"PERSON AND THE TRADITION OF COMMON GOOD IN THEORY OF JUSTICE OF THOMAS AQUINAS"

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1 Thomas Aquinas Sanctus

Thomistic philosophy constituted an extensive reformation that succeeded in the unification and bringing together all aspects of previous intellectual traditions[1] being, as a product of a synthesis of Hellenism and Christianity, the supreme expression of Greco–Roman Christian tradition[2].

The principal position of both thomistic philosophy and theology lies in its affirmation of the ability of human reason to comprehend earthly realities through observation. However, as MacIntyre has correctly noted, having assimilated the whole of past history of research, thomistic philosophy cannot be apprehended simply on the basis of "neutral criteria of rationality", independently of the tradition to which it belongs[3].

Thomistic philosophy constitutes a new appreciation of man and the world, re–examining the issue of relations between man and the world and the issue of the nature of justice by focusing on the thomistic idea of a person. This paper will demonstrate that the notion of a person in the work of Thomas Aquinas, which is primarily of an ontological nature, extends to man as a natural person, protagonist of a social and political order. Furthermore, as a result of its association with the field of law, it develops into a fundamental notion (an outcome of ancient and Christian humanism), and, at the same time, a presaging notion of the modern era. However the ontological approach of the notion of a person in Thomas Aquinas is a continuation of ancient Greek metaphysical and political thought, assigning priority to the society over the individual, seen as part of a whole.

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1   M. Villey, *Leçons d' histoire de la philosophie du droit*, Dalloz, Paris, 2002, p. 99.

2   Eleni Procopiou, *The Person as a Subject of Law in Thomas Aquinas* [original title: *Το πρόσωπο ως υποκείμενο δικαίου στο έργο του Θωμά Ακινάτη*], Herodotos, Athens, 2013, pp. 89 s. and 585.

3   Al. MacIntyre, *Whose Justice? Which Rationality* ? Duckworth, London, 1988, pp. 205, 207.

In the context of thomistic philosophy, the theological elaboration of a person is complemented by its philosophical (metaphysical) elaboration, comprising the acknowledgement of the nature of things, the ontological revaluation of the tangible world and the recognition of man as natural individual, that is, the acknowledgement of his partially autonomous existence. The latter has a historic significance for modern thought due to the thomistic apprehension of a person.

The person as a first essence is a hypostasis; an individual existing in itself in completeness, being ontologically connected to the notion of "nature", through which it is connected with mechanisms of objectivity. A person as an individual substantia is a hypostasis, in whose context a rational nature is materialized[4]. Man's nature is based on the synthesis of matter and form, soul and body; the soul being ontologically united with the body. A person, as an individual synthesis of this particular soul and body, safeguards the individual existence of a particular composite that exists by incorporating individual principles or incidents in the element of reason that designates human nature[5]. The perception of the ontological notion of a person as individual hypostasis of human nature and the acknowledgement of human person preeminently as a subject in control of his actions[6], led to the acknowledgement of the nature of man and body — a view originating from the tradition of the Church Fathers — that liberates from the inferiority of bodily nature, as expressed by Augustinian dualism. In contrast with Descartes' modernist perception of a person as a purely individual conscience, viewing body and soul as two separate entities and introducing dualism within a subject[7], Aquinas is led to an ontological unity of spirit and body that safeguards the unity of individual human existence; a view lying at the foundation of contemporary approach of a person in the field of analytical philosophy which, combined with the demand for a specification of the identity of beings, poses anew the question of the "primitiveness of the notion of a person" as an entity to which natural states and states of conscience, tightly interconnected with each other, are equally attributed[8].

However, the philosophical foundation of individuality aside, the acknowledgement of "nature" as an intermediary between man and God, led Aquinas to the foundation of human face on the ontological entity of the

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4   *ST*, I, q.29, a.4 Resp
5   *ST*, I, q.40, a.3, ad 1.
6   *ST*, I, q.29, a.1 Resp
7   A.J. Ayer, *The Concept of a Person and Other Essays*, Mac Millan, London 1963, p.82.
8   Sir Peter Strawson, *Individuals*, Methuen, London 1959. [*Πρόσωπα*, in K. Βουδούρης (edit), *Μεταφυσική*, Athens 1980, pp. 485–577].

common nature of all men, thus combining the impersonal metaphysics of Greeks, preeminently Aristotle, with Christian personalism.

According to thomistic doctrine, a person, apart from constituting a notion of metaphysical nature, is also placed in the field of action, as an individual source of energies. As a subject of actions, man develops into a person, always in relation with the teleology of his nature. Through them, he connects with natural order, since natural sociability lies at the foundation of a person's supernatural fulfillment[9]. As a result of man's social nature, a person is also a carrier of social relations, a "product" of his meeting with other persons. There is continuity between natural and supernatural order; therefore, participation in social life is a person's first stage. In this way, Thomas Aquinas makes a synthesis of man as human nature per se, as humanity, and as a person vis–à–vis other persons. In the moral teachings of Aquinas there unfolds the practical and specific character of a person as a result of the notion of "relation", that is, pre–eminently in the field of justice, which provides a new framework of consideration of a person as "product" of relations between humans and as object of a moral–legal regulation. The human person, existing historically within a sociopolitical order, is defined in two ways: through its identity and its "relation" with another; this relation being one of justice which, according to Aristotle, is a "relation to another"[10]. By incorporating Aristotelian justice in the heart of his theological elaboration, Aquinas turned to the system of relations between humans, placing justice in the service of community, in an objective order that surpasses individuals.

Thomas Aquinas' theory on justice, the crowning moral value, according to Aristotle, as it does not concern the individual but others, connects a person with the field of social relations. The virtue of justice concerns a "relation with the person of the other" and consists of the willingness to render others what is due to them. This type of justice (Aristotle's general justice) regulates human actions vis–à–vis the common good; that is, it concerns activities taking place in external reality in relation to persons, and aims at seeking the right means for external relations. Therefore, it is not an internal affair of a subject. However, apart from general justice, that is, the total of morality in the service of cosmic order and common good, Aquinas also adopts Aristotle's theory of "partial justice", concerning individual good and not constituting a simple moral righteousness[11]. He defines this justice

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9   Ph. Vallin, *Le prochain comme tierce personne chez Saint Thomas d' Aquin*, J. Vrin, Paris 2000, p. 241.

10   Stam. Tzitzis, *La personne, l' humanisme et le droit*, Les Presses de l'Université Laval 2001, p. 38.

11   Aristote, *Éthique de Nicomaque*, E, 1130b34–1131a1

by its object, jus. Following Aristotle in seeking the context of partial justice, he is led to a formulation of definitions of jus. The objective nature of justice, which is approached via jus, is founded on a relationship between persons[12]: that is, jus is a just relationship establishing equality within social reality and, as a relationship of equality, emanating from the "nature of things", the nature of social relations, perceived as the foundation of natural law. A close connection of man with the "nature of things", so as to form an inseparable unity, also exists in the field of jus. Jus exists objectively; it does not have subjective dimensions nor is it a privilege of a human person. It does not emanate from an ideal person but concerns persons forming part of a social order of things and relations. What comprises jus as an object of justice? It comprises the proportion of things between persons. Partial justice, whose object is jus, concerns the distribution of material goods among persons. Therefore, the pre–eminent field of jus is a "trial", in whose context persons are simultaneously present in the presence of a judge. In the course of judicial procedure a confrontation of persons takes place, whose product is the formulation of "jurisdictio". Thomas Aquinas views jus in the spirit of Roman law, as jurisprudential and as a result of preexisting relations of law in social reality. Therefore, jus is neither an attribute of the subject nor a right of the human person, but the share of "things" corresponding to persons[13]: jus states what belongs to whom, it is a just object, a just relationship between persons and things, a specific object attributed to persons. It is the field in which objective approach of human persons as subjects of relations in law and their incorporation in a "community", that is, a system of natural, social relations seen as relations of equality, is expressed in the best way. This concept of law is not based on the prevalence of what is deontological (δεοντοκρατία); on the contrary, it is closely associated with classical ontology and Aristotle's realistic philosophy of law, that is, the tradition of classical natural law of Antiquity, associating being with knowledge and considering the search for a just attribution of goods and offices in a social group as the work of law[14].

In the context of the reality of law which surpasses individuals, lawful relations are relations between persons and result from a correlation of "things" that turns persons into subjects of law, incorporated in a community and sharing a common good. In the reality of law, the "human person" as an absolute value does not exist; there are persons — subjects of law participating in as many impersonal relations of justice as possible, through which a distinction of jus from morality is accomplished. Persons that may

12   *ST*, II–II, q.58, a.2 Resp.

13   M. Villey, *La formation de la pensée juridique moderne*, Montchretien, Paris 1975, p. 229

14   M. Villey, *Le droit et les droits de l' homme*, PUF, Paris 1983, pp. 48–49.

possess, use, dispose of, demand individual goods; "persons" accompanied by "things": this is the novelty of Thomas Aquinas vis–à–vis previous theological thought. Aquinas does not turn to man only as a being in the image and likeness of God but also towards man as citizen, the person able to possess goods specifically defined by *jus suum cuique tribuere*, of the distributing justice and law. Through jus and the horizontal relations of partial justice he accomplishes liberation of a new era; a liberation from the personal dependence of feudalism; he also constructs new life in cities on the basis of relations of law, that is, relations of equality, by putting forward the world of "things" and the material world.

Therefore, Thomas Aquinas' great contribution lies in jus, which, through the pages of Summa Theologiae, emerges as the pre–eminent means of harmony in social relations, thanks to which persons gain prominence as protagonists of cosmic order, in a world of communities. Lawful relations safeguard a person's individual existence vis–à–vis individual good, preserving it within the "communal" structure of cities. A new sense of individuality, in the context of community and common good, is inaugurated with Aquinas, who defines new horizontal relations between morally responsible and self–governing individuals within a community. Consequently, reality and the notion of a person emerge, thanks to Thomas Aquinas, as fundamental notions introducing a new era.

Thus, a person, in the sense of natural person, is part of the city and a carrier of relations of justice; as such, it is subjected to the common good. Nevertheless, a person in the metaphysical sense, has a supernatural destination that transcends the city and grants it independence from its social conventions and social "roles". A person, in its supernatural accomplishment, is beyond and above these "roles"[15]. In the context of thomistic approach, a person is not detached from the world and social life, as an isolated self, nor is it identified with its social existence, that is, its social parts, since Aquinas' belief in a person's supernatural destination, allows room for a man's free side and hinders the acceptance of the state's absolute authority[16]. Therefore, the identification of a person with its roles or capacities, that is, the approach of human personality as a narrative unity of human life, or via its historic unfolding, is not compatible with the metaphysical–ontological foundation of a person according to Thomas Aquinas, which lies beyond history[17].

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15   *ST*, II–II, q. 104, a.5 Resp.

16   F. C.Copleston, *Aquinas*, Penguin Books, Middlesex 1955, p. 239 and P. Strawson, *Individuals*…ibib.).

17   On the contrary, MacIntyre believes that, according to medieval perspective, an individual carries with it its communal roles as part of itself. (Al. MacIntyre, *After Virtue*, Duckworth, London 1981, p. 160).

A person, as protagonist of cosmic order, is born with jus and is connected with "things" through which persons enter a status of individual roles safeguarding individuality and the pursuit of individual good. A person's supernatural destination as an individual human being — a view considered a precursor of human rights — is completed by its practical, social character, as expressed pre–eminently in the field of lawful relations. In that field there is no "human person" but many real persons, in sets of certain circumstances and with certain parts to play in their lives, vis–à–vis which jus is defined, because jus does not exist on its own, in an absolute way, but always in relation to others[18]. Therefore, it is relative, as is also the relationship of equality regarding persons and things. This latter relationship does not constitute simply a reward of "moral value"[19] as regards the distribution of common good; on the basis of Aristotelian ethics, it is founded on objective good, which is always connected to others. Distributing justice lies in the assessment of a person as "desert"; however, in relation not to itself but to others and the common good. Therefore, this is not the case of a "demand for personal value", that is, a person's social appreciation, a feature of the modern era, nor the case of an individual right attached to legal personality. According to Maritain, Aquinas' morality is not the morality of a "desert" of a stoic origin; it originates from Aristotelian ethics founded on common good[20]. Aquinas himself explicitly expressed his opposition to "personal preference" (as a criterion for the distribution of offices) which, when not connecting a person's dignitas with the nature itself of an office or with common good, leads to a violation of distributing justice[21]. Thus, a person's dignitas is not to be judged according to a "common view" or an agreement of a group's members, but objectively.

A person, according to Thomas Aquinas, is not the subject of law of the modern era; that is, a subject with unlimited, absolute and inviolate rights, complemented by the absolute value of a person as moral and historical category, such as in the case of Kantian ethics and theory of law. In Kant's individualistic legal system, a subject of law defines itself as a subject of rights[22], in the context of a general, abstract notion of a person complemented by a "coordinative perception" of law, in whose context juridical notions are "pure" abstractions, removed from social reality.

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18   Aristote, La *Politique,* 1280 a 12–20.
19   MacIntyre has emphasized the meaning of the notion of "desert" within a community, which was upgraded by the thomistic view on justice. (*After Virtue* …pp. 232, 233 and *Whose Justice*……p. 106).
20   M. Villey, *La Formation de la pensée juridique moderne*…..p. 438
21   ST, II –II ,q. 63, a. 1 and 2.
22   E. Kant, *Métaphysique des Mœurs. Première Partie: Doctrine du droit*, J. Vrin, Paris 1993.

According to Thomas Aquinas' theory of a person, as expounded through the perspective of jus, knowledge of real social conditions and an adjustment to circumstances is a necessary term for justice, just as during the course of a trial, where a judge seeks a solution suitable to the circumstances of the persons involved in the case. In the context of law, persons are set vis–à–vis things, that is, in the world of "having", because, *"… by means of actions and external things men are able to communicate with one another… because through them one man is juxtaposed to another*"[23].

An individual–citizen, as part of a whole, is a member of a community and strives for the common good, that of the community; however, the State's rights as regards its members are not absolute. The State is a natural institution of human beings but not beyond control, since its purpose is the common good. In Summa Theologiae the ties between law and common good are close, because the purpose of the law is to seek the mutual benefit and not to secure what is good for an individual. Thus it is characterized by universality[24]. Therefore it is clear that totalitarianism is completely incompatible with Aquinas' political theory. Aquinas was, for that matter, the first philosopher to consider the just character of a law a necessary precondition for its legality[25]. His emphasis on man's social nature and on the positive function of a political community is accompanied by the stressing of the intellectual and moral side of human beings, who are thus no more than just members of a collective body.

The thomistic approach of a human person lies neither on the one sided belief of an individual's natural rights and its free will, as expressed in liberal individualism, nor on the communal approach of social life, since both are incompatible with the theory of justice and the approach of the human person through legal relations, as jus is a reality that exceeds individuals, while its function presupposes a certain degree of individualism[26].

The thomistic approach of a person as subject of juridical relationships, while participating in the common good by retaining its mild "personalism", accomplishes the reconciliation of a person with society and the state; of individual good with the common good. In this context, it becomes evident that the nature of jus is deeply political, the latter being closely associated as a social phenomenon with political communities and particularly with "bonum commune", which is a State's supreme purpose[27]. In a final analysis,

23   *ST,* II— II q. 58, a. 8 Resp..

24   ST , I— II, q. 95, a. 3.

25   ST I— II, q. 96, a. 4 Resp., where he refers to unjust law (lex injusta).

26   M. Villey, *Leçons d' histoire de la philosophie du droit*, Dalloz, Paris, 2002, pp. 102, 306.

27   Attachment to tradition and traditional institutions constituting social order as a result of a people's history, in Burke's sense , is not integral in either ancient Greek or thomistic view, the former having sought the good and the latter the Supreme good, not the *"traditional*

this perception of a person satisfies modern political philosophy's demand for the creation of a just society (being, according to Nagel, "the reconciliation of the personal with the impersonal point of view"[28]) within which, however, the acknowledgment of a human person is preserved since, as Gilson rightly notes, "Thomism musters all its strength and expresses its raison d' être every time the danger of a dissolution of human individuality arises through its confusion with the species; nature; or God"[29].

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way of life"; something that Aristotle was the first to notice: "And in general all men really seek what is good, not what was customary with their forefathers" (*Politics* II, 1269 a 3–4).

28   *Thomas Nagel, Equality and Partiality,* Greek translation by K. Koukouzelis, Ekkremes Publ., Athens, 2011, p. 50.

29   Et. Gilson, *Textes sur la morale*, J. Vrin., Paris, 1998, p. 12.

Abstract

PERSON AND THE TRADITION OF COMMON GOOD IN THEORY OF JUSTICE OF THOMAS AQUINAS

The theological elaboration of the notion of a person in the thought of Thomas Aquinas is combined with the acknowledgement of the "nature" of things and the ontological revaluation of the material world, resulting in the perception of the metaphysical (philosophical) notion of a person, which has undoubtedly a worldwide significance for modern thought.

Man, as a natural person, is subjected to "relations of justice" concerning, above all, social life in whose context a person is an outcome of natural legitimacy and defined by his relations. Thus, the supernatural destination of a person as human being is complemented by the practical, social character of a person, as expressed in the field of legal relations and law.

Consequently, the notion of a person in its spiritual and social–legal context becomes a precursor of the modern era and a forerunner of human rights; however, it remains part of the tradition of common good as expressed in Antiquity and the Middle Ages.

KEYWORDS: Aquinas, common good, justice, person