moral principles of a practical nature are informed by spiritual motivations emanating from a deeper level of theologico-ethical predisposition in the human mind.

4.2 The two forms of piety and the nature of natural law

The basic distinction between the two forms of piety and the implications thereof, developed by Melanchthon in his early work, *Unterschied zwischen weltlicher und Christlicher Froemkeyt* (1521/1522) and his *Loci Communes Theologi* (1521) are instructive for understanding the background to and development of

34 "Ideo congruit cum ea parte Legis Dei, quae dicitur moralis ... Prius enim discernendae sunt species Legis divinae."

35 "Sunt autem Leges morales, quae praecipiunt de agnitione Dei in mente et de obedientia cordis erga Deum et de virtutibus erga homines, ut de iustitia, castitate, veritate, temperantia."

36 "... vox Legis est iudicium Dei damnans peccatum in natura nostra."

Melanchthon's natural law views: worldly (or external) piety, practised by human reason, is to be distinguished from Christian (or internal) piety, practised through faith (*MWA, WCF*:171(1)-172(5)). Worldly piety is the world order, composed of external conduct based on man's reason (*MWA, WCF*:172(1-5)). External piety is written in man's reason by God; it is "planted" in man's reason so to speak, testifying that nobody should be hurt, the common peace be kept and the love of the neighbour be maintained (*MWA, WCF*:174(5f.)). Human reason, however, has no knowledge of God and God's grace (*MWA, WCF*:172(6f.)). Internal piety is worked by Christ, through the Word and the Holy Spirit; through the Holy Spirit we are made aware of divine piety in us. Whereas external piety cannot justify us before God, the Spirit of Christ in us is true piety (*MWA, WCF*:173(1f.)). External piety is of major importance for man's life in the world: because God subjected mankind to the sword, He demands external piety and virtues in order to keep peace (*MWA, WCF* 174(5f.)).³⁷

Already in his *Loci Communes* of 1521, Melanchthon airs the view that the moral precepts of natural law, formulated by human reason through natural syllogism (*LCT, WCF* (1521):41(25)), constitute fundamental "common principles or first conclusions for the activities of man", in the form of law of nature (*LCT, WCF* (1521):42(1-4)).³⁸ The knowledge of the "first principles", as stated in his early *Loci* (1521), Melanchthon likens to a process of "growing" out of the mind of man; knowledge of the natural law, therefore, is not the product of human ingenuity, but stems from man's inborn capacity (*potentialiter*) of judgment provided by God (*MWA, LCT* (1521):42(17-21)).⁴⁰ Because human reason is defective and blind⁴¹, not only the *substance of natural law*, but also human *knowledge* of natural law, is the work of the Spirit. From the preceding, two noteworthy aspects of Melanchthon's natural law grounding in such "first

³⁷ "Disz ist nu gotliche Freomkeyt in uns, das ist wenn unser hertz vom heyligen geyst bewegt wurt ..."

³⁸ "Auserliche Fromkeyt ist gar gesatzt zum ersten nun ynn die gwalt, welche die schrift das schwerdt nennet."

³⁹ Cf. Bornkamm, 1961:82-83: "Darum bleibt dies sittliche Wissen auch im inneren Zerfall des Menschen durch die Sünde bestehen; est ist nur von Gott dem Schöpfer her, nicht von der Natur und der Selbsterziehung des Menschen hierzu begreifen."

⁴⁰ "Quod vero dico leges naturae a deo impressas mentibus humanis, volo earum cognitionem esse quosdam, ut isti loquuntur, habitus concreatos, non inventam a nostris ingenii, sed insitam nobis a deo regulam iudicandi de moribus."

⁴¹ Melanchthon follows Luther's distinction between the fleshly and spiritual parts of the human being: man's fleshly part also encompasses human reason; the human spirit is not part of human nature, but the domain of God's creative work in the human being (agitatio divina) (MW, II(1):139, 20). The human soul (mind) makes it possible for man to show love towards God. Peace of conscience is only possible through the redemptive work of Christ in the human soul (MW, I:33, 32).

principles” need to be mentioned: first, these principles are given with man’s nature; and second, the essence of these principles is not to cause harm to anybody (*MWA, LCT* (1521):43(2f.)).⁴²

4.3 The role of natural law

The German mystical influences are also evident from Melanchthon’s views on the seat of knowledge in the depth of the human spirit; a view maintained even in his mature writings. Explaining the role of natural law in his *Loci Praecipui Theologici* (1559), arguably alluding to the metaphor of the “inward eye of the mind”, Melanchthon distinguishes the knowledge obtained through the senses (through the eyes) from the knowledge obtained from the “first things” through the spiritual eye of the mind: in the same way in which the eyes are divinely equipped with sight, the human mind has a certain amount of knowledge in which man can know and form an opinion about (abstract) matters (*MWA, LPT* (1559):313(36)-314(2)).⁴³ These “abstract matters” are the beginnings (or principles) in which, for example, the visible objects, the knowledge of numbers, order, syllogisms, geometrical principles and physics (“speculative principles”), as well as “practical principles” (or moral principles), for distinguishing between bad and good take their root (*MWA, LPT* (1559):314(3-8)).⁴⁴ These principles of true knowledge are impressed upon the mind by God who is the “one and eternal mind” (*MWA, LPT* (1559):314(27-28)).⁴⁵ God is the Founder and Keeper of everything; God is wise, good and just (*MWA, LPT* (1559):314(28-29)).⁴⁶ The knowledge gleaned from these principles implanted in the human mind can be employed in all fields of science; however man’s ability to act in accordance with these principles is weakened because “these virtues are held captive by injustice and therefore they do not reign but injustice governs and fights with this knowledge manifesting itself in an aversion to the wishes of God, contempt of God, trust in man’s own strength and also attacks and fights with the Divine Light inherent in the mind” (*MWA, LPT* (1559):314(31-36)).⁴⁷

42 “Manet lex: neminem laede. At si laesus quispiam fuerit, iam hoc agendum est, ne plures laedantur tollendusque is, qui laesit.”

43 “Ut lumen oculis divinitus inditum est, ita sunt quaedam notitiae mentibus humanis inditae, quibus agnoscent et iudicant plerique. Philosophi hoc lumen vocant notitiam principiorum ...”

44 “Ac vulgaris divisio nota est alia esse principia speculabilia ut notitias numerorum, ordinis, syllogismi, principia Geometrica, Physica. Haec omnes fatentur esse certissima et fontes maximarum utilitatum in vita. Qualis enim esset vita sene numeris, sine ordine?”

45 “... quod sit Deus una quaedam aeterna mens ...”

46 “... conditrix et conservatrix rerum, sapiens, bona, iusta etc.”

47 “... tamen hae verae notitiae detinentur in iniustitia, id est, captivae tenentur, non regnant, sed regnat iniustitia pugnans cum his notitiis, scilicet aversio voluntatis a Deo, contemptus Dei, fiducia propriarum virium, denique variis impetus pugnantes cum lumine divinitus insito mentibus.”

In his speech on the dignity of justice, *De dignitate legum oratio* (1538), Melanchthon spells out some of the implications flowing from these “practical principles”⁴⁸ of natural law and their attachment to the divine image and the ideas emanating therefrom: through legal education a decent and honourable opinion of justice should be instilled in the minds of the youth because to extinguish respect for justice can harm both religion and tranquility in the community⁴⁹; this is possible because the justice of God is divinely written in the human heart as “a measuring rod” which governs and adjudicates the positive law.⁵⁰ Legal education on the principles of natural law is important because justice and equity cannot be examined without theory and principle “by a natural sense like bees which are without science acquainted with architecture”.⁵¹ From these principles the theory of justice, for example, can be formulated: “But since God’s work is admirable in the minds of men, to know numbers and order whence many professions arise, arithmetic and the art of dialectic, why do we not admire those conceptions which discern just and unjust and bring forth the theory of justice?”⁵² Melanchthon adds that the moral principles in particular – the conceptions which discern just and unjust – “are a certain image of God and direct life to a greater extent than other conceptions or ideas”. From this “admirable light and God’s image” the theory arose that the lawyer’s profession is not less than the other disciplines”⁵³.

In another oration on the dignity of justice (*Oratio de dignitate legum*) ([1543] 1556), Melanchthon expounds the purpose of these principles in more detail: God

48 Melanchthon’s treatment of the term “notitia” is problematic. Depending upon the context it is sometimes taken in the general meaning of “knowing”, “knowledge”, “conception”, also the verb-link with notus, past part. of nosco, -ere, novi, notum denoting “to know”, “to recognise”, “to be acquainted with”, “to acknowledge”. Furthermore, the old form gnosco, from the root gno, carries the meaning of the origins of knowledge, e.g. “to begin to know”. Other possible translations, depending upon the context: “nodal point” (from nodus – a knot or knob), “values of knowledge” (value – worth, intrinsic worth, utility, valuation, esteem, regard, exact meaning from valeo – “be strong”), also “measure” (Latin mensura – measure), extent, dimensions, standard, limit, moderation, proportion, unit.

49 CR, XI:357: “Nec ulla maior est vitae ac morti pernicies, quam assuefacere animos ad leges contemnendas aut cavillandas.”

50 CR, XI:360: “Ius Dei divinitus inscriptum humanis mentibus, ut a Deo haberent regulam quae leges gubernaret et dijudicaret.”

51 CR, XI:361: “Saepe enim miror insolentiam quorundam, qui existimant iusta et aequa, sine arte et sine doctrina perspici naturali quodam sensu, sicut apes architectonicam norunt sine doctrina, sed hi tota via errant.”

52 CR, XI:362: “Sed cum sit admirabile opus Dei in animis hominum, nosse numeros et ordinem, unde existunt multae artes, Arithmetic et Dialectica, cur non etiam admiramur illas noticias, quae discernunt iusta et iniusta, ac pariunt doctrinam iuris?”

53 CR, XI:262: “Hae noticiae sunt quedam imago Dei, et magis regunt vitam, quam aliae noticiae seu ideae artium. Ex hac admiranda luce et Dei imagine, orta doctrina Iurisconsultorum, non minus est ars, quam caeterae disciplinae.”

did not in vain impart the laws of nature to human minds; He wanted the expounding of them to stand out in literature and to serve as monuments of the wise; He wanted this to be the model for governments and courts of justice, “not because there is nothing, even if many matters cause disturbance in government”.⁵⁴ Also through these principles of natural law, God protects the political order amongst people “(s)o that the human race should not perish entirely”,⁵⁵ “(s)omewhere in the provinces there were moderate magistrates who listened to the voice of the law. We should therefore not lose the profession of the discipline, even if either wars or tyrants obstruct its use for a moderately long time”.⁵⁶

The transformation from the principle (*potentialiter*) to the practice (*substantialiter*) of justice is accomplished by submitting to the being of God: “If you feel that God is the creator of the world and the judge of our deeds, if you are endowed with divine admonitions, acknowledge Him as the originator of the world and your judge, and obey Him in these official duties which are required by the voice of justice”.⁵⁷ Submitting to God’s divine being and to His commandments lead both to understanding the dignity of justice and to success in governing: “You will thus understand that justice is God’s voice, and that this political order was both established by God and is being preserved from all sides so that He himself can become known in human society and so that we, united by mutual duties, can bear witness to our belief in God and the Son of God, and show our mutual benevolence and inflame ourselves by mutual example to lead a life of virtue. In order to understand these things there is a need, as I have said, for virtue, for fear of God, for honourable conduct and for diligence for the guiding of morals”.⁵⁸

54 CR, XI:631: “... non enim frustra Deus indidit humanis mentibus leges naturae. Harum explicationem voluit extare in litteris et monumentis sapientum, hanc voluit esse imperiorum et iudiciorum regulam, quae non propterea nihil est, etiam si multae aliae res gubernationem interturbant.”

55 CR, XI:632: “Ne funditus periret humanum genus ...”

56 CR, XI:632: “... Deus adhuc politicum ordinem apud aliquos tuebatur, erant alicubi in provinciis Magistratus mediocres, qui legum vocem audiebant.”

57 CR, XI:635: “Si esse Deum conditorem rerum, et iudicem factorum nostrorum sentitis, afficiamini monitis coelestibus, ipsum autorem rerum, et iudicem vestrum agnoscite, et ei in his officiis quae legum voce requirit, obedite.”

58 CR, XI:635: “... non solum dignitatem legum vere intelligetis, sed etiam in gubernatione eritis foelices: Deus enim promittit suis sapientiam et successus. Ita intellegegetis leges esse Dei vocem, et hunc politicum odinem a Deo et institutum esse, et aliqua ex parte, conservari, ut in societate humana innotescat ipse, et nos copulati mutuis officiis, testimonia nostrae, de Deo et de filio Dei, et mutuam benevolentiam ostendamus, nosque mutuis exemplis ad virtutem accendamus. Ad haec intelligenda, profecto opus est, ut dixi, quadam studio virtutis, timore Dei modestia, et diligentia regendorum morum.”

4.4 The natural light, the light of God's image and the nature of principles in the human mind

The development of Melanchthon's moral views over a period of more than thirty years, together with the imprecise use of terminology, necessitates a closer look at the distinctions he draws between the natural light of reason and the light of God's image in man, and the relatedness of both "lights" to the deepest seat of knowledge in the human mind. The question is whether Melanchthon followed Luther in reorientating man's moral actions towards the scriptural truth of the image of God in man or whether he pursued the classical views of Scholasticism in this regard. Despite imprecise terminology in describing the relationship between reason and the idea of God's image in man, as well as the somewhat confusing use of terms associated with the distinction between the principles and ideas of knowledge in the human mind, the Lutheran re-focus on the image of God in man surfaces as an important point of orientation in Melanchthon's theory of knowledge of natural law precepts and for his theologically-moral grounding of natural law. The central point in Melanchthon's thought is that the ideal norm of morals is unchanged in God, and that the capacity to understand the divine precepts proceeds from the divine image in the human person.

Melanchthon's treatment of the divine image in man, within the context of human nature and the capacities of the soul, is more fully dealt with in his *Commentarius de anima* (CDA). To Melanchthon the human intellect is a faculty of the mind, "knowing, recording, judging, reckoning particulars and universals, having some innate knowledge or principles" placed within it.⁵⁹ It also contains a reflexive act by which it distinguishes and judges its own actions (TRP, 96 (CDA, 205r-v)). Melanchthon's discourse on the human rational soul proceeds further to reflect on the kernel of human knowledge – the divine image in the human mind and its mysterious working in the human mind. The knowledge of the divine *Architect of human knowledge* is dependent upon the renewal of the image of God by a knowledge of Him; God's image is renewed when Christ brings into us "as if into a mirror knowledge of Himself"⁶⁰, after which the mind becomes a true image of God (TNP, 96 (CDA, 220r)).

In essence, the human mind is *potentialiter* the image of God, because, to Melanchthon, for it to be an image, it has to reflect the Archetype; where there is

59 Hans Engeland (in LCT, 1555: xxix) regards the role of the divine image in man in Melanchthon's ethical philosophy as an idea in the nature of an "ethical-religious predisposition".

60 For a similar link between "image" and "mirror" cf. Eckhart's sermon "A Vase of Massive Gold", in which he depicts St Augustine as a golden vase adorned with precious stones (cf. FP, XIV:67(22)-71(8)).

no knowledge of the Archetype it is not possible to show the Archetype. If the image were restored it would mean that God becomes the greatest object of the human will⁶¹, because (in Augustinian parlance) there is the greatest similarity between the effigy and the Archetype, and the effigy understanding and yearning is moved towards that “exemplar by which it was impressed” (TNF, 96 (CDA, 220rf.)). Restoring the image presupposes a renewal by the Word through the Holy Spirit “who started in our minds a new light and new obedience through the Word of God” (TNP, 96(CDA, 220rf.)).

Melanchthon’s *Oratio de veritas legum fontibus et causis*, circa 1550, contains an exposition of Melanchthon’s views on the seat of knowledge in the human mind. He appeals to God’s will for man to live in agreement with the moral precepts in the divine mind: the supreme and most valuable things in *Mens Bona*, the divine founder of the human race, are wisdom, the ability to discern “honesty from disgrace”, justice, truth, kindness, mercy and chastity; the “seeds” of these precious things were transmitted by God to the human minds “when He created us after his likeness” (CR, XI: 919). These “seeds” are “ideas” divinely handed down “with the light that was born amongst us”, adding “then, more than ever, also by divine words, the first principles were laid both of the political order which God wants us to obey not only for the reason of our need, but more than anything, so that we can recognize our Creator as true and so that we can learn in this very ordination that the present nature of things did not happen to exit by chance but that the Creator is wise, just, kind, true, chaste and that, while He is demanding similar virtues to exist in us, He is also an avenger punishing the violation of this order” (CR, XI: 919).⁶² Elsewhere in the same oration, Melanchthon states that the

61 Cf. Once again Eckhart’s sermon “A Vase of Massive Gold” for the important statement that the “image” gives the will its purpose – the will plays no part here; the will follows the image, according to Eckhart, as the image constitutes the first emanation of the divine nature – the divine image reproduces itself totally in the image, “and yet it remains entirely in itself” (Schürmann, 1978:100). FP, XIV:68(24-29): “wan daz bilde fürsetzt den willen unde der wille volget dem bilde unde daz bilde hält den ersten úzbruch úz der náture unde ziuhet in sich allez, daz die náture unde daz wesen geleisten mac, unde diu náture ergiuzet sich málē in daz bilde unde belfbet doch ganze in sich selber ...”

62 “Summae et optimae res in mente divina conditrix generis humani sunt, sapientia, discernens honesta et turpia, et iustitia, veritas, beneficentia, clemetia, castitas. Harum optimarum rerum Deus semina in mentes humanas transfudit, cum nos ad imaginem suam conderet. Et ad normam suae mentis congruere vult hominum vitam et mores. Voce etiam sua hanc iosam sapeintiam et virtutem doctrinam patefecit.”

63 “Hac notitiae divinitus traditae cum luce quae nobiscum nascitur, tum vero etiam voce divina, sunt initia legum et ordinis politici, cui vult nos Deus, non solum necessitatis nostrae causa obidere ...” At 923 Melanchthon adds that the “true idea of justice” (“Deinde ut cum certum sit in his legibus sapeintiam et veram iustitiae formam propoi ...”) is displayed in certain Roman laws, “to seek the sources and to aim at not only a semblance of doctrine, but true knowledge, and because the very knowledge itself of truth is good and a lamp of a good mind ...”

distinction between the two forms of piety does not oppose the gospel: and as the science of numbers is divinely implanted in human minds and neither hinders nor destroys the Gospel, so political wisdom is built up from the truest conceptions of knowledge which were divinely implanted in human minds and which neither hinder nor destroy the Gospel" (*CR*, XI:921).⁶⁴ Although the conception of numbers is a "divine light" in the human mind, the conception of the nature of law is even more distinguished (*CR*, XI:923). True knowledge of the moral precepts is of itself good and "a lamp of a good mind" (*CR*, XI:923).⁶⁵

Because God provided human beings with the "power of nature" which He does not want to be at leisure, "(g)ood minds, having got to know this ground-work, should often think about the dignity of the political order and respectfully thank God that He united human life with these beams of light of his wisdom and justice and that He declares his presence to us while protecting this society, and that they should arouse themselves to take care of these good things for the glory of God" (*CR*, XI:924). The truth and wisdom manifested in all human minds are the work of God's Holy Spirit and the bond between God and the whole of humanity.

The juridico-moral implications flowing from the human being's attachment to God is more clearly expressed in Melanchthon's *Ethicae Doctrinae Elementa (EDE)* (1550): God wanted an association to be brought into existence between himself and man and amongst humans themselves (*EDE*, 1550:101). To this end God gave in the human mind "reasons" for virtue, because God created man "in such a way to be the image of himself", "and because He wanted to be acknowledged by man" (*EDE*, 1550:103). To this Melanchthon significantly adds: "And, therefore, so that in some or other way it could be unraveled what the nature of God is, the Creator proposed this image and picture as it were, so that as in God so also in ourselves there is the ability to understand and the ability to will freely."⁶⁶ And in the ability to understand, ideas are divinely transferred into us –

⁶⁴ "Politica autem gubernatio externam disciplinam, distinctionem dominiorum, contractus, iudicia et poenas regit. Et ut numerorum scientia lumen est divinitus insitum mentibus, nec impedit, nec delet Evangelium, ita politica sapientia ex firmisimis notitiis extruitur, quae divinitus insitae sunt humanis mentibus, nec impediunt, nec delent Evangelium."

⁶⁵ The wisdom exhibited by the heathen peoples is also attributed to God's Spirit poured out upon them. Cf. CR, XI: 922 : "Et hoc ipso exemplo fatetur Petrus se quoque didicisse, Evangelium pertinere ad universum genus humanum, et procul discernendum esse a politica Mosaica ..."

⁶⁶ "Quaerendi sunt autem fontes cum aliarum virtutum, tum vero & iusticiae, & considerandum est, unde & cur in mentibus humanis sint causae virtutum, quia scilicet Deus sic condidit hominem, ut esset ipsius imago. Voluit enim agnoscere ab homine."

⁶⁷ For Melanchthon's departure from the Scholastic views on free will, cf. Kusukawa, 1995:33, 56f., 89, 96f. and 108.

rays of divine wisdom as it were – like numbers and many other first principles and laws of nature which are norms congruent with the divine mind, which thus discerns between virtues and dishonorable values.” However, God would like these ideas to be “the guide-lines of all actions – said above, the reasons for all virtues, the mind judging correctly and submitting the will to proper judgment” (*EDE*, 1550:103-104).

Consequently Melanchthon defines natural law as “ideas of active principles and conclusions of these constructions regarding the guiding of morals, congruent with the eternal and fixed norm of the divine mind, divinely innate in us, so that they can be evidence of what God is, what his nature (or being) is, and that they can rule us so that our obedience can coincide with his will. The conclusions of these ideas are cited in the Decalogue, and from there the essence of natural law can be taken up most” (*EDE*, 1550:104).⁶⁸

According to this definition the moral precepts in the form of natural law represent “a beam of the divine light in agreement with the norm of the divine mind, external and fixed, which God by no means wishes to be changed” (*EDE*, 1550:106). Therefore, natural law is fixed and unalterable, pertaining to “the ideas in the mind”; on account of wrong inclinations, human beings sometimes depart from the light of the mind and “experience vicious whirlwinds contrary to natural law” (*EDE*, 1550:106).

Melanchthon consequently gives evidence of distinguishing between different “categories” or “orders” of precepts, reminiscent of the classical Thomist distinction between different categories of natural law precepts. There are certain “decisive points” of natural law, and others in the form of “ideas engrafted in us”. These ideas are “precepts which govern the will towards God and human beings, for example, acknowledge He is God and obey Him; if not affected by injustice you may not injure anyone; thou shall love and take care of offspring; be truthful, temperate, chaste, a defender of the legitimate society of citizens” (*EDE*, 1550:110).

Melanchthon’s treatment of the issue of the mutability of natural law precepts also betrays a scholastic natural law orientation in distinguishing between natural law precepts as conclusions and as determinations: natural laws are unchangeable ideas, whilst casual events which are good and beneficent, like peace and the common use of property, may change because a part of nature has changed.

68 “Leges naturae sunt noticiae principiorum practicorum, & conclusionum ex his extuctarum, de regendis moribus, congruentes cum aeterna & immota norma mentis divinae, insitae nobis divinitus ut sint testimonia quod sit Deus, & qualis sit, & regant nos, ut congruat obedientia nostra cum voluntate Dei.”

However, natural laws in the form of ideas are unchangeable, because these ideas are “beams of divine light in us which God wanted to shine even in this corrupt nature” (*EDE*, 1550:111).

In his *Loci Praecipui Theologici* (1559) Melanchthon mentions some of the dialectical tensions resulting from the natural human inclinations in man and the ideas of natural law emanating from the divine image in the human person: although true knowledge is impressed upon the human being, the human virtues are held captive by injustice; they do not reign, and injustice governs and fights with true knowledge manifesting itself in an aversion to the wishes of God, contempt of God, trust in man’s own strength, and it also attacks and opposes the Divine Light inherent in the mind (*MWA, LPT* (1559):314(25f.)). The natural light should, therefore, be kindled and the mind strengthened so as to recognise those practical (moral) principles and to embrace the natural law in the form of immutable decrees of God (*MWA, LPT* (1559):315(7f.)). Melanchthon consequently offers a revised definition of natural law, attached to the divine image in man: the law of nature is knowledge of the divine law placed in the nature of man. He adds that therefore it is said that man was created in the image of God, “because in His image, that is to say, the knowledge of God shines in man” (*MWA, LPT* (1559):139). Although the image of God does not shine in human nature informed by corruption, the knowledge of God still remains, because the law of nature emanates from the image of God in man – the divine image is the knowledge of God shining in the human mind (cf. *MWA, LPT* (1559):315(18-23)).⁶⁹

5. Conclusions

The gnoseological turn in late medieval German Christian thought had an enduring impact upon the early Lutheran transformation in the ontological grounding of natural law. Generally speaking the Lutheran Reformation represents a position “mediating” between Eckhart’s identification of the form of knowledge (as a principle of knowledge) in a being endowed with reason with the ideas in the human mind, on the one hand; and on the other, the Scholastic acknowledgement of the principles of knowledge represented in the forms found in the human intellect. Luther’s grounding of the moral posture of the human being in God’s image in the ground of the human mind, his view of the Holy Spirit as the active substance of God’s image testifying in the hearts of all people, and

69 “Ideo enim dicitur homo ad imaginem Dei conditus esse, quia in eo lucebat imago, hoc est, notitia Dei et similitudo quaedam mentis divinae, id est, discrimen honestorum et turpium, et cum his notitiis congruebant vires homines.”

the mind's potentialities for receiving subsistent knowledge in the form of ideas, produced a more pneumatically inspired view of natural law as a spiritual law of love. Together with Luther's acceptance of the notion that the precepts of natural law are placed as "first principles" in the human intellect by nature, and that through deductions from these first principles of law, the human mind is capable of arriving at specific formulas (and theories) in the process of reasoning, the possibility was created of interpreting, developing and applying these "principles" by the ideas emanating from the ground of the mind.

Through detachment from "I-ness", acknowledgement of and submission to God's being, the *Imago Dei* in the ground of the mind is restored and enlivened. The deification (justification) of man makes man a "partaker" of truth, justice and the moral good, rather than a "spectator" or "applier" thereof. These are the implications flowing from Luther's grounding of the intellect in the image of God and the potential of producing ideas from the ground of the mind, in many ways different from both the empiricist and scholastic views on the human being's abilities in acquiring knowledge: unlike the empiricists Luther does not regard the mind of man as a "passive wax" which simply receives sensations from outside. The mind actively shapes the way human beings apprehend the world; what they see, taste, hear, smell and feel does not just depend on what is outside the human person but what is inside and the way human reason and sensual perceptions are guided and directed by deeper (more fundamental) sources of perception.

Although Luther incorporated the formal classical scholastic notion of the impression of moral principles in the form of natural law precepts on man's reason, he subjected these principles of natural law to the work of the Holy Spirit through God's presence in the seat of man's mind. Luther's grounding of the intellect in the image of God and the fact that man's resemblance is due to the human being's "openness" to all that there is; the fact that the ground of the mind does not belong to the human person but to God's creation and to God, follows the line of Eckhart: the ground of the mind (God's image in man) "does not entail any exaltation of the faculty of arguing", or, for that matter, of "discursive reason"; it rather indicates a "real and instantaneous gathering together of God, man, and the world" (Schürmann, 1978:147).

The totality of forms possessed by the mind of the deified (justified) human person is not a virtual representation, but is present actually through the work of the Word and the Spirit. The spiritual law of love emanating from the human mind is law gathering together God, man and the world in a spirit of "obligating" benevolence; it is duty bound towards God and the world. The moral principles of natural law in human reason are informed by the duty-based spiritual law of love and its aim to "gather together" man and the world in a spirit of mutually obli-

gating benevolence. This is possible through detachment from “I-ness” and “self-ness” and by submitting oneself to God’s Being. To Luther, the Christian mind, guided by the spiritual law of love aims at acting justly by acknowledging and esteeming the Being of God and the being of God’s image for what they are. This Lutheran turn towards a duty-based natural law ontology of a benevolent nature, therefore, represents a major shift in natural law theory, anticipating Melanchthon’s work in the field.

The duty-basedness of early Lutheran natural law theory is arguably one of the outstanding features of Melanchthon’s theoretical analysis of natural law. So, for example, in his mature views on the moral context of natural law principles, in his *Ethica Doctrinae Elementa* (1550), Melanchthon awards natural law “ideas” the function of governing the will towards God and human beings, for example, acknowledging that He is God and obeying Him; the duties not to injure anyone, to defend the legitimate society of citizens, and so forth (*EDE*, 1550:110).⁷⁰

The discourse on natural law precepts in the form of duties towards God and human beings, in Melanchthon’s thought, proceeds along typical Lutheran lines: God’s image is reflected in man because God wanted to be acknowledged by man; the image of God in the mind provides the human person with the ability to understand; through God’s image in man, the human person is able to understand ideas divinely “transferred” into us; God intended these ideas to be the guidelines of all actions, the reasons of all virtues, providing the mind with the ability of judging correctly and “submitting the will to proper judgement” (*EDE*, 1550:103).⁷¹ Melanchthon traces the origin of the ideas to the divine mind, the conclusions of which are contained in the Decalogue (*EDE*, 1550:104). Melanchthon also applies the same theologically-moral reasoning emanating from Luther’s theology of justification through faith: although the image of God does not shine in human nature informed by corruption, the knowledge of God still remains.⁷² Furthermore, at the root of Melanchthon’s natural law ontology also glisten the two “sides” or “parts” of Luther’s natural law influence:

70 “... erga Deum & erga homines, ut agnoscito esse Deum, & ei obedias. Neminem laedas non affectus iniuria. Diligit & servato sobolem. Esto verax. temperans, castus, defensor legitimae societatis civium.”

71 “Quare ut aliquo modo cogitari posset, qualis sit Deus, hanc imaginem & quasi picturam conditor propositus, ut in Deo, sic in nobis sunt potentia cognoscens, & potentia liberè volens, & sunt in cognoscente potentia noticiae divinitus in nos transfusae, velut radii divinae spaientiae, ut numeri & multa alia principia, et leges naturae, quae sunt normae congruentes cum mente divina ...”

72 Thus leaving the possibility for the rebirth of man. Cf. Heinrich Bornkamm (1961: 77): “Sie ist nicht die Geburt eines neuen Menschen, sondern die Wiedergeburt des wahren geistigen Menschen, der in uns schlummert”, and “Als Gerechtfertiger ist er ganz von Gott freigesprochen und in Christus zur neuen Kreatur gemacht.”

the principles of natural law inscribed upon human reason, and man's reason rooted in the image of God; which "being", "ground" or "essence of the mind" is closer to God than to the other human faculties, and from which the ideas of duty and benevolence emanate.

Heinrich Bornkamm's (1961:89) remarks to the effect that Melanchthon's anthropologico-philosophical views are reminiscent of Scholastic notions in this regard,⁷³ need brief consideration. First, Bornkamm's observations are convincing to the measure that Melanchthon's natural law statements in his mature works largely follow the basic Scholastic outlines. However, although Bornkamm succinctly identifies Melanchthon's psychological efforts at grounding the human faculties in the "Biblical-human concept" of the heart, Bornkamm is not sensitive enough to the change in philosophical culture in the late medieval period in German Christianity, and the ensuing shift in emphasis regarding the deeper strata of the human mind providing the human person with subsistent knowledge in the form of ideas; which ideas provide guidance to the concretisation and application of the natural law principles inscribed on man's reason. In spite of Melanchthon's use of terminology – in many ways reminiscent of classical Scholasticism – he does not suffer from the same philosophical dualisms as those of classical Scholasticism. At the root of Melanchthon's theologico-moral views neither Aristotle nor Cicero provide a substantive fount of moral principles, but solely the sovereignty of God's Spirit in the human mind.

Second, there is more common ground between Luther and Melanchthon than admitted by Bornkamm (1961:84f.), because he fails to penetrate to the one common foundation of true moral knowledge in the human mind – the divine image in man providing the human person with true moral knowledge. The divine image of man in both Luther's and Melanchthon's "continuation" of the Eckhartian turn in the theory of knowledge and not the "*consensus omnium*" is the *a priori* motivation for Melanchthon's views on the knowledge shared by human beings.

From the preceding it has to be noted that Berman's robust statement about Melanchthon's transformation of the ontological grounding of natural law has to be trimmed down. Berman credits Melanchthon with too much originality in the transformation of natural law. However, it is conceded that through his systemising work and the development of late medieval German Christian gnoseological insights, Melanchthon made, as Dilthy observed, a major contribution to Western philosophical thought.⁷⁴ It

73 Cf. Bornkamm, 1961:89: "Melanchthons Antropologie erinnert in vielem an die scholastische ..."

74 Heinrich Bornkamm's observations regarding Melanchthon's contributions to and influence on Western thought, succinctly describe the greatness of his thought despite a lack in "creative

has to be added also, in conclusion, that the roots of Melanchthon's natural law grounding is of major importance, not only for understanding and appreciating his own work in the field, but also for possible development and refinement in the postmodern era.

Bibliography

- AQUINAS, T. 1997. [Referred to in the notes as ST] *Summa Theologica*. Albany: Ages Software. The Master Christian Library: Books for the Ages.
- ASHEIM, I. 1961. *Glaube und Erziehung bei Luther*. Heidelberg: Quelle & Meyer.
- AUGUSTINE, 1997. [Referred to in the notes as HT] On the Holy Trinity. In: Schaff, P. (Ed.), *Ages digital library. The Nicene and post-Nicene Fathers*. 1st Series. Vol. 3. Transl. by Haddan, A.W. Albany, O.R. Books for the Ages.
- BERMAN, H. 2003. *Law and revolution II. The impact of the Protestant Reformation on the Western legal tradition*. Cambridge/Massachusetts: Harvard University Press.
- BERMAN, H.J. & WITTE, J. 1989. The transformation of Western Legal Philosophy in Lutheran Germany. *Southern California law review*, 62: 1573.
- BORNKAMM, H. 1961. Melanchthons Menschenbild. In: Elliger, W. (Ed.), *Philipp Melanchthon. Forschungsbeiträge zur vierhundersten Wiederkehr seines Todesstages dargeboten in Wittenberg 1960*. Göttingen: Vandenhoeck & Ruprecht.
- DILTHEY, W. 1977. *Weltanschauung und Analyse des Menschen seit Renaissance und Reformation: Gesammelte Schriften* vol. 2. Stuttgart: B.G. Teubner Verlagsgesellschaft.
- FILD, H. 1953. *Justitia bei Melanchthon*. Theol. Diss., Erlangen.
- FILTHAUT, E. 1961. [JTDM] *Johannes Tauler ein Deutscher Mystiker. Gedenkschrift zum 600. Todesstag*. Essen: Hans Driewer Verlag.
- HÄGGLUND, B. 1971. *The background of Luther's doctrine of justification in late Medieval theology*. Philadelphia: Fortress Press.
- HOFFMAN, B. 1976. *Luther and the mystics*. Minneapolis, Minnesota: Augsburg Publishing House.
- JONES, R.M. 1923. *Studies in mystical religion*. London: Macmillan & Co.
- KISCH, G. 1963. Melanchthon und die Juristen seiner Zeit. *Philippe Meylan: recueil de travaux*, 2 vols. Lausanne: Imp. Centrale.
- KISCH, G. 1967. *Melanchthons Rechts- und Soziallehre*. Berlin: Walter de Gruyter & Co.
- KNOBLER, A.B. 1991. *Luther and the legal concept of the poor in sixteenth century German church ordinances*. Ph.D. Diss., UCLA.
- KUSUKAWA, S. 1995. [Referred to as TNP in the notes] *The transformation of natural philosophy*. Cambridge: Cambridge University Press.
- KUSUKAWA, S. (Ed.) 1999. [Referred to as OPE in the notes] *Orations on philosophy and education*. Cambridge: Cambridge University Press.
- LUTHER, M. 1883-1987. [Referred to in the notes as WA = Commentaries & texts; W (BR) = Correspondence; W (Tr) = Table Talk] Werke: kritische Gesamtausgabe. 78 Bde. Weimar: Hermann Böhlau Nachfolger.

abilities": "Melanchthon war weder als Theologe noch als Philosoph so bedeutend, dasz wir ihn in die Reihe derer einordnen dürfen, von denen die grossen geistigen Offenbarungen in der Geschichte der menschheit ausgegangen sind. Sondern er gehörte, wie Dilthey eimal gesagt hat, zu den meist unterschätzten Geistern, die ohne schöpferisches Vermögen doch eine unermessliche Wirkung ausgeübt haben."

- LUTHER, M. 1958-1967. [Referred to in the notes as LW] Works. American edition. 55 vols. Eds: J. Pelikan (vols. 1-30) & H. Lehmann (vols. 31-55). Philadelphia: Concordia.
- MAAG, K. (Ed.) 1999. *Melanchthon in Europe: his work and influence beyond Wittenberg*. Grand Rapids, MI:
- MÄKININ, V. 2006. *Lutheran Reformation and the law*. Leiden/Boston: Brill.
- MELANCHTHON, P. 1521-1522 [1951]. [Referred to in the notes as MWA, WCF] *Melanchthons Werke in Auswahl: Unterschied zwischen weltlicher und Christlicher Fromkeyt*. In: Stupperich, R. (Ed.), *Melanchthons Werke, Vol. 1: Reformatorische Schriften*. Göttersloh: C. Bertelsmann Verlag.
- MELANCHTHON, P. 1521 [1952]. [Referred to in the notes as MWA, LCT (1521) or LPT (1559) depending on the source] *Loci Communes Rerum Theologicarum Seu Hypnotyposes Theologicae*. In: Engeland, H. (Ed.) *Melanchthons werke, Vol. 2(1): Loci Communes von 1521; Loci Praecipui Theologici von 1559 (1 Teil)*. Göttersloh: C. Bertelsmann Verlag.
- MELANCHTHON, P. [1550] 1554. *Ethicae Doctrinae Elementae et Enarratio Kibri Quinti Ethicorum*. Wittenberg (Copy: University of Oxford, Bodleian Library: 80 K. 38(1) Art: BS.)
- MELANCHTHON, P. 1555 [1965]. [Referred to in the notes as LC] *Melanchthon on Christian Doctrine. Loci Communes 1555*. Transl. By Manschreck C.I. (Ed.). Grand Rapids, Michigan: Baker Book House.
- MELANCHTHON, P. 1834-1860. [Referred to in the notes as CR] *Corpus reformatorum Philippi Melanchthonis opera quae supersunt omnia*, (Ed.) C.B. Bretschneider & H.E. Bindseil, 28 vols. Halle & Brunswick C.A. Schwetschke.
- OLLSON, H. 1971. *Schöpfung, Vernunft und Gesetz in Luthers Theologie*. Uppsala: Acta Universitatis.
- OTTO, R. 1975. *The idea of the holy*. Transl. by Harvey, W. Oxford: Oxford University Press.
- PETERSEN, P. 1921. *Geschichte der Aristotelischen Philosophie im Protestantischen Deutschland*. Leipzig: Verlag von Felix Meiner.
- PFEIFFER, F. 1962. *Meister Eckhart. Abt. 1: Predigten, Traktate*. Aalen: Scientia Verlag.
- PREGER, W. 1962. [GDM] *Geschichte der deutschen Mystik im Mittelalter*. Nachdruck der Ausgabe 1874-1893 in 3 Teilen. Teil 1: Geschichte der Deutschen Mystik bis zum Tode Meister Eckharts.) Aalen: Otto Zeller Verlagsbuchhandlung.
- RAATH, A.W.G. & SWARTZ, N.P. 2006. The implications of the Pauline ethics of benevolence and natural law applied in the early Lutheran Reformation. *Journal for Christian scholarship*, 42(4):57.
- SCHLÜTER, D.M. 1961. Philosophische Grundlagen der Lehren Johannes Taulers. In: Filthaut, E. (Ed.), *Johannes Tauler. Ein Deutscher Mystiker*. Essen: Hans Driewer Verlag.
- SCHÜRMANN, R. 1978. *Meister Eckhart. Mystic and Philosopher*. Bloomington & London: Indiana University Press.
- TAULER, J. 1961. [Referred to in the notes as TJP] *Predigten*. Transl. by Hoffman, G. Freiburg: Herder.
- WICKS, J. 1968. *Man yearning for grace*. Washington: Corpus Books.
- WICKS, J. (Ed.) 1970. *Catholic scholars dialogue with Luther*. Chicago: Loyola University Press.
- WITTE, J. 2002. *Law and Protestantism. The legal teachings of the Lutheran Reformation*. Cambridge: Cambridge University Press.