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7. Christian Philosophy

NATURAL LAW CHANGE BY ADDITION AND ORIGINAL SIN: HARMONIZING THE CHURCH FATHERS AND ARISTOTLE ON THOMAS AQUINAS' THEORY OF PROPERTY

This paper investigates the relationship between the right to private property and natural law change by addition in Thomas Aquinas' doctrine, and how original sin impacts such change. Understanding this relationship is crucial to grasp in all its depth the connection that the right to private property has with natural law. A comparison of men's wills in the state of innocence and the present state reveals that, for Aquinas, the division of possessions was introduced as an addition to natural law by the inventiveness of human reason after the fall. Therefore, the connection that the right to private property has with natural law is explained not by the fact that the ownership of possessions is an institute belonging to the *ius gentium*, but by the addition that human reason made to natural law after original sin (and as a result of it). We maintain that this is the most accurate interpretation of Thomas Aquinas' theory of property. Moreover, it is the sole allowing one to clearly visualize the harmonization that Aquinas promoted between the teachings of the Church Fathers and Aristotle.

Keywords: Thomas Aquinas' Theory of Property; Natural Law Change by Addition; Original Sin; Commonality of Goods; Private Property. *Ius Gentium*.

This paper aims to demonstrate that the relationship between natural law and the right to private property can only be grasped in all its depth by correctly understanding the change of natural law by addition, and how original sin impacts it. In this field, two investigative lines stand out for having adopted a perspective that seems to be most consistent with Thomistic doctrine: MacLaren's "Private Property and the Natural Law" and Hallebeck's "Thomas Aquinas' Theory of Property".

Hallebeck's article focuses on analyzing the right to property before and after the fall, demonstrating that Aquinas subscribes to the understanding shared by the Church Fathers and scholastic philosophers, according to which in the state of innocence all goods were commonly possessed. The right to private property was not introduced as a punishment for original sin but rather added to the natural and initial commonality of all things, which, however, remained the predominant ideal. Nonetheless, Thomas knew that, in the state of fallen nature, this ideal became unfeasible for entire societies, proving to be convenient only for small and select groups, such as the religious community to which he himself belonged. After the fall, therefore, possession of external goods as one's own became a necessity.¹

¹ J. HALLEBEEK, "Thomas Aquinas' Theory of Property", *Irish Jurist* 22 (Summer 1987), 104.

Within *Treatise on Justice*, Thomas argues that the commonality of goods is attributed to the natural right. Nevertheless, it does not mean natural right dictates that all things are to be possessed in common and that nothing is to be possessed as one's own. Aquinas maintains that the distinction among possessions is not itself a matter of the natural right but rather a matter of human agreement.² This led some scholars to the conclusion that, for Thomas, the right to private property would be something exclusively related to human positive law, or, in other words, an ordinary conventional right. Such a conclusion, however, is inaccurate. As highlighted by MacLaren, Aquinas considers private property as an institute belonging to the *ius gentium*, which, in turn, has a certain type of connection with natural law:³ “(...) it is derived from the natural law by way of a conclusion that is not very remote from its premises”.⁴

But this is not the whole story. Hallebeek did not appraise all the implications that the comparison between men's wills in the state of innocence and in the state of fallen nature have on Aquinas' theory of property, especially the question concerning the change of natural law by addition⁵; plus, MacLaren did not address the very relevant classifying criterion of natural law proposed by Thomas in the same article in which he associates the ownership of possessions with the *ius gentium*.⁶ This classification is based on two criteria. The first is that of “the absolute adequacy of good to nature”. All human goods to which rational creature are naturally inclined are absolutely commensurate to him. This criterion encompasses all human natural inclinations mentioned in *STh* I^a-II^ae, q. 94, a. 2, resp. Interestingly, the right to private property was not inserted by Thomas in the first criterion, but in the second one, that of “the consequential adequacy of good to nature”. By this criterion, the assessment of the adequacy of good to nature demands considerations about the consequences that follow from something being one way or another. The example provided by Aquinas in this second criterion is precisely the right to private property (*proprietas possessionum*). Considering property itself, it is not possible to conclude that the distinction among possessions is more convenient to human nature than the commonality of goods. This conclusion can only be reached by considering the consequences of adopting one system or another. It does not happen in the first criterion: some goods are absolutely adequate to human nature, regardless of any

² *STh* II^a-II^ae, q. 66, a. 2, ad 1. All quotations of the *Summa Theologiae* are from the translation made by the Fathers of the English Dominican Province (Second and Revised Edition, 1920).

³ D. MACLAREN, “Private Property and the Natural Law”, *Aquinas Papers* 8 (1948), 14.

⁴ *STh* I^a-II^ae, q. 95, a. 4, ad 1.

⁵ *STh* I^a-II^ae, q. 94, a. 5.

⁶ *STh* II^a-II^ae, q. 57, a. 3, resp.

consequential consideration. From this it follows that, for Aquinas, the possession of external goods as one's own is *not* a human natural inclination.⁷

There is great disagreement on the change of natural law by addition. Some scholars simply did not grasp the connection that such a change has with both original sin and the right to property. Budziszewski, for instance, holds that natural law can be changed by human laws steamed from natural law in the mode of implementation or specification (*determinatio*).⁸ In other words, Budziszewski is sustaining that any human law belonging to the field of conventional justice entails a change in natural law. But this is not Thomas' account. Such laws have, in Aquinas' own words, only the force of human law (*ex sola lege humano vigorem habent*), whereas human laws derived from natural law in the mode of conclusion have some force from natural law (*sed habent etiam aliquid vigoris ex lege naturali*).⁹ Laws of which the force merely comes from human law are also derived from natural law, but its role is rather to implement specific details regarding the application of natural law. When this happens, natural law remains unchanged.

It seems to make more sense that a change in natural law requires something more substantial and lasting, whose vigor surpasses the mere contingent character of conventional justice. Yet, this change cannot be such that it causes any modification in human natural inclinations, as even original sin has not modified them: "For what is natural to man is neither taken away from nor added to man because of sin".¹⁰ It means that, as human beings did not have a natural inclination to possess external goods as his own before the fall¹¹, he could not have acquired it in the present state, since original sin did not add new inclinations to him, nor did it subtract those he already had. The right to private property arose, therefore, not as a new primary precept of natural law, but as something useful to human life, which was introduced by the inventiveness of human reason (*per adinventionem rationis humanae*).¹²

It is only by correctly understanding how natural law can be changed by addition that we may grasp all nuances of Thomas Aquinas' theory of property. For Thomas, natural law in an absolute sense directly concerns human ends or goods that flow from our natural inclinations. Such inclinations were impressed upon us by God, and participatively express the original divine plan for

⁷ This explains why Thomas does not mention the possession of external goods as one's own in *STh* I^a-IIae, q. 94, a. 2, resp. The hypothesis that it would be a human natural inclination implicit in this article (which, at first glance, would be possible, as the list of inclinations is not exhaustive) must be rejected, given what he says in *STh* II^a-IIae, q. 66, a. 2, ad 1 and in *STh* II^a-IIae, q. 57, a. 3, resp.

⁸ J. BUDZISZEWSKI, *Commentary on Thomas Aquinas's Treatise on Law* (New York: Cambridge University Press, 2014), 283.

⁹ *STh* I^a-IIae, q. 95, a. 2, resp.

¹⁰ *STh* I^a, q. 98, a. 2, resp.

¹¹ *STh* I^a, q. 98, a. 1, ad 3.

¹² *STh* I^a-IIae, q. 94, a. 5, resp., and II^a-IIae, q. 66, a. 2, ad 1.

His creation. Given the necessities we've come to have as a result of original sin, human reason added certain rights to natural law, which have the character of means, instruments, or institutions, useful to human life in the present state. These additions, however, do not belong to natural law absolutely considered, as they do not reflect God's original plan for His creation, but rather the consequences resulting from human being having deviated from it.

Despite foreseeing, by following the footsteps of Aristotle, the advantages of establishing the right to private property through human convention in the present state¹³, for Thomas, as well as for all the Church Father, the commonality of goods has not ceased to be a natural right after the fall. Aquinas relies on this both to propose the human convention must be set aside in cases of extreme necessity¹⁴, and to remind us that the commonality of goods is observed even now among many good men.¹⁵ Where many saw an insurmountable contradiction, in Thomas' theory it turns into harmonization. This is only possible because Aquinas innovated by conceiving the right to property in light of the criterion of the consequential adequacy of good to nature. From this perspective, both commonality and division of possessions can be convenient for men, insofar as they arise from our natural inclination to live in society.

Notably, the determining factor in judging the convenience of the commonality or the division of possessions, according to Thomas, is the goodness of members belonging to the community. Aquinas leaves no doubt about it. First, he says that the commonality of goods was and would continue to be the system adopted in Eden if there had been no fall, because, in the state of innocence, human wills would be ordered in such a way that men would share goods without any danger of strife. Afterward, Thomas asserts this practice is observed even now among many good men. It is clear, thus, that by "good men" Aquinas is referring to persons who have absolutely ordered wills, and that the paradigm of this ordering is the differentiated human condition from the state of innocence. In the present state, the closest to this ideal—and yet very far away from it—is the way of life of religious Orders.¹⁶ Therefore, it can be said that, for Aquinas, neither the commonality nor the division of possessions are intrinsically good. For small, homogeneous, and cohesive groups of "good men"—persons who have already reached the "state of perfection" characteristic of religious life, or that have consecrated their lives entirely to divine service, whether they are "beginners" or "proficient" in

¹³ *STh* II^a-IIae, q. 66, a. 2, resp. Aquinas gives three arguments in favor of establishing the right to private property after the fall: it brings more *order* and *peace* to a community, in addition to providing a more *efficient* management of goods. Regarding use, Thomas says that "man ought to possess external things, not as his own, but as common, so that, to wit, he is ready to communicate them to others in their need". He is also here inspired by Aristotle, who, in *Politics* (Book II), maintains that, although property should be private, its use should be common. Aquinas connects this idea with a quote from *The First Epistle of St. Paul to Timothy* (6:17-19), in which the Apostle exhorts the rich to be generous and ready to share.

¹⁴ *STh* II^a-IIae, q. 66, a. 7, resp.

¹⁵ *STh* I^a, q. 98, a. 1, ad 3.

¹⁶ *STh* II-II, q. 186, a. 1, ad 3.

religion¹⁷—, the commonality of possessions is adequate; for large human groups, inescapably heterogeneous, composed for the most of human beings who “are not perfect in virtues”¹⁸, division of possessions proves to be more convenient.

¹⁷ *STh* II-II, q. 186, a. 1, ad 3.

¹⁸ *STh* I-II, q. 96, a. 2, resp.