

St Thomas Aquinas

Summa Theologiæ

A CONCISE TRANSLATION

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exchanges however there is a balance of things given to things received (which we observe chiefly in buying and selling, the archetypal exchange) and such repayment Aristotle calls arithmetic. A person's status is directly relevant to distributive justice; it may indirectly affect commutative justice in so far as it affects the balance of actions to one another. Commutative justice governs exchanges between two people. Some of these are involuntary, one man making use of another's property or person or labour without his consent, either secretly and deceitfully or openly by use of force: examples are theft and robbery, hidden or manifest bodily harm, false witness and public accusation, adultery and enticement of servants. Other exchange transactions are voluntary: simple gifts without debts attached are not matters of justice, but buying and selling, loans and usufruct and hiring, deposits and pledges, must all be governed by it. Despite all their differences one sort of balance is sought in all these exchanges: equitableness of recompense; so all belong to the one type of justice, commutative justice. *Quid pro quo* implies recompensing action with reaction: loss for loss and, especially when injury is suffered, blow for blow. And the term is also used in voluntary exchanges. In all cases commutative justice demands equality of recompense; but not necessarily *an eye for an eye*, i.e. returning the identical action: status differences enter in, and simple restitution of property stolen would not inflict a loss on the thief nor compensate for the damage done to public safety. *Quid pro quo* rather implies a certain proportionate correspondence, to measure which money was invented. In distributive justice *quid pro quo* of action and reaction has no place; here things are measured against persons, what is received corresponding not to what was spent but to what others receive, taking into account their persons.

62 1 The act of restitution is characteristic of commutative justice: the return to its owner of something held by another, whether loaned or deposited voluntarily, or taken without permission. Just as we stretch the notion of exchange to cover actions and reactions benefiting and injuring people, so we extend the notion of restitution to cover repayment for the physical and psychological effects of action. Notice that even restitution made to one who received less than he should have done in a distribution is judged to be an adjustment of thing to thing and so a matter of commutative justice. When one can't restore the equal of what has been taken, recompense must be made as far as possible. And when property is taken unjustly, not only the imbalance of property must be put right by restitution, but also the fault of injustice by a judicially imposed penalty. Actual loss must be fully indemnified, but loss of expected revenue need not be, since a man does not fully possess

his expectations. But some restitution must be made, appropriate to the situation and people involved.

Injustice. Unfair discrimination is opposed to distributive justice. The equitableness of such justice consists in different people receiving different things in proportion to their social worth. But if someone is appointed to a teaching post, for example, not on the basis of his qualifications and professional competence, but because he is John Smith, that is discrimination. Worth is here assessed with respect to the general good, and it can happen that someone less holy or less learned can contribute more to the general good because of his worldly wisdom and influence and suchlike. When a judge busy with commutative justice takes something from one person and gives it to another his judgment is an act of distributive justice; and that is why it can be flawed by discrimination.

Unjust deeds – Killing. Plants – the lowest level of life – exist for animals, and animals for men; so there is nothing wrong in using plants for the sake of animals, or animals for men's sake. However, what animals most need plants for, and men animals, is food, and for that they must be killed. So it is legitimate, as Genesis teaches, for animals to kill plants and men to kill animals for their respective benefits. Moreover, every individual person is as it were a part of the whole community. If a man is a danger to the community threatening it with disintegration by some wrongdoing of his, then his execution for the healing and preservation of the general good is to be commended. In doing wrong men depart from the order laid down by reason, falling away from their human dignity in which they are by nature free and exist for their own sake into the subject state of animals that must serve the needs of others. So it becomes justifiable to kill a malefactor as one would kill an animal. *An evil man*, says Aristotle, *is worse than an animal and more harmful*. But the care of the whole community is entrusted to those exercising public authority, and so only they, not private persons, may licitly execute malefactors. We cannot distinguish malefactors from just men by nature; they can only be differentiated by a public judgment.

Suicide is altogether wrong for three reasons. Firstly, it runs counter to the inclinations of nature and charity to love and cherish oneself. As such it is a fatal sin and against nature. Secondly, it does injury to the community to which each man belongs as a part of the whole. And thirdly, it wrongs God whose gift life is and who alone has power over life and death. What gives man mastery over himself is free will. So he may licitly manage his own life in respect of everything that contributes

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to it; but his passage out of this life to a happier one is not subject to his own free will but to the authority of God.

7 An act of self-defence may have two effects: it may save one's own life and cost the attacker his. Now intending to save one's own life can't make an act illegitimate, since it is in the nature of all things to want to preserve themselves in being as far as they can; but an act that is properly motivated may nevertheless be vitiated by not being proportionate to its goal. Somebody who uses more force than necessary to defend himself will be doing wrong, though moderate use of force can be legitimate. For men are not obliged under pain of losing eternal life to renounce moderate force for fear of killing another; our responsibility for our own life is greater than our responsibility for another's. However, it is not licit for a man actually to intend to kill another in self-defence, since the taking of life is reserved to public authorities acting for the general good. The only people who may deliberately kill in self-defence are those with public authority to do so for the general good, namely, soldiers fighting the enemy and policemen fighting crime; and even they do wrong if they are influenced by private passion. And nobody is allowed to commit adultery or a sexual sin in self-defence: such acts haven't the same necessary connection with saving one's life as the acts of self-defence which can lead to homicide. Accidents as such can't be sins. But what we do not will or intend as such we may nevertheless accidentally will or intend by removing an obstacle to its happening. Somebody who doesn't avoid circumstances in which a homicide might occur, circumstances which he could and should have avoided, will in a way have willed the homicide. Maybe he killed a man while engaged in nefarious activities he should have refrained from, or maybe he was guilty of negligence in a situation.

65 3 There is a hierarchy of bodily goods: the physical integrity of the body itself which can be damaged by killing or grievous bodily harm; the tranquillity and delight of our senses, which can be disturbed by blows and the infliction of pain; the free movement and use of our limbs, which can be inhibited by imprisonment and detention. All such hostile actions are illegitimate unless done with due process of justice by way of punishment or warning.

66 1 **Injurious deeds – Robbery and theft.** The natures of external things are not subject to man but to God whom they obey without question. But man has a natural dominion over the use of such things, and his mind and will can exploit them for his benefit as things made for him, the less perfect for the more perfect. This is Aristotle's argument to prove possession of external things natural to man. Man in fact

exercises a twofold competence where external things are concerned. Firstly, he is entitled to take care of them and share them out; and in this respect private ownership is both legitimate and necessary. Firstly, because everyone takes more care of the things for which he is privately responsible than of things held in common, the responsibility for which is left to the next man. Secondly, because human affairs are more efficiently organized when each person has his own distinct responsibility to discharge. Thirdly, because there is a greater chance of keeping the peace when everyone is content with his own matters. Man's other competence in relation to external things is their use; and in this regard men should not treat things as exclusively theirs but use them for the good of all, ready to share them with those in need. The distribution of property is not determined by natural justice, but by human agreement and enacted law. Private ownership is not against natural law, but it is something invented by human reason over and above natural law.

The essence of theft is the surreptitious taking of another's property. Concealment can contribute to wrongdoing by making it possible, as in cases of deceit and fraud. In such cases concealment does not lessen the wrongdoing – as it might if it was just a circumstance indicating shame – but rather constitutes it as a special type of wrongdoing. This is what happens with theft. Theft and robbery are wrong because the taking is against the owner's will. But things happen against our will either because we are ignorant of them (and that defines theft) or because force is used (and that defines robbery); so here there are two different types of sin. Even a person who takes back by stealth property of his own unjustifiably held by another is doing wrong: not because of any harm he does the holder (and so he has no obligation to restitution or compensation in that regard), but because he offends against ordinary justice by taking the law into his own hands and bypassing due legal processes. So he is bound to make amends to God and see to it that he mitigates any possible scandal to others. Human society would perish if everybody started stealing from everybody else. Theft then is a fatal sin, opposed to the love of charity. Penalties imposed in this life are corrective rather than retributive, for retribution is reserved to God's judgment. So men should not be sentenced to death in this life for fatal sins, unless they cause irreparable harm or are particularly perverted. Theft is not normally a capital offence since the damage it does can be repaired, though it may be capital if there is some aggravating circumstance like the property being sacred or public, or the stealing being kidnap.

In need everything is common property. In the natural order established by God's providence lower things are intended to serve men's