

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

The *Summa Theologiæ* ranks among the greatest documents of the Christian Church, and is a landmark of medieval western thought. It provides the framework for Catholic studies in systematic theology and for a classical Christian philosophy, and is regularly consulted by scholars of all faiths and none, across a range of academic disciplines. This paperback reissue of the classic Latin/English edition first published by the English Dominicans in the 1960s and 1970s, in the wake of the Second Vatican Council, has been undertaken in response to regular requests from readers and librarians around the world for the entire series of 61 volumes to be made available again. The original text is unchanged, except for the correction of a small number of typographical errors.

The original aim of this edition was not narrowly ecclesiastical. It sought to make this treasure of the Christian intellectual heritage available to theologians and philosophers of all backgrounds, including those who, without claiming to be believers themselves, appreciate a religious integrity which embodies hardbitten rationalism and who recognise in Thomas Aquinas a master of that perennial philosophy which forms the bedrock of European civilisation. Because of this the editors worked under specific instructions to bear in mind not only the professional theologian, but also the general reader with an interest in the 'reason' in Christianity. The parallel English and Latin texts can be used successfully by anybody with a basic knowledge of Latin, while the presence of the Latin text has allowed the translators a degree of freedom in adapting their English version for modern readers. Each volume contains a glossary of technical terms and is designed to be complete in itself to serve for private study or as a course text.

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

NIHIL OBSTAT

THOMAS GILBY O.P.

KENELMUS FOSTER O.P.

IMPRIMI POTEST

JONATHAS FLEETWOOD O.P.

*Prior Provincialis Angliæ*

die 15 Junii 1974

NIHIL OBSTAT

R. J. CUMING, D.D.

*Censor*

IMPRIMATUR

DAVID NORRIS

*Vic. Gen.*

Westminster, 25 February 1975

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

---

ST THOMAS AQUINAS  
SUMMA THEOLOGIAE

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

ST THOMAS AQUINAS  
SUMMA  
THEOLOGIAE

Latin text and English translation,  
Introductions, Notes, Appendices  
and Glossaries



Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

---

PIÆ MEMORIÆ

JOANNIS

PP. XXIII

DICATUM

Cambridge University Press

978-0-521-02946-9 - *Summa Theologiae*: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

---

IN AN AUDIENCE, 13 December 1963, to a group representing the Dominican Editors and the combined Publishers of the New English *Summa*, His Holiness Pope Paul VI warmly welcomed and encouraged their undertaking. A letter from His Eminence Cardinal Cicognani, Cardinal Secretary of State, 6 February 1968, expressed the continued interest of the Holy Father in the progress of the work, 'which does honour to the Dominican Order, and the Publishers, and is to be considered without doubt as greatly contributing to the growth and spread of a genuinely Catholic culture', and communicated his particular Apostolic Blessing. The assurance was repeated in a letter, 5 February 1973, from the present Secretary of State, His Eminence Cardinal Villot.

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

ST THOMAS AQUINAS  
SUMMA THEOLOGIAE

VOLUME 38

INJUSTICE

(2a2ae. 63-79)

Latin text, English translation, Introduction,  
Notes, Appendices & Glossary

MARCUS LEFÉBURE O.P.

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

CAMBRIDGE UNIVERSITY PRESS

Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore, São Paulo

Cambridge University Press

The Edinburgh Building, Cambridge CB2 2RU, UK

Published in the United States of America by Cambridge University Press, New York

[www.cambridge.org](http://www.cambridge.org)

Information on this title: [www.cambridge.org/9780521393850](http://www.cambridge.org/9780521393850)

© The Dominican Council as Trustee for the English Province of the Order of Preachers 1975  
[Excepting Latin text of 'DE VITIIS OPPOSITIS JUSTITIÆ DISTRIBUTIVÆ ET  
COMMUTATIVÆ ET DE PARTIBUS QUASI INTEGRALIBUS JUSTITIÆ']

This publication is in copyright. Subject to statutory exception  
and to the provisions of relevant collective licensing agreements,  
no reproduction of any part may take place without  
the written permission of Cambridge University Press.

This digitally printed first paperback version 2006

*A catalogue record for this publication is available from the British Library*

ISBN-13 978-0-521-39385-0 hardback

ISBN-10 0-521-39385-X hardback

ISBN-13 978-0-521-02946-9 paperback

ISBN-10 0-521-02946-5 paperback



# CONTENTS

xiii Editorial Notes

xv Introduction

## QUESTION 63. UNFAIR DISCRIMINATION

- 3 Article 1. is unfair discrimination a sin?  
 7 Article 2. does it occur in granting spiritual rights and benefits?  
 11 Article 3. can it occur in paying honour and reverence?  
 15 Article 4. can it occur in the giving of judgements?

## QUESTION 64. HOMICIDE

- 19 Article 1. is killing any living thing illicit?  
 21 Article 2. is it legitimate to kill sinners?  
 25 Article 3. may a private individual kill a man?  
 29 Article 4. is it legitimate for clerics to kill malefactors?  
 31 Article 5. is it legitimate for somebody to kill himself?  
 37 Article 6. is it ever permissible to kill an innocent person?  
 39 Article 7. is it legitimate for a man to kill another in self-defence?  
 45 Article 8. is somebody who kills another by accident guilty of homicide?

## QUESTION 65. OTHER INJURIES TO THE PERSON

- 49 Article 1. is it ever legitimate to mutilate somebody?  
 53 Article 2. are fathers allowed to beat their sons, or masters their slaves?  
 55 Article 3. is it legitimate to imprison another?  
 57 Article 4. is sin aggravated by the fact that the objects of the aforesaid injuries are related to others?

## QUESTION 66. THEFT AND ROBBERY WITH VIOLENCE

- 63 Article 1. is the possession of external goods natural to man?  
 65 Article 2. is it legitimate for individual men to possess such goods as their own?  
 69 Article 3. is theft the surreptitious taking of another person's goods?  
 73 Article 4. is robbery with violence a sin specifically different from theft?  
 75 Article 5. is all theft a sin?  
 77 Article 6. and a mortal sin?

## CONTENTS

- 81 Article 7. is theft justifiable in case of necessity?  
 83 Article 8. is it possible for robbery not to be a sin?  
 87 Article 9. is all robbery with violence a graver sin than theft?

## QUESTION 67. INJUSTICE ON THE PART OF THE JUDGE

- 89 Article 1. can anyone justly judge somebody not subject to him?  
 93 Article 2. is a judge entitled to give judgement on the basis of the evidence adduced before him counter to the truth known to him?  
 95 Article 3. can a judge justly condemn a man who has not been accused?  
 99 Article 4. is it legitimate to mitigate a penalty?

## QUESTION 68. INJUSTICE OF A COMPLAINT IN LAW

- 103 Article 1. is a man bound to lay a complaint in law?  
 105 Article 2. does it have to be in writing?  
 109 Article 3. how may a complaint be vitiated?  
 111 Article 4. how are those who accuse others unjustly to be punished?

## QUESTION 69. INJUSTICE IN CONDUCTING THE DEFENCE

- 115 Article 1. is it a mortal sin to deny true evidence which would lead to conviction?  
 119 Article 2. is one entitled to commit perjury in self-defence?  
 121 Article 3. is one entitled to evade judgement by appealing?  
 125 Article 4. is a convicted person entitled to use violence in self-defence if he has the chance to do so?

## QUESTION 70. INJUSTICE ON THE PART OF WITNESSES

- 129 Article 1. is a man obliged to give evidence?  
 133 Article 2. is the evidence of two or three sufficient?  
 137 Article 3. can a witness's evidence be rejected even though he is not at fault?  
 139 Article 4. is it a mortal sin to give false evidence?

## QUESTION 71. INJUSTICE ON THE PART OF LAWYERS

- 143 Article 1. is a lawyer bound to give his services to the poor?  
 147 Article 2. may some be debarred from acting as lawyers?  
 149 Article 3. does a lawyer sin by defending an unjust cause?  
 151 Article 4. is it a sin to accept payment for rendering legal services?

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

## CONTENTS

## QUESTION 72. DEFAMATION

- 157 Article 1. what is defamation?  
 161 Article 2. is all defamation mortal sin?  
 163 Article 3. ought defamers to be restrained?  
 167 Article 4. what is the origin of defamation?

## QUESTION 73. DETRACTION

- 171 Article 1. what is detraction?  
 173 Article 2. is it a mortal sin?  
 177 Article 3. how does it compare with other sins?  
 181 Article 4. does someone who listens to a detractor commit a sin?

## QUESTION 74. WHISPERING

- 187 Article 1. is whispering a sin distinct from detraction?  
 189 Article 2. which is the graver of the two?

## QUESTION 75. RIDICULE

- 193 Article 1. is ridicule a special sin distinct from other sins by which harm is inflicted on one's neighbour through words?  
 195 Article 2. is it a mortal sin?

## QUESTION 76. CURSING

- 201 Article 1. is one entitled to curse a man?  
 205 Article 2. or any of God's non-rational creatures?  
 207 Article 3. is cursing a mortal sin?  
 209 Article 4. how does it compare with other sins?

## QUESTION 77. FRAUD IN BUYING AND SELLING

- 213 Article 1. can selling be unjust by reason of the price?  
 217 Article 2. can selling be unjust on account of a flaw in the thing sold?  
 221 Article 3. is the seller bound to disclose any such defect?  
 225 Article 4. is one entitled to sell something for more than one had paid for it?

## QUESTION 78. USURY

- 233 Article 1. is it a sin to make a charge for lending money?  
 241 Article 2. is one entitled to take anything by way of compensation for a loan?

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

## CONTENTS

- 247 Article 3. is one bound to restore any gains from the profits of lending?  
 249 Article 4. is one entitled to borrow money subject to the payment of interest?

## QUESTION 79. QUASI-COMPONENT PARTS OF JUSTICE

- 255 Article 1. are avoiding evil and doing good parts of justice?  
 259 Article 2. is transgression a special category of sin?  
 261 Article 3. is omission a special category of sin?  
 265 Article 4. how do transgression and omission compare.

## APPENDICES

- 271 1. Parts and Whole, Common End, Legal Justice and Law  
 275 2. Private Property according to St Thomas and Recent Papal Encyclicals
- 284 Glossary  
 287 Index

Cambridge University Press

978-0-521-02946-9 - *Summa Theologiae*: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

# EDITORIAL NOTES

## THE TEXT AND TRANSLATION

THE LATIN text here printed is that of the Leonine edition (published in Rome in 1897) on which the translation is based.

## FOOTNOTES

Those signified by a superior number are the references given by St Thomas or supplied by the Leonine Commission or by the Canadian editors of the Piana edition, with the exception of No. 1 in each article, which refers to parallel texts in his writings (where there are such parallel texts—where there are not, the footnotes begin with No. 2). The footnotes signified alphabetically are editorial references and explanatory remarks.

## APPENDICES

In view of the extent of the present volume, the number of appendices has been limited to two, one devoted to principles which underlie the whole treatise on justice and injustice, and one devoted to a subject of particular contemporary concern.

## REFERENCES

Biblical references are to the Vulgate; the Psalms are numbered according to both the Hebrew and the Vulgate division of the Psalter. The English translation follows St Thomas's Latin (which is not always that of the Clementine Vulgate), using as far as possible the English of the Revised Standard Version Catholic Edition. Patristic references are to Migne (PG, Greek Fathers, PL, Latin Fathers). References to the Gloss are to the Venice edition of the *Biblia Sacra cum Glossis, Interlineari et ordinaria*, published in 6 volumes in 1588. The references to Gratian's *Decretum* and to the *Decretales* of Gregory IX are to the 2 volumes of *Corpus Juris Canonici*, 2nd edition by E. Richter, E. Friedberg, Leipzig, 1879 (R.F.). References to classical Roman law sources are to the 7th edition of the *Corpus Juris Civilis*, edited by P. Krueger and T. Mommsen, published in 3 volumes in Berlin, 1895 (K). Abbreviations to St Thomas's works are as follows:

*Summa Theologiae*, without title. Part, question, article, and, where applicable, reply to an objection; e.g. Ia. 3, 2; Ia2ae. 18, 11; 2a2ae. 61, 2 ad 1.

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

#### EDITORIAL NOTES

*Summa contra Gentiles*, *CG*. Book, chapter; e.g. *CG* III, 37 *Scriptum in IV Libros Sententiarum*, *Sent.* Book, distinction, question, article, solution or *quæstiuncula*, reply; e.g. III *Sent.* 25, 2, 3, ii ad 2.

Commentaries of Scripture (*lecturæ, expositiones*): Job, *In Job*; Psalms, *In Psal.*; St Matthew, *In Matt.*; St John, *In Joan.*; Epistles of St Paul, e.g. *In Rom.*; *In Gal.* Chapter, *lectio*, as required.

Philosophical Commentaries: Aristotle: *Metaphysics*, *In Meta.*; *Nicomachean Ethics*, *In Ethic.*; *Politics*, *In Pol.* Book, *lectio* as required. References to Aristotle give the Bekker annotation. The *lectio* references are to St Thomas's expositions.

*Quæstiones quodlibetales (de quolibet)*, *Quodl.*

Titles of other works are given in full.

#### ACKNOWLEDGEMENTS

The first draft of the translation of the text was read with meticulous care by Mr David Bogie, of the Scottish Bar. But for his vigilant attention and active pencil, there would have been even more infelicities than there are. The editor expresses his grateful indebtedness to him, also to Mrs Sheila Webb and Mrs Maxima Edwards who saved him so much time and expense of spirit by typing the greater part of the final translation and notes and to Sister Mary-Joseph Jackson, O.P. of Carisbrooke, who prepared the Index.

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

## INTRODUCTION

THE READER who picks out this volume without reference to relevant companion volumes may at first sight think that he is dealing with something of an unevenly assorted rag-bag of items which have nothing in common save that they are nearly all connected with vices. At least two questions will, therefore, no doubt arise in his mind: Why vices? and, Why these particular vices?

The answer to the first question is to be sought in the Prologue which St Thomas wrote to the whole of the *Secunda Secundæ*, of which our section forms only a part. He there writes as follows:

Now that we have dealt with virtues and vices and other moral matters in general, we must move on to consider points of greater detail, for talking about moral question in very general terms is not of much use since actions are always particular. Now we could set about such a more detailed examination in one of two ways: either by reference to the content of the moral matter in question, say, this virtue or that vice; or by reference to different sorts of life, say, those of prelates or their subjects, or the active and the contemplative, and so on. We shall, therefore, in the first place deal with what men of all walks of life have in common, and only afterwards with what belongs to particular sorts of life.

The difficulty inherent in the first approach is that we should become very repetitive if we had to deal with virtues, gifts, vices and precepts separately. For one could not, for instance, do justice to the precept, *Thou shalt not commit adultery*, without examining adultery, which is a sin, the understanding of which depends on an understanding of the virtue to which it is opposed. A more succinct and expeditious way of going about things will, therefore, be to consider any given virtue, and its corresponding Gift, and the vices opposed to it, and affirmative or negative precepts, all in one treatise.

Thus explained, his principle of selection is a principle of ordering and classification, a matter of elegance and economy. Behind it, however, lies a deeper principle of epistemology, namely, that a negative can be known only in terms of the positive value of which it is at least implicitly a negation, in the way that, for instance, darkness is known by light: *Unum oppositorum cognoscitur per alterum, sicut per lucem tenebra*.<sup>1</sup> In fact, this principle finds expression in the Prologue itself, first in the reference to

<sup>1</sup>Ia. 48, 1

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

## SUMMA THEOLOGIAE, 2a2ae. 63-79

sin, already quoted, *cujus etiam cognitio dependet ex cognitione oppositae virtutis*; and, a little later, in the reference to the content of both virtue and vice, *est autem eadem materia circa quam et virtus recte operatur et vitia opposita a rectitudine recedunt*. And behind this again, there would seem to lie an even more fundamental principle, of the ontological order, namely, that any evil, as a privation, does not exist in its own right, and therefore can be apprehended and described only in terms of that of which it is a privation. 'We have already seen that the good is whatever is desirable, and since every nature desires its own being and perfection, it follows that the being and perfection of any nature partakes of the character of goodness. Evil cannot, therefore, mean some being, or some form or nature. Only one possibility is, therefore left: the term "evil" must mean some absence of good. And it is for the same reason that evil is said by Dionysius neither to exist nor to be good.'<sup>2</sup> In this light, vice appears in its ontological status as a failure of being, or at least of the fulness of being.<sup>3</sup> It is, thus, not merely that we can know things only by their opposites, but that one of these opposites is a diminished version of the other and subordinate to that other *not merely* in idea but in reality.<sup>4</sup> Injustice is, therefore, the shadow of which justice is the substance, the negative of which justice is the positive, the privation of which justice is the realization. In the experience of injustice, therefore, we do not, strictly, apprehend injustice so much as glimpse the justice implicit in it: the commission of injustice exposes the justice to be realized. Injustice is, as it were, a negative which we have only to develop in order to find out what justice is. Thus, for example, theft has meaning as the contravention of some order of rightful possession; the various ways in which we can harm each other verbally become intelligible as failures to talk to and about each other with that respect which we ought to show towards our fellow men; the point of fraud is that we interfere with the honest circulation of the world's goods among men. In this light, the treatise on injustice constitutes in effect a code of proper behaviour written as it were in mirror-writing.

What this notion of positive justice consists in emerges more clearly from an investigation of the second question which then arises: Even granted

<sup>2</sup>Ia. 48, 1<sup>3</sup>cf. 1a2ae. 71, 1; 18, 1<sup>4</sup>cf. Ia. 48, 1 ad 1; 1a2ae. 100, 6 and 2. Nor is this a purely Aristotelean doctrine. It would seem to have been a commonplace of the Academy. Certainly the authority quoted by St Thomas in the *Sed contra* to this key question is the neo-Platonic author, Pseudo-Dionysius. And similarly the great neo-Platonist Christian author, St Gregory of Nyssa, seems also to have taken it for granted: cf *La Vie de Moïse, Sources Chrétiennes*, Paris, 1955, p. 38



Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

## INTRODUCTION

the propriety of dealing with the vices of injustice, do the particular vices dealt with in this treatise cover the whole field of injustice (and, therefore, on the principle which we have indicated, justice)? More specifically, what about (in)justice to the community as a whole as distinct from (in)justice towards individuals?

An explanatory table of divisions and sub-divisions is given in the introduction to Q. 64, to which the reader is referred. But this explanation still leaves out Q. 63 of our present treatise, and since in both these places is invoked the distinction between distributive and commutative justice, it raises two further questions: What do 'commutative' and 'distributive' justice mean? and, once this is grasped, Does this distinction exhaust the types of justice? which comes to the same thing as asking, Where does so-called 'legal' or 'general' justice fit in? And since insistence on finding an answer to the latter apparently very technical question in fact brings us to the heart of St Thomas's legal theory, we must proceed to it by way of elucidating the distinction between distributive and commutative justice.

It is in the Question next but one before the Question with which our volume opens, Q. 61, that the distinction between commutative and distributive justice is explained. The question is whether the distinction between two sorts of justice, namely, distributive and commutative justice, is a useful one. And St Thomas in his first article there answers as follows:

I should say in reply that particular justice is, as we saw above (58, 7), concerned with a private person, who is related to the community at large in the way a part is related to the whole. A part can, however, be the object of two sorts of relationship. On the one hand, one part can be related to another part, and this is the pattern of relationship between one private individual to another. This is the relationship that is regulated by commutative justice, which covers mutual transactions between two people. On the other hand, there is the relationship of the whole to the parts, which is the model of relationship of what is common to individual persons. And this is the relationship regulated by distributive justice, which distributes the common fund on some proportional basis. It follows that there are two sorts of justice, namely, commutative and distributive.

The very fact, however, that commutative and distributive justice are presented in terms of the relationship of part to part and of whole to part gives rise in the attentive reader's mind to the question of the relationship of part to whole, and of the individual member of society to society as a whole. And this same question also arises out of a previous question, Q. 58, arts. 5, 6 and 7, to which reference is in fact made in this same

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

## SUMMA THEOLOGIAE, 2a2ae. 63-79

Q. 61. The questions there are whether justice is a 'general' virtue, whether it is essentially the same as every other virtue, and whether there is not a 'particular' justice as well as any such 'general' justice. And since the answer given is that there is indeed a virtue the function of which is to ensure the co-ordination of any individual's activities and relationships with those of others in terms of the common good or end,<sup>5</sup> the problem again arises as to where such 'general' or 'legal' justice fits into the scheme of distributive and commutative justice, how one fulfils one's duty of 'general' or 'legal' justice—the justice to the community as a whole—over and above the fulfilment of commutative and distributive justice—justice between man and man and between government and people respectively.

This question, and its implication that the fields of personal interest and of public duty are distinct, seems a natural one for us in so far as we tend nowadays to think that as private individuals we have a right to do what we like provided only that we do not infringe the public interest or the equal rights of others, and that our private pursuits are thus only negatively related to our public duties. Now the answer which St Thomas gives to this question is that there is in principle *no* divergence between personal and social duties, *no* remainder of social duties after the fulfilment of personal duties: they are in one important sense one and the same under different aspects—one fulfils one's duty of 'general' or 'legal' justice *by way of* fulfilling all of one's duties, including the duty of commutative (and, where applicable, distributive) justice, so that the subject-matter of 'general' or 'legal' justice (and injustice) consists of all the natural virtues (and vices) dealt with in the *Secunda Secundae*. This principle is of critical importance, and what is involved in it is of great moment for the whole of St Thomas's legal theory, but to grasp it we have to be prepared to make explicit and to reconsider some of the basic pre-suppositions of our ways of thinking in a post-liberal society.

I know of nobody who puts the essential point and its implications better than Mr Raymond Williams, who sets out two versions of the relationship of individual and society. One he calls 'bourgeois', which is characterized by the idea of a society 'as a neutral area within which each individual is free to pursue his own development and his own advantage as a natural right'; and the other he calls communist, socialist or co-operative, according to which society is neither neutral nor protective, but the 'positive means for all kinds of development, including individual development . . . Improvement is sought, not in the opportunity to escape from one's class, or to make a career, but in the general and controlled advance

<sup>5</sup>And cf *Ethics* v, 1, especially 1129b11 ff.; 25 ff.; St Thomas, *lect.* 2 & 3. cf 1a2ae. 61, 5 ad 4; 2a2ae. 47, 10 ad 2

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

## INTRODUCTION

of all'.<sup>6</sup> His formulation could hardly be bettered for the clarity of its statement of two different views of the relationship of individual and society. What is more, it indicates the necessary political implications of what could otherwise pass for a neutral, and in this way unquestioned, description: a description is *chosen*, so that inevitably a descriptive statement is also the expression of a judgement of value, the taking of a political option.

St Thomas must, then, be recognized to be making an evaluation as well as a description, and once we have grasped this, we are in a better position to realize that what grounds this evaluation is a certain view of man. What we must now do, therefore, is to try to spell out the conception of man implicit in this whole treatise on justice and injustice, and the inwardness of this conception to everything that is said there.

We cannot begin to understand St Thomas until we realize that for him man is fundamentally characterized in two ways: no man is entire unto himself (*homo est animal sociale*)<sup>7</sup> and every man is goal-seeking (*proprium est naturæ rationalis ut tendat in finem quasi se agens vel ducens ad finem*),<sup>8</sup> and, further, that these two features of his being are so intimately interconnected that his being has to be thought of not merely as a being-with but as a being-towards, or, compositely, as a being whose destiny it is consciously to enjoy sharing being-towards. Because every man is not merely goal-seeking but made for community, he will want the goal he seeks to be a shared one, a community goal: his fulfilment is to be found in his doing his bit for a common good along with others doing their bit, his satisfaction is to come from playing his part in the symphony of society. For St Thomas this is part of man's nature in its strictest sense, that is to say, before and without any consideration of man's supernatural elevation and destiny, so that he would not be surprised to find the same insight recurring in such latter-day philosophers as T. H. Green and Professor John MacMurray, who worked things out apparently by reason alone. The former, in an absorbing chapter devoted to the origin and development of the moral ideal, points out that a man's consciousness of the goal of his self-fulfilment inherently includes the contemplation of others 'not merely as means to that better state, but as sharing it with him'. The idea of what is absolutely desirable for any individual man must from the first express itself in some form of 'social requirement'.<sup>9</sup> Similarly, it is the central thesis of Professor MacMurray that there 'can be no man

<sup>6</sup>*Culture and Society 1780-1950*. Penguin, 1961, pp. 312-13

<sup>7</sup>1a. 96, 4; 1a2æ. 90, 2; 94, 2; 2a2æ. 57, 1; 58, 1-2. And cf *De Regimine Principum* 1, 1

<sup>8</sup>1a2æ. 1, 2. cf *ibid* 6, 1; 9, 3-4; 1a. 22; 23

<sup>9</sup>*Prologomena to Ethics*, 5th ed. E. Caird, Oxford, 1906, pp. 229-30; 231-2; 242

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

## SUMMA THEOLOGIAE, 2a2ae. 63-79

until there are at least two men in communication' and that the unit of the personal is not the 'I' but the 'You and I'.<sup>10</sup>

At the same time, it is all of a piece with St Thomas's conception of grace as presupposing and perfecting nature that these characteristics of man should be high-lighted by his glorification in grace, as one of his modern commentators, Père Servais Pinckaers, O.P., points out. After insisting that St Thomas's moral theory is dominated by the notion of beatitude, or happiness, which is the final objective of the human will, source of man's action, and that this notion has itself to be seen in the light of the equally important and complementary notion of friendship (*amicitia*) as the model of charity, he goes on to stress that for St Thomas beatitude therefore consists not in the satisfaction of a man's self-interested desires but in the opening out of himself to God along with others in friendship.<sup>11</sup>

Once we have grasped in what deep sense man is *at once* social and goal-seeking (or, as St Thomas would say, con-social, co-operative, co-participative, co-ordinated and co-ordinating), we can begin to see just why and to what extent 'commutative' and 'general' or 'legal' justice are in an important sense one, although seen under different aspects. If man is by his nature committed simultaneously to seeking a goal and to seeking it with others, his goal is in principle shared with others and so common. And to the extent that man's every act is thus in principle in view of and regulated by this common end, it follows too that 'general' or 'legal' justice is no more than that in virtue of which man co-ordinates all his activities—including his acts of commutative and, where applicable, distributive justice—towards this common end. In other words, on this co-operatively teleological evaluation and description of man, there cannot, in Mr Raymond Williams's terms, be a right pursuit by the individual of 'his own development and his advantage' which is not simultaneously the pursuit of the development of society as a whole: 'general' or 'legal' justice is realized *in and through* the performance of 'commutative' justice, as well as of other duties.

In the light of this way of seeing and therefore of describing man, we can now also begin to see the intrinsic inter-relationship between justice, authority and law for St Thomas and to touch the quick of his legal theory. For since man is committed by his being to seek his goal with others, so that other-relatedness and co-orientation are constituents of man's self-fulfilment, justice stands revealed as the attribute in virtue of

<sup>10</sup>*Persons in Relation*, being the second volume of the Gifford Lectures, *The Form of the Personal*, London, 1961, pp. 12, 61, 67, 80

<sup>11</sup>1a2ae. 18-21 in the Revue des Jeunes edition, Paris, Tournai, Rome, 1966, pp. 241-2

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

## INTRODUCTION

which man discovers and acts out such relationships as are adapted to his searching out his goal with others in fairness to all;<sup>12</sup> authority (at least as between free and responsible men) stands revealed as the natural and necessary externalization of the interior regulator for ensuring the co-ordination of these relationships in view of a common goal to the extent that men as individuals do not ensure this on their own account;<sup>13</sup> and law stands revealed as the external articulation on the part of authority of man's interior aptitude for co-ordination.<sup>14</sup> As T. H. Green puts it, speaking of man's capability of seeking an absolute good and of conceiving this good as common to others with himself, 'It is this capability which alone renders him a possible author and a self-submitting subject of law.'<sup>15</sup>

This is not, of course, to say that all activities, communications and exchanges (or 'commutations') need to be regulated by law. On the contrary, precisely because all men intrinsically seek goals with others, and because authority exists only to give expression and force to the direction of this goal-seeking, activities, communications and exchanges can be left to the spontaneous (albeit tutored) activity of men and only in part need to be regulated by authority and law.<sup>16</sup> Law requires to be just, but not all that is just requires to be reinforced by law. It is enough for it to be compatible with the public interest and the law—'concordant' with it, as St Thomas would say.<sup>17</sup>

For St Thomas, then, individualistic morality is almost a contradiction in terms—the general form, one might say, of sin, in so far as it is the mirror-image of charity, the form of the virtues.<sup>18</sup> Contrariwise, if individualistic morality is the arch-sin, morality is nothing but the individuation or personalization of society's *mores* (whence the term morality) or *ēthē* (whence the term *ethics*): the way a man appropriates the moral culture of his people by finding his role in that society.

Such, then, would seem to be the rationale of St Thomas's vision of the *liber et legalis homo*.<sup>19</sup> This way of looking at things as an integrated and co-ordinated as well as a dynamic whole is, of course, once again a vision of the norm of what is, in the light of which alone we can recognize deformations, corruptions or malfunctions for what they are: privations.

<sup>12</sup>e.g. 2a2ae. 57, 1; 58, 1 & 2; 1a2ae. 94, 2

<sup>13</sup>e.g. 1a2ae. 90, 3; 97, 4; 105, 1 & 2; 1a. 96, 4. *De Regimine Principum* 1, 1 & 15

<sup>14</sup>1a2ae. 90, 3; 93, 6; 94, 2; 2a2ae. 57, 1 ad 2

<sup>15</sup>*Prologomena to Ethics*, p. 234

<sup>16</sup>cf 2a2ae. 57, 2; 58, 5; 1a2ae. 90, 2; 90, 3; 95, 1 & 4; 97, 3 & ad 3; 105, 2

<sup>17</sup>2a2ae. 58, 5. And cf *ibid* 57, 2

<sup>18</sup>cf 2a2ae. 23, 7 & 8

<sup>19</sup>This phrase recurs like a refrain in the late Richard O'Sullivan's lovingly composed and undeservedly neglected Hamlyn lectures, *The Inheritance of the Common Law*, London, 1950

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

## SUMMA THEOLOGIAE, 2a2ae. 63-79

And such deformations do, of course, occur in history. On this view, however, they must be seen to be deformations indeed, displaced or over-compensatory versions of the norm and not alternative versions of the truth, variously plausible experiments with life.

Such a view may well be strange to many people today, even repugnant, and it does, of course, represent a definite value-judgement and philosophical option, which needs to be avowed as such explicitly. It is one view among other contending views of man, and for it to have a fair hearing, certain implications of this vision need to be drawn out.

The first such implication is that men are not only goal-seeking but that there is an objectively right goal for them: they may make mistakes in identifying their goal, but these are mistakes, and there is a true goal. It is not merely that man has an inner dynamic but that this dynamic is not wholly determinable by man himself; it has a built-in direction or trajectory. Man is not merely a project, he is also a projectile. And this is what St Thomas's doctrine of the natural law (and, for that matter, of predestination) is about.<sup>20</sup>

A second implication of the vision being presented is that we need to question our notion of the 'plural' society in general and, in particular, of facile ideas of the inter-relationship of Church and world in any such so-called 'plural' society. For, on this view, man is a rational goal-seeking creature, he is seeking after a shared, common goal, and his search consists in finding where the goal is rather than in fixing what it is. In general, therefore, man cannot enter into any relationship which has not some goal in view shared by the parties to the transaction. Further, they cannot thus pursue any particular goal which is not also implicitly the pursuit of some wider, common goal of, ultimately, the whole of society.<sup>21</sup> But these goals and the corresponding versions of society which they entail must either be mutually reconcilable or in conflict. If they are mutually reconcilable, the society is strictly not so much 'pluralist' on a *laissez-faire* model, as diversified but homogeneous, whereas if they are in conflict, the 'pluralist' society that is threatening to become a modern myth must be seen for what it in fact is, a more or less uneasy collection, at best a matrix, of potentially alternative societies. 'Pluralism' is, therefore, in this context either a misnomer or a recipe for the disintegration of society *qua* society. And this observation takes on a special edge when we recall the Church's claim to have a privileged insight into what the true goal of society is. This makes it doubly clear that the Church in particular cannot

<sup>20</sup> 1a2ae. 91, 2; 93, 6; 94, 1-6; 1a. 22 & 23. And cf *In Ethic*, v. lect. 3, 14-16; *In Pol.* III, lect. 3 & 4

<sup>21</sup> cf 1a2ae. 90, 2; 92, 1; 2a2ae. 57, 5 & 7; 23, 7 & 8; 1a2ae. 1, 5, 7 & 8

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

## INTRODUCTION

be a neutral or merely component member of modern 'pluralist' society; it must be at least implicitly an alternative society or counter-culture (however much it may be able to assume and consecrate to a greater or lesser extent the values, culture and institutions of society as a whole at any given time). Theological exponents of the idea of the Church in the modern world would, therefore, seem to need to refine their analysis further.

And this second implication is really part of a yet wider one. We have seen that law and authority as well as the relations of justice spring as it were from the same single source of man's co-operatively goal-seeking nature, so that, as St Thomas repeats after St Augustine, only just laws are true laws,<sup>22</sup> and man thus becomes truly man to the extent that he finds his role in and responsibility for that society.<sup>23</sup> It is, however, already implicit in this view that man's nature is given its direction from outside itself, that the giver of this orientation is God and that God has from the beginning meant the orientation of man's nature to be integrated into a destiny beyond his purely natural powers. It follows that man's social function and responsibility cannot be defined purely in terms of natural or secular society<sup>24</sup> and that there may in fact be a breach in the continuity and congruence of principle between man's basic life-impetus and natural inclination (called natural law) and the articulations of that impetus in human positive laws. There may quite well be—as history has amply demonstrated that there often has been—a more or less oppressive discrepancy between any particular system of justice and law and the total objective order of life lived towards a commonly shared end. From this it follows that St Thomas's view of man, when taken in its total context, provides a principle not merely of law-abiding conformity, but of revolutionary criticism. This needs to be explained a little more.

St Thomas would wholly have endorsed Oliver Wendell Holmes: 'The very considerations which judges most rarely mention, and always with an apology, are the secret root from which the law draws all the juices of life.'<sup>25</sup> But he would have seen this insight as no more than a first hint and intimation, requiring further exploration and explicitation. And what he would have added is that the 'secret root' of the law is man's natural impetus to seek his end and rationally formulate appropriate means to the attainment of his end along with his fellow human beings. The particular legal system of any given society can, therefore, be seen to play two distinct and—unhappily—not always coincidental roles. First, it can be

<sup>22</sup>1a2ae. 95, 2. cf 93, 3 & ad 1, ad 2

<sup>23</sup>cf 1a2ae. 92, 1 ad 3; 95, 3; 2a2ae. 58, 9 ad 3; 1a2ae. 1, 3

<sup>24</sup>cf 1a2ae. 21, 4 ad 3; 98, 1; 2a2ae. 23, 7 & 8; *De Regimine Principum*, 1, 15

<sup>25</sup>*The Common Law*, Boston, 1881, 37th printing 1945, p. 35

Cambridge University Press

978-0-521-02946-9 - Summa Theologiae: Volume 38 - Injustice, (2a2ae. 63-79)

Marcus Lefebure O.P.

Frontmatter

[More information](#)

## SUMMA THEOLOGIAE, 2a2ae, 63-79

seen as one of society's prime means for eliciting, schooling and sustaining an individual's innate sense of impetus towards a co-ordinated inter-subjectivity and therefore as an expression and articulation of an individual's social search. And, secondly, precisely because a society's legal system should be the due expression and articulation of man's inherently social conscience, it can be seen as being subject to the criticism of reason and conscience. What needs to be noted, however, is that it is only because of the presiding vision of an unfolding series of laws—eternal (*lex aeterna*), natural law (*lex naturalis*), *jus gentium*, and the positive laws of either God or man (*lex divina*, *lex civilis*)<sup>26</sup>—that any particular legal system can be seen to play two distinct roles. For it is according as any human legal system is indeed, or is not, in continuity and congruence with man's natural bent to seek out his end co-operatively and rationally that, first, purported law is either truly law or a distortion of the law and a *détournement de pouvoir*,<sup>27</sup> and, secondly, that the individual is bound either to obey in conscience or, in an extreme case, not to obey.<sup>28</sup> And this is why the enemy of a people is always the most disturbing test of any people; why, in the final theological analysis, the enemy of a people can become the martyr. For the martyr takes his stand at the intersection of conformity and criticism, of law as just and law as unjust, of law as due order and law as (in Emmanuel Mounier's seminal phrase) *le désordre établi*, institutionalized violence. And even at this extremity, the true martyr plays a paradoxically social role: it is by his willingness to go into the social wilderness, to go out of the camp and the tribe and the law, that he can re-awaken his people and recall them to their path, the royal road, the king's high way,<sup>29</sup> to a new order. The forces simultaneously of revolt, purgation and a renewed order of justice gather here to a climax: 'As St Augustine notes, a law that is not just is not really a law at all';<sup>30</sup> 'Unjust laws are acts of violence rather than laws';<sup>31</sup> 'Spiritual men, to the extent that they are prompted by the Holy Spirit, are not subject to the law where this conflicts with such prompting';<sup>32</sup> 'It is quite wrong to obey laws that are contrary to the divine will, for, as we are told in the *Acts of the Apostles*, We must obey God rather than men';<sup>33</sup> 'The stone which the builders rejected has become the chief corner-stone.'<sup>34</sup>

<sup>26</sup>See particularly 1a2ae. 91, 1-6; 93, 1 & 3. Vol. 28 of this series, ed. T. Gilby

<sup>27</sup>1a2ae. 92, 1 ad 4; 93, 3 ad 2; 95, 2; 96, 4

<sup>28</sup>1a2ae. 96, 4

<sup>29</sup>The original use of this term was in *Numbers* 20, 17. It came to be a seminal text when interpreted spiritually to mean the way of perfection and discernment. This is illustrated in the East by St Gregory of Nyssa, *La vie de Moïse, Sources Chrétiennes*, Paris, 1955, p. 123; and in the West by Cassian, *Conferences*, The Second Conference of the Abbot Moses. And see *Asking the Fathers*, Ælred Squire O.P., London, 1973

<sup>30</sup>1a2ae. 95, 2

<sup>31</sup>1a2ae. 96, 4

<sup>32</sup>1a2ae. 96, 5 ad 2

<sup>33</sup>1a2ae. 96, 4

<sup>34</sup>Psalm 118 (117), 22