

Notes on Justice, Law, Religion and Revenge in Thomas Aquinas¹

Apuntes sobre justicia, derecho, religión y venganza en Tomás de Aquino

Sergio Salles²

Rafael Martins de Oliveira Mendes Gomes³

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Abstract

Knowledge of the theory of justice and law in Thomas Aquinas is the basis of his interpretation of religion and revenge. The present investigation intends to note the constitutive elements of Thomas' reflection on religion and revenge as special virtues. This approach demonstrates that one cannot understand his ethical and theological conception of the virtue of justice without religiosity as a virtue by which one gives to God what is due to Him and revenge as a legal and legitimate form by which the judge sentences what is due to each party.

Keywords: justice, law, religion, revenge, Thomas Aquinas

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² Philosophy Doctor by Pontifical Catholic University of Rio de Janeiro, Brazil. Professor of Philosophy at Catholic University of Petropolis, Brazil. E-mail: sergio.salles@ucp.br. Orcid: <https://orcid.org/0000-0002-2759-1344>

³ Magister in Law by Catholic University of Petropolis, Brazil. Professor of Philosophy at Catholic University of Petropolis, Brazil. E-mail: rafaelcatolico@hotmail.com . Orcid: <https://orcid.org/0000-0002-2419-0123>

Resumen

El conocimiento de la teoría de la justicia y el derecho en Tomás de Aquino es la base de su interpretación de la religión y la venganza. La presente investigación pretende señalar los elementos constitutivos de la reflexión de Tomás sobre la religión y la venganza como virtudes especiales. Este enfoque demuestra que no se puede entender su concepción ética y teológica de la virtud de la justicia sin la religiosidad una como virtud mediante la que se da a Dios lo que es debido y la venganza como forma una legal y legítima mediante la cual el juez dicta lo que es debido a cada parte.

Palabras clave: justicia, derecho, religión, venganza, Tomás de Aquino

Introduction

Considering justice in the light of real and procedural truth belongs to legal wisdom and relates precipitously to contemporary concerns around judicial decision. Currently, we talk about the "right to truth" and a "victim's right to truth" as a form not only of reparation but also of reconciliation rather than revenge. As Luis Germán Ortega-Ruiz and Juan Pablo García Miranda (2019) point out: "El derecho a la verdad de la víctima está íntimamente ligado al derecho a la justicia" (p.44). Since there is no right to justice without a right to truth, this paper seeks to develop the relationships between the concepts of law, justice, religion, and revenge in the work of Thomas Aquinas.

The part of the *Summa Theologica* that deals with the analysis and exposition of justice - and, therefore, of interest to the present study - is commonly known as the Treatise *De Iustitia* or, in its complete form, *De Iure et Iustitia*, that is, "On Law and Justice". St. Thomas calls the Treatise *De Iure et Iustitia* simply *De Iustitia*, as can be seen in the prologue of the same treatise: "*consequenter post prudentiam considerandum est de iustitia*"⁴.

With this appellation, the seven treatises on the seven virtues, *De Fide*, *De Spe*, *De Caritate*, *De Prudentia*, *De Iustitia*, *De Fortitudine*, and *De Temperantia* fit together organically and logically. Thus, it follows the same didactic model as the other virtues, whether theological or cardinal. The *De iure* addendum to the title refers only to the first question of the treatise (S. Th. II-II q. 57), already included in the study of justice as an analysis - "always primordial" (Urdanoz, 1956, p.

⁴ S. Th. II-II q. 57 prol.

160) - of its own object. This object, that is, law, is not treated alongside virtue, but is inserted into justice as an intrinsic aspect, rather than a subject of its own.

It was the classical theologians, already of the Second Scholasticism, who, by making this Thomistic treatise the special object of their great commentaries, popularized the composite title, which has now become sedimented. However, this title has an enormous history and obeys a multi-secular tradition and, as the Dominican Thomist Fr. Domingo Báñez explains, the Roman jurisconsults had already designated their compilations of civil law as *De iustitia et iure*. Gratian himself called his first four distinctions *De iure et iuris differentia*. It will be the compound title taken by the same Báñez for his great commentary: *Decisiones de iure et iustitia*. It is, therefore, of an already established usage (Urdanoz, 1956, p.161).

Thus, according to St. Thomas' own handwriting, the Treatise in which this study focus is called *Tractatus De Iustitia*. However, doing justice to the philosophical tradition to which the Doctor of Aquinas belongs and that which sprang from his thought, the so-called Thomistic school, it is appropriate to call it *De Iure et Iustitia*: as did Báñez in the 17th century, the Salamanca school in the 20th century and as can be done in the 21st century. However, since it is more important to know the concept than to define the term - the latter action being ordered to the former - one must proceed in the study of justice beyond its name.

For the reader to understand the object of the present investigation, a table adaptation of the treatise is presented below, with the parts corresponding to the discussion proposed here highlighted in bold.

Table 1 : De Iure et Iustitia

1. justice itself ^(S. Th. II-II q. 57-60)	1. its object ^(S. Th. II-II q. 57)		
	2. nature of justice in itself ^(S. Th. II-II q. 58)		
	3. its opposite vice, injustice ^(S. Th. II-II q. 59)		
	4. its proper act: the judgment ^(S. Th. II-II q. 60)		
2. the parts of	1. the subject	1. of the parts of	1. distinction of commutative and distributive justice ^(S. Th. II-II q. 61)

		justice itself	2. the act proper to commutative justice: restitution (S. Th. II-II q. 62)				
		2. of the opposite vices	1. to distributive justice: the sense of persons (S. Th. II-II q. 63)				
					1. in the facts	1. against his person (S. Th. II-II q. 64)	
						2. in its members (S. Th. II-II q. 65)	
						3. in his goods (S. Th. II-II q. 66)	
				2. in the words	1. in judging injustice	1. on the judge (S. Th. II-II q. 67)	
						2. in the promoter (S. Th. II-II q. 68)	
						3. on the defendant in his defense (S. Th. II-II q. 69)	
						4. in the witness (S. Th. II-II q. 70)	
						5. on the lawyer (S. Th. II-II q. 71)	
				2. out of trial	1. the contumely (S. Th. II-II q. 72)		
		2. the defamation (S. Th. II-II q. 73)					

							3. murmuring (S. Th. II-II q. 74)													
							4. the mockery (S. Th. II-II q. 75)													
							5. the curse (S. Th. II-II q. 76)													
				2. in voluntary exchanges (S. Th. II-II q. 77-78)	1. fraud (S. Th. II-II q. 77)															
					2. usury (S. Th. II-II q. 78)															
	2. the integral parts (S. Th. II-II q. 79)																			
	3. the potential parts: the virtues attached to justice (S. Th. II-II q. 80-120)																			
3. the corresponding gift: piety (S. Th. II-II q. 121)																				
4. the precepts of justice (S. Th. II-II q. 122)																				

Source: adapted by the authors from Urdanoz (1956, p. 165).

Virtue

That justice is a virtue is clear from the material presentation of the treatise on law and justice. However, it must be clarified not that it is a virtue, but what virtue is, without which justice cannot be understood, since justice is to virtue as the species is to the genus.

Aquinas defines virtue as an operative habit:

Virtue, according to the very signification of the word, implies a certain perfection of power, as there are two powers-one concerning being and the other concerning acting-the perfection of the one and the other is called virtue. But the power to be is based on matter, which is a potential being; while the power to

act is based on form, which is the principle of action, because a being acts insofar as it is actual. Now, in man's constitution, the body behaves as matter, and the soul as form. Now, man has a body like brutes, as he also has powers common to the body and the soul. Only the powers proper to the soul, that is, the rational powers, belong exclusively to man. Therefore, human virtue, which we are now dealing with, cannot belong to the body, but only to what is proper to the soul. Therefore, it does not imply that it is ordered toward being, but rather toward acting. And therefore, it is of the essence of human virtue to be an operative habit⁵.

From this it is clear that virtue is implicated in the faculties of the soul (intelligence and will), that is, human virtue does not belong to matter, but to form. Virtue, according to St. Thomas, is perfection of potency, referring to being (passive potency) or acting (active potency) and this potency is actualized in the act. The Angelic Doctor goes on to clarify that virtue, besides being an operative habit - that is, a potency to act - is, more specifically, a good operative habit. Vice, on the other hand, is also an operative habit although evil:

As has already been said, virtue implies the perfection of power; therefore, the virtue of a being is determined by what it is ultimately capable of, as has been established. Now that of which virtue is ultimately capable must necessarily be good, for every evil implies a certain defect; hence Dionysius says that every evil is an infirmity. And therefore, the virtue of a being must be ordered to the good. Therefore, human virtue, which is an operative habit, is a good operative habit of good⁶.

As Father Garrigou-Lagrange, O.P. clarifies, “virtue perfects man, inclines him to a good end, and makes him, not only a good painter, a good sculptor or a good mathematician but also a good *man*” (1958, p. 32). That is to say that more than making a judge a good judge, it makes him a good man, which is why St. Thomas defines virtue as “that which makes the one who possesses it good and his works good”⁷. But not being the perfection of a technique does not imply that it will make a man good in an abstract and not tangible way, because it will also make his actions good - by which it is known that a man is virtuous or not. In this way, a virtue will make a man good *in concrete*, that is, in what is the object of this or that virtue. If, for example, the object of a certain virtue is the law and its proper

⁵ S. Th. I-II q. 55 a. 2 co.

⁶ S. Th. I-II q. 55 a. 3 co.

⁷ S. Th. II-II q. 81 a. 2 co.

act is judgment, the one who possesses such virtue will not only always refer to the law but will issue good judgments because they are just.

And this is because virtue, already in its first definition, implies violence: “the term virtue, seen in its first imposition, sounds like a certain violence”⁸. Virtue, being strength and power, has the characteristic of restraining evil and contrary impulses, facilitating the practice of good. Therefore, the Doctor of Aquinas explains that, by repetition, virtue makes it easy to perform the act of which it is the habit⁹ in such a way that it constitutes a second nature, that is, it makes the act connatural to the virtuous. If the virtue is justice, for example, it will make the just connatural to straight things, creating in him the facility not only to want to give to each what is his but to actually give. As Garrigou-Lagrange (1958) establishes:

The acquired virtues already bring to the surface the depths of the soul (...). The acquired virtue of justice reveals the greatness of the human soul, especially when, for the common good of society, it causes the enactment and enforcement of just laws that may require great sacrifices, including the sacrifice of one's own life. Let us remember the death of Socrates, unjustly condemned and reluctant to escape from prison out of respect for the laws of the homeland. (p. 35)

However, this is already delving into the virtue of justice, which is why we must refer to its exposition.

Justice

Aquinas defines justice as “the constant and perpetual will to give to each his due”¹⁰. He does not stop, however, at the proposition of the definition, but states that it must be well understood:

The definition of justice given above is appropriate if it is well understood. For since every virtue is a habit which is the principle of good acts, it is necessary to define virtue by a good act, having for object the very matter of virtue. Now, the proper matter of justice is the acts concerning others, as will be explained below. Therefore, the act of justice is indicated about its proper matter and its object, when it is said: “give to each his right”; because, as Isidore says, “he who keeps the right is called just”. But whatever the matter in which it is exercised, an act,

⁸ In Sent. lib. 3 d. 23 q. 1 a. 3 co.

⁹ In Sent. lib. 2 d. 24 q. 1 a. 1 co.: “*per quem habitum facilis est in suum actum*”.

¹⁰ S. Th. II-II q. 58 a.1 co.

to be virtuous, must necessarily be voluntary, stable, and firm. Indeed, the philosopher says: For the act of virtue it is required, first, that it be done with knowledge; second, with choice and for a due end; third, with unshakable firmness. Now, the first of the conditions are included in the second, for what is done out of ignorance is involuntary, according to Aristotle. Therefore, in the definition of justice, the will is mentioned first, to show that the act of justice must be voluntary. But constancy and perpetuity are added to indicate the firmness of the act. Thus, then, the said definition of justice is complete.¹¹

Thus, justice develops in the exercise of reason and will, given that it is a virtue, that is, a good act that is willed by reason and executed by the will, because a virtuous act has a triple dimension: voluntariness, stability, and firmness. This is the point on which the definition of justice is based, demonstrating it as a voluntary act and adding constancy and perpetuity to emphasize its firmness.

Of all these conditions, the first is that it must be founded on intelligence or, more precisely, for it to “be done with knowledge (...) because what is done in ignorance is involuntary”, whereas justice is exactly “the constant and perpetual will to give to each his due”¹². Now, it is not possible to will (an act proper to the will) what is not known (an act proper to intelligence); for this reason, for an act befitting of justice to be willed, it must be known, to be voluntary, it cannot be ignored: in the virtue of justice knowledge is implied. But the object of intelligence is truth, hence it follows that the virtue of justice will occur only where mind is adequate to reality. Therefore, no act of justice can, properly and formally, be performed without reference to any foundation in truth. No one can be just “unwillingly” or by chance, just as no one can practice justice without knowing what is just.

Another aspect implied in the virtue of justice is equality. In fact, according to St. Thomas Aquinas, justice is the same as adjustment, that is, returning to equality. But when we think about the meaning of the term *equality* we may consider several examples, such as the apple cut exactly in half. From this image, one can question the purpose for which the apple was cut in half. And the deduction that reason most easily captures is that it was divided to feed two people in the same measure. From this picture alone we can see that justice itself is implied in the relation of equality to another. Thus, justice clearly implies the diversity of individuals in mutual relationships.

¹¹ S. Th. II-II q. 58 a.1 co.

¹² S. Th. II-II q. 58 a.1 co.

As has already been said, the name justice implies equality; therefore, in its very concept, justice entails a relationship with another. For nothing is equal to itself but to another. Now, since it is up to justice to rectify human acts, as has already been explained, it is necessary that this otherness, which it demands, exists between different agents. Actions emanate from the person and the whole, not properly from the parts, forms, or faculties. For, it is not properly said that the hand wounds, but that the man wounds by the hand, nor that heat warms, but that fire warms by heat. Unless one speaks figuratively. Justice, properly speaking, requires a diversity of persons, therefore it can only be of one man about another (...).¹³

In the light of the above, it follows that the virtue of justice properly implies personal otherness. Justice is the virtue that is concerned with reestablishing a relationship of interpersonal equality. *Ex litteris* and, justice, for St. Thomas, is properly practiced only when addressed to a person, that is, an intelligent individual. Thus, justice is only addressed to men, to angels, and God, to no other individual.

Justice, then, implies personal diversity, and so, as far as this aspect is concerned, the reason for justice is only fully realized when another person is involved. Should there be a situation where it is not fully realized, this does not mean that nothing is accomplished, but may mean realizing a part of it: since the part is implicated in the whole, for the whole to be *in toto* contemplated, all the parts must also be so. Thus, the re-establishment of certain equality concerning a non-personal individual - and this touches the debate today, as it relates to what can only be called “animal rights” - or to a part, power or faculty that is part of and realizes the reason for justice: in short, everything that is included in the idea of order and the re-establishment of order - and this because “give to each his own”¹⁴ implies order, for an order is the state in which each thing is in its proper place - realizes in a certain way the reason for justice. This, however, can only be affirmed if one understands the existence of three levels of justice, as inferred from the *Commentary on Aristotle's Ethics*, to we must now proceed.

Division of Justice

St. Thomas presents a tripartite division of morality:

¹³ S. Th. II-II q. 58 a.2 co.

¹⁴ Cf. S. Th. II-II q. 58 a.1 co.

Moral philosophy is divided into three, of which [a] a first considers the operations of a man ordered to the end and is called monastic¹⁵ ; [b] a second considers the operations of the various [members] of a household and is called economic; [c] a third considers the operations of the various [members] of civil [society] and is called political¹⁶

This division does not concern just one part of morality, but morality as a whole. Therefore, it affects the same morality in every one of its parts, among which is justice. Thus, from what was stated by St. Thomas in his commentary on Aristotle's *Ethics*, a threefold division of justice is established, namely (a) monastic or individual justice, (b) economic justice¹⁷ or domestic justice, and (c) political or civil justice. Thus, one deals with justice as applied to society (c), another, applied to the minimum cell of the social body, the family (b), and another, to the minimum constitutive of the family, the individual (a).

Since “it is of the essence of justice to give to the other what is due to him”¹⁸, it is not surprising to speak of a (b) economic justice and a (c) political justice, since both imply, by their nature, the other (*alter*), a constitutive term of the definition. It is not evident, however, how one can speak of (a) monastic justice, since *stricto sensu* the other is properly excluded.

St. Thomas, in explaining what the object of justice is, considers justice a virtue that leads man to establish a relationship of equality with the other, but does not speak of establishing this relationship with oneself. Justice is that virtue that enables man to come out of oneself and have a vision of what is not only in oneself but in others. Justice perfects in man the ability to perceive that the relationship between oneself and others must be “just,” that is, based on equality:

Among the other virtues, it is proper to justice to order man concerning others. It implies, in fact, certain equality, as its name indicates since it is commonly said that what is equal “is adjusted”. Now, equality presupposes a relationship with

¹⁵ The names derive from Greek roots and are self-evident: (a) *monastic* from μόνος, that is, unique, alone, because it is about an individual; (b) *economic* from οἰκία, that is, house, because it deals with the members of a house (Latin *domus*, hence domestic), in the sense of family; (c) *political* from πόλις, i.e. city, because it deals with the members of a society (Latin *civis*, whence civil).

¹⁶ In *Ethic. lib. 1 l. 1 n. 6*

¹⁷ One can see, from what the Aquinas explains in the *Commentary on the Ethics*, that economic justice here has nothing to do with the vulgar use of the expression, whose semantics has, in recent decades, been appropriated by the left, and whose meaning refers - to remain in the same semantic field - to the distribution of capital.

¹⁸ S. Th. II-II q. 80 co.

others. The other virtues, on the contrary, are perfect man only in what concerns himself¹⁹.

Clearly, the Common Doctor considers justice concerns itself with the perfecting of man about others, but not as if it excluded self-improvement: “The other virtues, on the contrary, perfect man only about himself”. With this statement, he does not intend to exclude self-improvement, which would be contradictory to the very definition of virtue, which is, “that which makes the one who possesses it good and his works good”²⁰. That is, if justice is a virtue, by its very nature it perfects the just.

Therefore, the Angelic clarifies that justice also implies - like the other virtues - righteousness of intention of the agent who practices it. What he points out is that this righteousness in any of the other virtues has as its object the agent's virtuous intention. But this does not occur with justice, because the activities performed by it, even without taking the agent into account, are constituted in a relationship with the other. Thus, it establishes righteousness of action that is independent of the agent. Therefore, what man possesses of justice in himself must be turned to the other, inequality, because the object of justice is determined in itself.

Thus, in the activities of the other virtues, the righteousness aimed at by the virtuous intention as its proper object takes into account only the agent. The righteousness, however, in the action of justice, even without considering the reference to the agent, is constituted by the relationship with the other. We consider as just in our actions that which corresponds to the other, according to certain equality, for example, the remuneration due for a service rendered. Consequently, the name just, which characterizes the righteousness that befits justice, is given to what the action of justice accomplishes, without taking into account the way of proceeding of the one who acts. In the other virtues, on the other hand, righteousness is determined only by the conduct of the one who acts. This is why, in a special way and above the other virtues, the object of justice is determined in itself and is called just²¹.

It is clear, then, that justice properly speaking is a social virtue, since its characteristic is that it is directed to the other. But it is also clear that there must be a monastic or individual justice, since, as St. Thomas himself maintains, all morality - and this includes justice - is divided into (c) political, (b) economic, and

¹⁹ S. Th. II-II q.57 a. 1 co.

²⁰ S. Th. II-II q.47 a.4 co.

²¹ S. Th. II-II q.57 a. 1 co.

(a) monastic. One must, therefore, maintain that the other cannot here be understood as individual, which would imply a contradiction: the individual cannot be divided. It is necessary, therefore, that *alter* be taken analogically and not univocally.

While the individual is indivisible *in re*, it is not indivisible *in ratione*, so man, which is *in* itself indivisible, is divided into a material body and a spiritual soul²². This same soul is further divided into spiritual or intellectual (while it exercises its intelligence and will), sensitive (while it feels), and vegetative (while it gives life to a body).

As the human individual is not simple, but complex, that is, he presents a composition, both in his essence and in his substance, one can properly divide - even if, as said, *in ratione* - the human being into parts. The main and most evident division is found, as pointed out, in the essential composition of man into a material part and a spiritual part, the body and the soul, the latter acting as a form to the former. While it cannot be denied that in the body there is a diversity of members, the diversity of powers in the soul is not, however, so evident. Wondering about the reason for this, Gardeil (2013) asks himself the question, “Is there room in the soul for distinguishing the various powers?” (p. 41). To which he answers in the affirmative, because “the multiplicity and diversity of operations which we find in the living, especially among the highest, would not be explained without this.”²³.

As St. Thomas explains, the powers of the soul are distinguished by their proper acts and objects²⁴, that is, wherever there is an act or object that cannot be reduced to another, there will be a power of the soul that cannot be reduced to another, but which is distinct: “a power [is] ordered to an act; hence it follows that the powers are diversified according to the acts to which they are related; but, on their part, the acts are specified by their objects” (Gardeil, 2013, p. 41). Thus, a first division can be placed in the soul, as alluded to, in which an intellectual, a

²² It must be said that this division is not possible *in re* while man is man and, when it occurs, it is called death and there is no longer a man, composed that is of body and soul, but a corpse (which is an inanimate body) on the one hand and a human soul on the other, which is bad both for the one and for the other, who are left without realizing their ends, which are, respectively, to be animated by an intelligent form and to animate a material body. Although this affirmation may seem strange to a time and a culture accustomed to a sort of Neoplatonic dualism and a Manichean and spiritualist religiosity, it is not so strange to the Christian, enlightened as he is by Aristotelian-Thomistic anthropology and by faith in the resurrection of the bodies, a supernatural corollary of this natural doctrine. Cf. *In Symb*, a. 11.

²³ Ibid.

²⁴ Cf. Q. D. De anima, a. 13 s. c. 1; De Anima, lib. 2 l. 6 n. 10; S. Th. I q. 77 a. 3 s.c.).

sensitive, and a vegetative power are diversified; to which two more generic faculties or powers are added, namely, an appetitive and a motor secundum *locum*.

With his elegance, Chesterton clarifies that “it was a very particular idea of St. Thomas that man is to be studied in all his humanity, that a man is not a man without his body any more than he is a man without his soul. A corpse is not a man, but neither is a ghost a man” (Chesterton, 2002, p.34). With this, not only the uniqueness of man is affirmed, but also his complexity: if it is possible not to see the whole man, it is because he has parts. And if he has parts, they must be ordered in the whole.

It is thus seen that there is in man a diversity of appetites, tendencies, and faculties which, like any whole, imply an order, in which the parts are subordinate. It is these parts which, analogously, by the relation they present among themselves, can be called reciprocal *alter*: as these parts are distinguished properly, one can be said to be “other” about the other. In this way, one could say that intelligence is to the will as an “other” and vice versa. In the same way, each sense is the “other” of the others, each potency the “other”, etc. And it is the presence of this *alter* that constitutes the possibility to speak of justice, since it is “of the essence of justice to give to the other what is due to him”²⁵.

Admitting this *alter*, said *lato sensu*, one can understand how there can be a justice intrinsic to the individual, a (a) monastic justice. By this justice, one party gives to the other what is rightfully his. Thus, the intelligence must give to the will what is rightfully its own, and the will must give to the senses what is rightfully its own. In the same way, it is incumbent upon the will, the senses, and all human powers to give to the intelligence the supremacy, which is rightfully it. The most perfect act is intelligence, because it begins and ends in itself; it is the most immanent act since it perfects itself. Thought is the only act that the being possesses integrally because it ends in itself, it does not turn outwards.

As said, man possesses a diversity of appetites, tendencies, and faculties which, like any set, imply an ordering. Thus, in man, the needs of the higher faculties must be supplied with priority. Now, man will find his perfection and the orderliness of his appetites, tendencies, and faculties through the volitional and rational faculties - especially the latter, since the rational faculty is before and light of the will. Thus, man's internal unity consists in the ordering of the inferior

²⁵ S. Th. II-II q. 80 co.

faculties to the superior faculties, that is, from the external senses to the internal senses, from the external senses to the will, and from the will to reason.

And it is because of this, because of the existence of a (a) monarchical justice that “righteous” is synonymous with “holy” in the Holy Scripture. That “just” - “*iustus*”, δικαιος, קַדִּישׁ- is in scriptural language what is theologically called holy is certain and accepted by all; the reason why, however, should be clarified. The existence of an individual or monastic order for justice, according to which, in the same individual, its various parts or powers and faculties must order themselves, that is, give each what is due to the other. Therefore, when this individual and intrinsic justice (a) is practiced, man - each man in his singularity - is reordered according to his natural principles, even opening nature to what is adventitious and superior to it - the supernatural, grace -, as is right²⁶. Now, since these natural and supernatural principles and this order are impressed on creation by the Creator²⁷ to reestablish this order and these principles (which is an act of justice) are to render filial worship and obedience to God, which constitutes holiness²⁸. Moreover, order is always given an end, so the order established by (a) monastic justice is ordered to the good of the individual, which is only realized in the High Good, which is God. For these reasons, the terms “just” and “holy”, “justification” and “sanctification” are so intrinsically united that they can be taken one for the other, as the Holy Scriptures do. Not without reason, therefore, Catholic theology calls the pre-lapsarian state of the first parents original justice²⁹, because it had all their powers perfectly ordered.

Because of this, it is right that supremacy should be given to intelligence in the order intrinsic to the individual-all just order and all justice, whether (c) political, (b) domestic, or (a) monastic, must be founded on truth, which is the object of intelligence: as “*bonum integra causa*”³⁰, so that the virtue of justice may be said to be realized, it must be so in all three orders, political, domestic, and monastic. And since what is prior in principle must be maximally observed, “*quia parvus error in principio magnus est in finis*”, it must be held that the full realization of

²⁶ As is clear from the above: since right implies that each thing is given what is its own, the supernatural is obviously to be over nature, and nature is therefore subject to it.

²⁷ cf. S. Th. Iq. 15 a.1 co.

²⁸ S. Th. II-II q. 81 a. 8.

²⁹ C. Th. lib. 1 c. 187

³⁰ Cf. S. Th. II-II q. 79 a. 3 ad 4um.

the virtue of justice can only occur founded in truth. For this reason, the study will now proceed to explore the relation between justice and truth.

The relationship between justice and truth

Justice depends heavily on truth, especially on the possibility of attaining truth. This is because not only does truth imply a relation of equality - between mind and thing, in Isaac Israeli's expression - but justice also (and much more evidently) implies it, especially if one considers the commutative species of justice. Think, for example, of the restitution that belongs to this species: to be able to retribute something it is necessary to recognize it; since it will not be possible to retribute the right if one does not know its object. Here justice depends fundamentally on truth because if it is not possible to know, objectively, someone's right, it will not be possible to attain it. On the contrary, if what is known as right is not what is truly right, restitution will be an act of injustice rather than justice. The concept of justice, to be true, must be grounded in truth.

The question about law is, therefore, a fundamentally gnoseological question and can only be answered if the possibility of knowing is established. If man could not know the definition of law, it would be an arbitrariness at best and would not be just in itself. For just as the virtues interpenetrate, they mutually imply each other, in such a way that the just must be true, and the truth is an act of justice by which the intellect is given what is rightfully its, intellection, the knowledge of the truth.

This can only be affirmed to the extent that every virtue, by its very definition, is a good habit: being based on goodness, the more virtuous the act is, the more it participates in goodness. Consequently, the more it will be, since the more it participates in being, which only differs from goodness in reason. Thus, the more just an act is, the truer it will be because the more up-to-date will be the reason for goodness, which are contained the virtues of justice and truth.

It should be further stated that because the truth is the same goodness under another reason, that is, good and truth is the same reality - that is, that of being -, every act of virtue, insofar as it is good - since this transcendental is implied in the definition of virtue - is true. Thus, the more just an act is, the more virtuous it will be, and the more virtuous it will be, the more it will participate in the reason of good, in its goodness and its truth. Thus, by logical necessity, the more just the act is, the truer it will be.

One can thus repeat with Salles and da Silveira (2012) that “the Thomist position on human knowledge (...) depends intrinsically on his philosophical proposal about being” (p. 398). And one should go a step further and say that not only the Thomist position on human knowledge, but the whole of Thomist philosophy depends on its philosophical proposal on being because, *in re*, everything depends on being. This gnoseological dependence reflects the real dependence of being, participated³¹ to all that there is by *Ipsium Esse Subsistens*.

Religion and revenge as a special justice

Now, this ontological dependence of all things not only grounds everything - and consequently law and justice - but demands itself an act of justice by which everything that exists recognizes in the Being its origin and manifests, each in its way, this recognition. Man, whose mode of being is simultaneously material and spiritual, external and internal, will only justly manifest this recognition if he does so in a way that is simultaneously material and spiritual, external and internal. Now, this act by which man renders the worship due to the First Principle as such is called *eusebia* or *theosebia*³², and is nothing else than the virtue of religion under the First Principle.

Given the gravity of this virtue and the space that the Doctor of Aquinas dedicates to it in his treatise on justice³³, it is not possible to explain the virtue of justice from a Thomistic perspective without explaining what the virtue of religion is. And this is because this is a very peculiar virtue. After all, although it is a kind of justice, it reigns over justice: although religion is for justice as the kind for the genus, justice is equally for religion as the means for the end. Thus, in the mode of empire³⁴, every act of justice is an act of religion, just as, under the reason of genus, every act of religion is an act of justice. Since these two virtues and their acts interpenetrate one must therefore expound such virtue, which will be done.

Moreover, however, justice is not exhausted in a generic exposition, nor even in the exposition of its application to even the most excellent persons, such as God (religion) or parents (piety). Many other virtues are annexed to justice, and the

³¹ “Participate” here is understood to mean “give participation to another” and not “participate in something himself. God does not participate in being, He is Being; consequently, everything that participates in being receives it from the Subsistent Being Himself.

³² S. Th. II-II q. 81 a. 1 ad 4um.

³³ If, as seen, in Urdanoz's opinion, the treatise on religion can be seen as a separate unit, it cannot be denied that the same St. Thomas inserts it in the section on justice, since it is the application of justice to God. In any case, in Urdanoz's own expression, this part of the treatise contains “*deberes más excelsos*” of justice or, one could say, it is the completion and perfection of this virtue.

³⁴ cf. S.Th.II-II q. 81 a.4 ad 1

explanation of justice would only be exhausted by exhausting the exposition of each of these virtues that shed light on the understanding of justice, which is not at all possible within the limits of a study such as this one. Not being able to exhaust all the issues involved, however, does not excuse us from dealing with some of them, especially if they are directly associated with the subject being discussed. Here it is necessary to explain a virtue that is difficult to understand, namely, the virtue of revenge, which is predicated especially on the subject of action that is the judge. Thus, it is convenient to explain religion first, and then, vengeance.

Religion

Justice is a virtue that refers also to God and this is already visible from the beginning of his *Summa Contra Gentiles*³⁵, when St. Thomas exposes the apophatic method in the knowledge of God, that is, the process by which from negation to negation, we shall reach a certain human knowledge about the divine substance. But if He is “distinct from all”³⁶, then He is the Absolute Other, and if justice is the virtue of giving to the other what is due to him, to whom is justice more properly tributed if not to Him who is the Other *par excellence*? Now, this preeminent kind of justice is none other than religion, that is, the virtue of giving to God what is rightfully His, namely worship. Not without reason, immediately after explaining justice *in general*, St. Thomas will dedicate himself to the virtue of religion, for which he reserves no less than 23 articles, 35% of the entire treatise *Iure et Iustitia*.

Religion is a part of justice distinct from its other parts, as St. Thomas asserts: “it is considered as a part of justice, distinct from its other parts”³⁷. And this is because virtue concerns good, and where there is a specific good there is a specific virtue; but the specific good to which religion is directed is to exhibit to God the debt (justice) of honor (to honor God, according to justice):

³⁵ Cf. *Contra Gent.*, lib. 1 ch. 14

³⁶ God is distinct from all things: “*habet enim res unaquæque in seipsa esse proprium ab omnibus aliis rebus distinctum*” (*Contra Gent.*, lib. 1 chap. 14 n. 2); “*de substantia eius erit propria consideratio cum cognoscetur ut ab omnibus distinctus*” (*Ibid.* n. 3). (Our underlining)

³⁷ S. Th. II-II q. 81 a. 4 sed contra: “*Sed contra est quod ponitur pars iustitiæ ab aliis eius partibus distincta.*”

Now, the good that religion aims at is to render to God the honor due to Him. But honor is due to someone because of his excellence. Now, God, who overcomes all things infinitely by an ominous superiority, has singular excellence. Therefore, special honor is due to him, just as, in human affairs, we see that to diverse excellences (persons that are) a special honor is due-one to the father, another to the king, and so on. Therefore, it is manifest that religion is a special virtue³⁸.

Religion is, therefore, a special virtue, specific and distinct from the others insofar as its object is distinct. Although every virtuous act is a sacrifice insofar as it is oriented to the reverence of God, religion is not a generic virtue, that is, not specific. Every virtuous act is sacrifice insofar as it is oriented toward reverence for God because religion prevails over all the other virtues³⁹. And the reason for this is that it is ordered to the Highest Good, to which all the other virtues are also ordered, since it is the ultimate end: since every intermediate end has a middle ground about the ultimate end, all the virtues have, regarding religion, a middle ground proportional to the distance that exists between their ends.

Thus, the acts done for the glory of God belong to religion not because they are caused by it, but because they are subordinate to it⁴⁰, from which it follows that every act of justice, such as stating what is right or issuing a judgment must be an act of religion, not because these are directly caused by the virtue of religion - which they are not, since these proceed from the virtue of justice - but because these are subordinate to religion as the means are subordinate to the end. It can be seen, then, that for St. Thomas Aquinas religion is the virtue of virtues, just as its end is the end of all ends, the act of all acts, and the perfection of all perfections.

Thus, acts of the virtue of religion, properly and immediately, are all acts that are ordered only to God, such as oblation, worship, sacrifice, etc. But equally acts of the virtue of religion, improper and mediated, are those acts of the virtues over which religion reigns, ordering them to the reverence of God, such as caring for widows and orphans, keeping oneself pure, or even judging justly:

Religion implies two kinds of acts. Some of them are proper, immediate, and lawful, such as sacrifice, worship and the like, by which man orders himself to God alone. Other acts, however, are produced through the virtues over which it

³⁸ S. Th. II-II q. 81 a. 4 co.

³⁹ S. Th. II-II q. 81 a. 4 ad 1

⁴⁰ S. Th. II-II q. 81 a. 4 ad 2

rules, orienting them to the divine reverence. For, the power on which the end depends reigns over those on which the means depend⁴¹.

But among the proper and immediate acts, *latria* and *eusebia* stand out, which, being one *in re*, have distinct reasons: *latria* is called the servitude due to the supreme lordship of God⁴², and *eusebia* or *theosebia*, the special worship due to the First Principle⁴³. But what is due to someone, his right, is the very object of justice, as will be seen. Hence it follows that religion belongs to justice as the species does to the genus. But justice is a moral virtue, from which it follows that religion is also a moral virtue, and not a theological virtue⁴⁴. The reason for this is that God is not the object of this virtue, but the end to which it is directed⁴⁵. The theological virtues, on the other hand, have their acts referred to God as to their proper object⁴⁶: religion has for object the rendering of reverence to one God under one reason only, which is, as First Principle⁴⁷.

Moral virtue, on the other hand, is characterized by the opposition between excess and lack. From this, it follows that religion, as a moral virtue, opposes both lack and excess. That it is opposed to a fault in reverence for God is quite obvious, but to excess not so much, since it is not said quantitatively. One never pays too much worship to God, but one can pay worship in excess according to other circumstances, such as when one worships whom or what one should not worship (i.e., everything that is not God) or how one should not pay⁴⁸.

Thus, opposing the two extremes of excess and lack, religion realizes the reason for moral virtue, “*quia virtus in medio est*”⁴⁹. But it is not any virtue but the supreme moral virtue, because its actions are directly and immediately oriented to the honor of God, which is the End of all moral virtue⁵⁰.

⁴¹ S. Th. II-II q. 81 a. 1 ad 1

⁴² S. Th. II-II q. 81 a. 1 ad 3

⁴³ S. Th. II-II q. 81 a. 1 ad 4

⁴⁴ S. Th. II-II q. 81 a. 5 sed *contra*

⁴⁵ S. Th. II-II q. 81 a. 5 co.

⁴⁶ S. Th. II-II q. 81 a. 5 ad 1

⁴⁷ S. Th. II-II q. 81 a. 3 co.

⁴⁸ S. Th. II-II q. 81 a. 5 ad 3

⁴⁹ De Virt. q. 1 a. 1 arg. 15

⁵⁰ S. Th. II-II q. 81 a. 6 co.

Revenge

Father Antonio Royo Marín, O.P. (1962, p. 315) points out how this virtue defended and explained by Saint Thomas Aquinas is difficult to understand: it can easily be confused with sin against charity. This virtue, however, is rather a perfection and “consists in preserving, in all circumstances, the due moderation when punishing”⁵¹. The Common Doctor clarifies that one must consider the mood or attitude of the one who avenges, because “if his intention is mainly the evil of the one he is avenging, and he takes pleasure in it, then this is illicit because the fact of taking pleasure in the evil of another is of the order of hatred, which is repugnant to charity”. If, however, “the intention of the one who takes revenge aims principally at a good that the punishment of the sinner can produce, (...) revenge can be licit”⁵². This clarification by St. Thomas can be applied to the punishment or penalty imposed in court: what is the measure of the penalty? The intention, that is, the purpose must be observed: if the purpose of the punishment is to make a mockery of the condemned or to produce an evil *simpliciter*, it is not licit. If, however, the purpose is to produce a good either in the condemned - “as, his correction” - or for others - “or at least his [the condemned wrongdoer's] repression, the tranquility of others, the preservation of justice and the honor of God” - the punishment may be licit.

It must be noted that St. Thomas does not say that it will be licit, but that it may be licit: “it may be licit, subject to the other appropriate circumstances”⁵³. And this is because the ends do not justify the means; having looked at the ends, he discriminates the licit from the illicit ends, and this is the most important because what is last in the order of ends is first in that of intentions⁵⁴. But to be the most important does not mean to be exclusively important, which would be the Machiavellian error, and, for this reason, he emphasizes, repeating what he had already said: “*aliis debitis circumstantiis servatis*”. The intermediate ends or means must also be considered, since for an action to be good, all its parts must be good, according to the scholastic maxim “*bonum est ex integra causa, malum autem ex singularibus defectibus*”⁵⁵: the good does not allow for gradation, it is either good as a whole or not at all good; evil, on the other hand, does and

⁵¹ S. Th. II-II q. 108 a.1 ad 3um: “*Virtus autem vindicationis consistit ut homo secundum omnes circumstantias debitam mensuram in vindicando conservet.*”

⁵² S. Th. II-II q. 108 a. 1 co.

⁵³ S. Th. II-II q. 108 a. 1 co.

⁵⁴ S. Th. I-II q. 1 a. 4 co.

⁵⁵ S. Th. II-II q. 79 a. 3 ad 4

therefore the failure in some part - e.g. the measure with which one punishes, or who punishes - is enough to make the punishment worse. Thus, one must not only evaluate the final cause of revenge, but also its efficient cause, that is, the one who avenges, for “whoever exacts revenge outside the order established by God, usurps for himself what is God's, and therefore sins”⁵⁶. But what is this order if not, in the first and universal instance, the natural order, ordered by natural law, from which positive law derives? Here, then, we enter to the question of jurisdiction: if he who does not have the defendant as a subject does not lawfully judge, neither does he who does not have the authority to do so lawfully avenge.

The saints cry out to God for vengeance on their enemies and rejoice in it, according to the Psalm that says, “The righteous will rejoice when he sees the vengeance.”⁵⁷. Here, however, it is stated that they cry out, but not that they practice the virtue of revenge; later, however, the practice of this virtue is demonstrated. The good tolerate the personal insults that they receive from the wicked, but “do not bear the insults done by them against God and neighbor”⁵⁸: one must remember, with St. Thomas, that the Lord urges us to turn the other cheek⁵⁹, but one's own and not that of another, since one cannot give what does not belong to him. It is interesting to note here the confluence of Our Lord's doctrine with Aristotelian-Thomistic philosophy, for which it is possible that someone practices injustice (e.g., *percutere in maxillam*, to strike the cheek) and that the other does not suffer (Ferraz Junior, 2002, p. 175). For instance, *non resistere malo*, not resisting the evil, that is, not imputing the injustice to him, but this not suffering belongs to the subject of the injustice, not to another.

Vengeance expresses the horror of evil, since the love of good implies, in fact, a radical hatred of evil; a universal requirement, since, in more general terms, the pursuit of good implies the turning away from evil: hatred against sin, the worst of the evils of guilt⁶⁰, is virtuous, according to St. Augustine, since it is opposed to the hatred of evil against the light.

⁵⁶ S. Th. II-II q. 108 a. 1 ad 1

⁵⁷ Ps LVII, 11

⁵⁸ S. Th. II-II q. 108 a. 1 ad 2um

⁵⁹ Mt V, 39

⁶⁰ St. Thomas distinguishes, in moral evil, the evil of penalty (“*quod est per subtractionem formæ vel integritatis rei*, that is, a deficiency in the thing”) from the evil of guilt (“*quod consistit in subtractione debitæ operationis in rebus voluntariis*, [...] *imputatur* [...] *cum deficit a perfecta actione, cuius dominus est secundum voluntatem*”), that is, not voluntarily doing what is due, which is imputed always and insofar as there is dominion of the will (cf. S. Th. I q. 48 a. 5 co.).

This applied justice, which is vengeance, manifests itself in everything as the virtue of the judge, whose duty it is, by his word, to reestablish order, as will be seen. Even if this virtue has become difficult to understand, because it is homologous to sin, it is no less necessary or dispensable for the exercise of justice. And this is because it is not possible to want with constancy to give to each his due without wanting in fact to restore the right to the one who has usurped it.

If for practical reasons, the punishment is executed by other than the judge, the virtue or power to punish does not cease to be his, since it is by his sentence or judgment that a defendant is punished. Thus, if punishing is an act of the judge, so that the judge himself be just in his judgment, he must preserve the just measure in punishing, which is *vindication*: “*vindicatio fit per aliquod pœnale malum inflictum peccanti*”⁶¹.

The right as an object of justice

At last, before the exposition of justice can be said to be concluded, it is necessary to deal with its object, the right. Contrary to what is done here, as we have seen, St. Thomas puts before all other aspects concerning justice - as well as all the other virtues - the question of its proper object.

Thus, St. Thomas clarifies that right can mean four things, namely (1st) the just thing, (2nd; ii) the art or science by which the just is known, (3rd) what today is called forum and, finally, (4th) what the judge has decided:

The term *ius* was first used to mean [1st] the just thing itself; then, however, it was applied [2nd] to the art by which we know what is just; later, to mean [3rd] the place where the right is applied, as when it is said that someone must appear before justice; and, finally, it is still called right [4th] that which is applied by those who have the duty to do justice, even if what they have decided is unjust⁶².

This last meaning of the term, according to which law is what the judge utters, by his explanation, has a sense more ideal than factual, more a sense of pointing what should be than saying what, in the ordinary contingent concretizations, is absolutely so. St. Thomas clarifies that the judge's sentence is called lawful *even when it is unjust*, which means that not every sentence or judgment is really what

⁶¹ S. Th. II-II q. 108 a. 1 co.

⁶² S. Th. II-II q. 57 a. 1 ad 1

it should be, that is, just. This points out that in the passage from the ideal to the real there may be deviations that, in practice, do not exactly fulfill the reason of law. But since abuse does not prevent use and since the exception confirms the rule, recognizing - and even enunciating - the possibility of the judge issuing unfair sentences, instead of discrediting the judge's function, calls for fairness in his or her judgments.

While certain schools of thought tend to absolutize ideas and despair in the face of their non-realization - as if to say, in fallacious reasoning that underlies the mentality of many, that what the judge says is just (major premise), some do not say the just (minor premise), therefore the just does not exist (fallacious conclusion) -, the realism of St. Thomas is positive and whenever he notes an evil, he points to the good that this evil corrupts and parasitizes, thus helping to realize that same good: to say that certain judgments are unjust, is to say that there is a just of which the unjust is but the negation and that it is this just that must be sought.

But since one does not seek what one does not know, one must further clarify what right is. To this end, Hervada's explanation is quite convenient. Hervada (2006) explicitly associates certain terms that the Doctor of Aquinas had already associated in his body of doctrine:

His, each one's, that is the object of the jurist's knowledge. The thing of each one - his - we call *right*, the right of each one; hence, to determine his, each one's, is to determine the right. The art of *his*, of what belongs to each one, is the art of law. And since the jurist is not a benefactor or patron or a stingy person, what he determines is not what suits each one, what he likes or desires, or the least possible, or anything else, but his right, neither more nor less, exactly what is assigned to him; the jurist indicates what is just that should be given to each one. From this, it follows that *his*, the *just*, and the *right* are three ways of designating the same thing (p. 15).

Among the four meanings of right pointed out by St. Thomas, Hervada speaks of three because one (3rd) is restricted to a Latin usage, which is associated with the place of exercise of justice and consequent enunciation of the right to the term itself and interests philological science more than legal science. The other meanings (1st, 2nd, and 4th), on the other hand, are directly implicated in the understanding of the virtue of justice, and the (1st) first is properly the object of this virtue.

Thus, (1st) “the just thing itself” is “the object of the jurist's knowledge”, it is “the thing of each one”, “his own”. Whereas (2nd) “the art by which the just thing is known”, “the art of law”, is “to determine one's own, each one's own”. That, therefore, (4th) which the jurist or judge (“who must do justice”) determines, that which he utters must be “exactly what is assigned to him”, and not “what suits each one, what he likes or desires, or the least possible or anything else”. The (4th) that the judge utters must therefore have equality with the (1st) that is truly just.

As Hervada clarifies, then, the object of justice, what we call (1st) right, is nothing more than each one's own, what belongs to him, his property. In this way, Hervada explains the genesis of (ii) philosophy of law or law as a (2nd) discipline or science as a necessary consequence of property that is but another name for right, that which St. Thomas calls “his” and which is present in the definition of justice: “It is of the essence of justice to give to another what is due to him”⁶³ or, in other words, “what is his”, “*quod suum est*”⁶⁴.

Justice depends, therefore, on the existence of property⁶⁵, that is to say, of the Thomistic *suum*, whether material, moral or spiritual; because, if justice is to give to the other what is his, *his* right, for justice to act, it is necessary that someone's property, his property, exists. Otherwise, how could one give what does not exist? How could one give to the other what belongs to him if there is no belonging or property? How could one give the right if there is no right? Therefore, where there is no right, justice is not exercisable, and so where there is no property.

But one might say, what is one of the most basic properties, upon which all the others are founded, if not the property that intelligence has over truth? What is the *suum* of intelligence if not the truth, that adequacy of mind to reality? Hence it is seen that justice depends not only on the existence of property but on the existence of truth, as seen⁶⁶.

For (2nd) the art of knowing the just, it is very important to know the laws and the legal system, because “the law is the *cause* and *measure of the right*, a fact for

⁶³ S. Th. II-II q. 80, co.

⁶⁴ S. Th. II-II q. 58 a. 11 co.

⁶⁵ For no other reason than to safeguard justice, in positing the divine law in the Decalogue, God institutes not one, but two commandments that safeguard property, the seventh and the tenth, “thou shalt not steal” (Deuteronomy V: 19: “*furtumque non facies*”) nor even “thou shalt covet another's things” (Deuteronomy V: 21: “*non concupisces (...) domum, non agrum, non servum, non ancillam, non bovem, non asinum et universa quæ illius [id est proximi tui] sunt*”).

⁶⁶ Cf. Section 2.2.2.2, “Of the relation between justice and truth” of this dissertation.

which between the right and the law there is a double proportion: that which exists between the cause and the effect (...), and that which exists between a measure and the thing measured” (Hervada, 2006, p. 98). But the law is nothing more than a certain ordering of reason to the common good promulgated by those who have the care (government) of the community⁶⁷. And the common good implies order, which is nothing more than the situation in which each thing rests in *suum*, in its proper place.

Concluding remarks

For what has explained above, the law is the cause of right, not in the positivist sense, but because it is not possible to have a *suum* that has not been previously established. But this establishment is not arbitrary, but founded on reason, which knows the (α) truth inscribed in the thing by its ordainer, its Creator: thus, in a sort of crescendo, positive right is caused by positive law, which is founded - to be (α) true - on natural right, itself caused by natural laws, which are the participation of the creature in the eternal law, founded on God, whose essence is Being, founds all things without being found on any. The reason why Pius XII clarifies that (*apud* Hervada, 2006):

The criterion of the simple fact is valid only for Him who is the Author and the sovereign rule of all law, God. To apply this criterion to the human legislator indistinctly and definitively, as if the law were the supreme rule of law, is the error of legal positivism in the proper, technical sense of the word, an error that lies at the basis of State absolutism and is equivalent to a deification of the State itself. (p. X)

Now, the legal system, with its laws, must be, therefore, the expression of what a society or institution understands to be just or right. But this necessarily implies stability, for which the permanence of laws is important. If the legal system is unstable, with constantly changing laws, especially if these changes are so constant that those who are popularly called “the men of the law”, such as lawyers, judges, and other legal actors, do not know what is legal or not, what is understood as just or not, how will others know? And if not, how can they act according to the law, or claim their rights? It is not possible to claim an unknown

⁶⁷ S. Th. I-II q. 90 a. 4 co.

right. The liquidity with which laws flow is itself a hindrance to access to justice because it is a hindrance to access to the right⁶⁸.

The use of law and the exercise of justice are, therefore, intrinsically associated with knowledge of the law, to which the temporal permanence of the law contributes, that is, its stability. If this is so for the use of the law, it is much more so for the internalization of law, since one does not internalize that to which one is not exposed for a prolonged period, so that it becomes connatural and habitual. The internalization of law is fundamental to justice because justice is not the just act by which one gives to each what is his, but it is the habit by which, with *constant* and perpetual will (*constanti et perpetua voluntate*), one gives to each what is his⁶⁹.

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⁶⁸ The distinction between access to justice and to the law, as Madalena Duarte clarifies, is not an unnecessary distinction (Cf. Duarte, 2007, p. 2). According to Thomistic thought, access to justice and access to the right are inseparable, since the reason for justice is to give to the other what is rightfully his (cf. S. Th. II-II q. 58 a. 11 co.; q. 80 co.).

⁶⁹ S. Th. II-II q. 58 a. 1 co.

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