

ABSTRACT

Is “Social Justice” Justice? A Thomistic Argument for “Social Persons” as the Proper Subjects of the Virtue of Social Justice

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The term “social justice,” as it occurs in the Catholic social encyclical tradition, presents a core, definitional problem. According to Catholic social thought, social justice has social institutions as its subjects. However, in the Thomistic tradition, justice is understood to be a virtue, i.e., a human habit with human persons as subjects. Thus, with its non-personal subjects, social justice would seem not to be a virtue, and thus not to be a true form of justice.

We offer a solution to this problem, based on the idea of *social* personhood. Drawing from the Thomistic understanding of “person” as a being “distinct in a rational nature”, it is argued that certain social institutions—those with a unity of order—are capable of meeting Aquinas’ analogical definition of personhood. Thus, social institutions with a unity of order—i.e., *societies*—are understood to be “social persons” and thus the proper subjects of virtue, including the virtue of justice.

After a review of alternative conceptions, it is argued that “social justice” in the Catholic social encyclical tradition is best understood as general justice (justice directed

toward the common good) extended to include not only human persons, but social persons as well. Advantages of this conception are highlighted. Metaphysically, an understanding of social justice as exercised by social persons fits nicely with an understanding of society as non-substantial, but subsistent being. This understanding of societal being supports certain intuitions we have about the nature of societal organization. In regards to social philosophy, an understanding of social justice as general justice exercised by social persons helps to account for the principle of subsidiarity and situate it properly within the domain of just acts. Consequently, the notion of social personhood helps to bring social institutions—considered *per se*, not as mere summations of individual persons—into the domain of justice.

Is "Social Justice" Justice?
A Thomistic Argument for "Social Persons" as the Proper Subjects
of the Virtue of Social Justice

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To Mom and Dad
And the BCSC (& LG perhaps)

CHAPTER ONE

Introduction

The term “social justice” is a latecomer on the philosophical scene. It is generally understood that the term was coined by the Jesuit philosopher, Luigi Taparelli D’Azeglio, in the mid-19th century.¹ The term’s meaning has been disputed since its inception, but a more authoritative account of the term was given by Pope Pius XI in his encyclical *Quadragesimo Anno* (1931). The term appears occasionally in subsequent social encyclicals (the latest being in Pope John Paul II’s *Centesimus Annus*), but without even the mild theoretical attention given it in *Quadragesimo Anno*.² This is unfortunate, as the use of the term *social justice* in the Catholic social encyclical tradition presents a potentially serious definitional problem. Social justice, as presented and developed by the twentieth-century popes, has as its proper subjects a variety of *social institutions*, from labor unions to nation-states. However, in the philosophical tradition, particularly that of Thomas Aquinas, justice has been understood to be a *virtue*, i.e., a good habit exercised by *individual human persons*. It would seem, then, that if social justice has social institutions as its proper subjects, it would not be a candidate for virtue, properly speaking. But if social justice is not a virtue, then it would seem that it is not a true form

¹Ernest Fortin, *Classical Christianity and the Political Order: Reflections on the Theologico-political Problem*, ed. J. Brian Benestad (Lanham: Rowman & Littlefield, 1996), 233.

²In addition to *Quadragesimo Anno*, the term appears at least briefly in the following encyclicals: *Divini Redemptoris*, Pope Pius XI, 1937; *Mater et Magistra*, Pope John XXIII, 1961; *Populorum Progressio*, Pope Paul VI, 1967; *Octogesima Adveniens*, Pope Paul VI, 1971; *Redemptor Hominis*, Pope John Paul II, 1979; *Laborem Exercens*, Pope John Paul II, 1981; and *Centesimus Annus*, Pope John Paul II, 1991.

of justice. Thus, social justice is in danger of being a contradiction in terms. This is an undesirable situation.

Not surprisingly, this problem, residing at the core of the definition of social justice, has led to considerable confusion in its application. As Ernest Fortin put it:

As nearly as I can make out, social justice, in contradistinction to either legal or distributive justice, does not refer to any special disposition of the soul and hence cannot properly be regarded as a virtue. Its subject is not the individual human being but a mysterious society named “X,” which is said to be unintentionally responsible for the condition of its members and in particular for the lot of the poor among them.³

Given that the popes seemed to envisage an important role for social justice in modern society, it would be beneficial if this definitional problem (and thus the subsequently “mysterious” applications) could be resolved.

I propose a solution to the problem, a solution that preserves both social institutions as the subjects of social justice and the status of social justice as a virtue (and thus as a true form of justice). This solution comes about through the mechanism of *social personhood*.⁴ Specifically, by virtue of their unity of order, certain social institutions are capable of participating in the analogical nature of personhood. This is due to the definition of a person as a being “distinct in dignity”, an understanding offered by Thomas Aquinas. In other words, the “unity of order” displayed by social institutions maps analogically onto the “distinct in dignity” definition of *person*.

Taking this conception of social personhood, I will apply it to the problem of social justice, arguing that because social institutions can participate in personhood, they

³Fortin, *Classical Christianity*, 234.

⁴All credit for the notion of social personhood must be given to Russell Hittinger, whose lectures and correspondence on this issue have proved to be invaluable.

can also participate in the type of good habit characteristic of persons, namely, *virtue*.

Thus, I will arrive at the following definition of social justice: social persons exercising the virtue of rendering what is due to the common good. Put another way, social justice is the expansion of Aquinas' general (or legal) justice into the domain of social persons.

I will begin in chapter two by presenting the conceptions of social justice offered by the popes, beginning with Pius XI and ending with John Paul II. I will attempt to distill the essential definition of the term. In chapter three, I will discuss and critique the relevant philosophical analyses of social justice. Finding these analyses to be unable to solve the core, definitional problem of social justice, I will begin to offer my solution by arguing for the possibility of social personhood in Aquinas (chapter four). After presenting the argument for social personhood, in chapter five I will offer an account of its ontology as a non-substantial subsistence. In chapter six, to prepare the way for an application of social personhood to social justice, I will discuss the relationship of social personhood to power, habit, and virtue. In chapter seven, I will discuss my conception of social justice in detail, including its relationship to the common good, social functions, and subsidiarity. In chapter eight, I will present a sort of "phenomenology" of social justice, relying on John Finnis' conception of social action. Finally, in chapter nine, I will respond to potential objections.

Before beginning, it is necessary to make a note of how the topic of this dissertation fits into the broader subject of Church-State studies. First, broadly speaking, any question within Catholic social thought bears on the Church-State question because, by definition, Catholic social thought contains arguments that the Catholic Church makes in regards to the proper ordering and government of society. An understanding of this

role of Catholic social thought is given by Pope Benedict XVI in his first encyclical, *Deus Caritas Est*:

From God's standpoint, faith liberates reason from its blind spots and therefore helps it to be ever more fully itself. Faith enables reason to do its work more effectively and to see its proper object more clearly. This is where Catholic social doctrine has its place: it has no intention of giving the Church power over the State. Even less is it an attempt to impose on those who do not share the faith ways of thinking and modes of conduct proper to faith. Its aim is simply to help purify reason and to contribute, here and now, to the acknowledgment and attainment of what is just.⁵

While it is outside the scope of this dissertation to reflect further on the role and nature of Catholic social doctrine, it can readily be seen how this issue is at the core of the Church-State question.

Second, and more specifically, the question of this dissertation has immediate implications for Church-State relations. As will be argued, society as a whole is composed of multiple and diverse “lesser” societies. From the perspective of the State, religious bodies number among these societies. The governmental apparatus, with its charge to care for the common good, must take into account and protect the contributions that these lesser societies make to the common good of society as a whole. As we shall see, this is an important aspect to the exercise of social justice. Of course, in the broadest sense, the society that is the Church—the City of God—transcends political society, the latter being ordered to the former. This reinforces the importance of questions regarding the just relationship between this singular Society and all other societies. Thus, not only does this dissertation have implications for how the Church treats the State (Catholic

⁵Pope Benedict XVI, *Deus Caritas Est* [official English translation] (Vatican City: Libreria Editrice Vaticana, 2005, accessed 4 June 2008); available from http://www.vatican.va/holy_father/benedict_xvi/encyclicals/documents/hf_ben-xvi_enc_20051225_deus-caritas-est_en.html; Internet, no. 28.

social doctrine), but it also has consequences for the just treatment of the Church by the State. Obviously, Church-State questions abound.

Finally, it may be helpful to say a word about methodology. The subject of this dissertation would probably best be situated in the area of social philosophy. Thus, a philosophical approach will be taken. Moreover, following Benedict's understanding of Catholic social doctrine as clarifying subjects in the domain of *reason*, it is perhaps most appropriate to undertake a philosophical inquiry into such topics. This is not to say, however, that theological concepts will not enter into the discussion. For example, the question of this dissertation involves appeal to the notion of "personhood", a concept with a strong theological pedigree. Thus, the interplay between faith and reason emerges once again. Needless to say, this fruitful interaction will not be suppressed.

It should also be noted that notions of group personhood and collective action exist in the legal and sociological disciplines (respectively).⁶ However, for the purposes of the argument of this dissertation, we will bracket these discussions. In the legal tradition, corporate "personality" is simply a legal term of art, a creation of positive law which makes no claim regarding the metaphysical status of the social group under question (see Gierke's understanding of the *persona ficta* in chapter nine). As such, while this tradition of legal personality is interesting in that it may be a jurisprudential manifestation of certain underlying intuitions about social ontology, it is not very helpful as a source of philosophical reflection. Indeed, in practice, the development of the

⁶For a good overview of the concept of personhood in the legal tradition, see Mary Fredericus Niemeyer, "The One and the Many in the Social Order According to Saint Thomas Aquinas" (Ph.D. diss., The Catholic University of America, 1951), 112-116. For sociological treatments of collective action, see Emile Durkheim, *The Rules of Sociological Method*, (Chicago, IL: University of Chicago Press, 1938) and Larry May, *The Morality of Groups: Collective Responsibility, Group-Based Harm, and Corporate Rights*, (Notre Dame, IN: University of Notre Dame Press, 1987). Also Peter French's *Collective and Corporate Responsibility*, (New York: Columbia University Press, 1984) is important in this vein.

concept of legal personality has had less to do with reflection on the nature of social realities and more to do with attempts to shield individual persons from the legal culpability arising from the actions of organizations of which they are a part. Similar arguments constrain the usefulness of the sociological method for our present discussions. The argument put forth for social personhood in this dissertation is, at its core, a metaphysical one and thus will not be advanced by the use of the sociological method.

CHAPTER TWO

Social Justice in the Social Encyclicals

Let us begin by looking at the presentations of social justice in the social encyclicals. While a comprehensive and consistent definition is difficult to glean from the relatively scant theoretical discussions of social justice in the encyclicals, certain elements of a common definition present themselves. We will, of course, pay special attention to the introduction of the term *social justice* to Catholic social thought in *Quadragesimo Anno*. We will then continue with its development in later social encyclicals.

2.1 Social Justice in Quadragesimo Anno

Written in the interwar period, Pope Pius XI's *Quadragesimo Anno* (1931) reflects the Pope's engagement with a world facing the rise of fascism and communism and the advent of a worldwide economic depression.⁷ In this letter, Pius XI introduced the principles of subsidiarity and social justice to the social encyclical tradition.⁸ The principle of subsidiarity will be discussed later (chapter seven), so let us now turn to the Pope's presentation of social justice. The term first appears in Pius' discussion of a just distribution of material goods:

[N]ot every distribution among human beings of property and wealth is of a character to attain either completely or to a satisfactory degree of perfection the

⁷David J. O'Brien and Thomas A. Shannon, eds., *Catholic Social Thought: The Documentary Heritage* (Maryknoll, N.Y.: Orbis Books, 1992), 40.

⁸For subsidiarity, see *Quadragesimo Anno*, no. 79. The actual term itself was not introduced until John XXIII's *Mater et Magistra* (no. 53).

end which God intends. Therefore, the riches that economic-social developments constantly increase ought to be so distributed among individual persons and classes that the common advantage of all, which Leo XIII had praised, will be safeguarded; in other words, that the common good of all society will be kept inviolate. By this law of social justice, one class is forbidden to exclude the other from sharing in the benefits.⁹

There are a few elements of this instance of the term *social justice* which are worth noting. First, the end of social justice is the common good of all society. Pius follows the tradition of Leo XIII in maintaining that God created material goods for the sake of everyone, not certain individuals.¹⁰ Second, while the end of social justice is the common good, the matter (or immediate end) of social justice seems to concern the material wealth that is generated from economic developments. Finally, at the end of this passage, classes are presented as the subjects of social justice.

To further understand Pius' conception of social justice, let us look at each of these elements of his definition in turn.

2.1a The First Element of Pius' Definition: The Common Good as Object

As we saw above, Pius argues that social justice is directed toward keeping inviolate the common good of all society.¹¹ He reinforces this connection of social

⁹Pope Pius XI, *Quadragesimo Anno* [official English translation] (Vatican City: Libreria Editrice Vaticana, 1931, accessed 4 June 2008); available from http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_19310515_quadragesimo-anno_en.html; Internet, no. 57.

¹⁰As Leo writes, "The earth, even though apportioned among private owners, ceases not thereby to minister to the needs of all"; from Pope Leo XIII, *Rerum Novarum* [official English translation] (Vatican City: Libreria Editrice Vaticana, 1891, accessed 4 June 2008); available from http://www.vatican.va/holy_father/leo_xiii/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum_en.html; Internet, no. 8.

¹¹It should be noted here that, for the time being, I am not defining the term "common good" but am using it as a sort of placeholder. In chapter seven, I will give further attention to what exactly is meant by this term.

justice to the common good in other passages of his encyclical. In a discussion of social justice in the context of wages and salaries, Pius writes,

[E]veryone knows that an excessive lowering of wages, or their increase beyond due measure, causes unemployment. This evil, indeed, especially as we see it prolonged and injuring so many during the years of Our Pontificate, has plunged workers into misery and temptations, ruined the prosperity of nations, and put in jeopardy the public order, peace, and tranquility of the whole world. Hence it is contrary to social justice when, for the sake of personal gain and without regard for the common good, wages and salaries are excessively lowered or raised[.]¹²

Here we see the connection of social justice to the common good in the case of a *violation* of social justice. When wages are excessively altered, without due attention to the common good, social justice is violated.

Elsewhere, speaking further of the demands of social justice vis-à-vis the common good, Pius writes, “To each, therefore, must be given his own share of goods, and the distribution of created goods, which, as every discerning person knows, is laboring today under the gravest evils due to the huge disparity between the few exceedingly rich and the unnumbered propertyless, must be effectively called back to and brought into conformity with the norms of the common good, that is, social justice.”¹³ Here we see social justice related closely to the common good—so close, in fact, that the Pope seems to indicate that social justice is just another way of saying “norms of the common good.”

2.1b The Second Element of Pius’ Definition: The Matter

We have seen that Pius’ conception of social justice is tightly tied to the common good of society. We have also seen that the Pope’s applications of social justice have tended to be within the domain of material goods. This theme continues. In addition to

¹²Pius, *Quadragesimo*, no. 74.

¹³*Ibid.*, no. 58.

the distribution of material goods in general, and the inordinate adjusting of wages in particular, Pius addresses the issue of the “family wage”. He writes, “In the first place, the worker must be paid a wage sufficient to support him and his family....Every effort must therefore be made that fathers of families receive a wage large enough to meet ordinary family needs adequately. But if this cannot always be done under existing circumstances, social justice demands that changes be introduced as soon as possible whereby such a wage will be assured to every adult workingman.”¹⁴

This passage highlights an interesting connection between the proximate and remote ends of social justice. In this context, the immediate concern is a wage for fathers that will allow the needs of their families to be met. Thus, an intermediate end must be the good of the *families*, not only of the individual father-workers. Finally, as we have seen from Pius' discussion above, the remote end of social justice must be the common good of society. This connection between the proximate ends and the remote end of social justice raises an interesting point about the tendency of the Pope to articulate the demands of social justice in the context of economic matters. While these demands are real and important, we see that there is an underlying connection between social justice in the economic domain and the consequences of its exercise for the wider social realm. In this example, if social justice is followed in the realm of wages, then *families* (and, ultimately, the common good) are the beneficiaries.

This connection—between the economic applications of social justice and the wider social realities which are at stake—is made explicit by Pius:

Free competition, kept within definite and due limits, and still more economic dictatorship, must be effectively brought under public authority in these matters

¹⁴Ibid., no. 71.

which pertain to the latter's function. The public institutions themselves, of peoples, moreover, ought to make all human society conform to the needs of the common good; that is, to the norm of social justice. If this is done, that most important division of social life, namely, economic activity, cannot fail likewise to return to right and sound order.¹⁵

In this passage, we see two reasons to believe that while the economic domain may hold pride of place in the matter and application of social justice, the scope of this kind of justice goes beyond just economic activity. First, Pius argues that “all human society” must “conform to the needs of the common good.” The common good of society most certainly contains more than merely economic matters. Second, Pius refers to economic activity as “that most important division of social life.” While it may be the most important division, economic activity is still a *division* and thus cannot be understood to be the sole domain to which the norm of social justice applies.

Thus, while the Pope may highlight problems in the economic domain as those which are in most need of the application of social justice, it cannot be maintained that the matter (and immediate end) of social justice is limited only to economic activity.

2.1c The Third Element of Pius' Definition: The Subjects of Social Justice

Having discussed the end of social justice as well as its matter, let us continue to the third element of Pius' definition: the *subjects* of social justice. We do not have to go far. In the passage just quoted above we see that “public institutions themselves, of peoples, moreover, ought to make all human society conform to the needs of the common good; that is, to the norm of social justice.”¹⁶ What are the subjects of social justice—the

¹⁵Ibid., no. 110.

¹⁶Ibid., no. 58.

entities that *perform* acts of social justice? According to this passage, they are public institutions of peoples.

What kind of public institutions is Pius talking about? Are such institutions limited to merely governmental bodies? In identifying the solution to the problems of an “economic dictatorship”, Pius writes, “Loftier and nobler principles - social justice and social charity - must, therefore, be sought whereby this dictatorship may be governed firmly and fully. Hence, the institutions themselves of peoples and, particularly those of all social life, ought to be penetrated with this justice, and it is most necessary that it be truly effective, that is, establish a juridical and social order which will, as it were, give form and shape to all economic life.”¹⁷ Here we see that the institutions that Pius has in mind are the institutions *of all social life*. Thus, the institutions that are to “make all human society conform to the needs of the common good” include all the institutions of society.

Following the Pope’s understanding of the relationship of the *matter* of social justice to the economic realm, we find that a similar relationship holds between the *subjects* of social justice and the economic domain. We find that, while Pius clearly has in mind that all institutions of society are to participate in acts of social justice, this fact does not prevent him from using economic examples in most of his discussions of the application of social justice. Already, we have seen that the Pope sees the need for classes to exercise social justice: “By this law of social justice, one class is forbidden to

¹⁷Ibid., no. 88. Of social charity, Pius continues, “Social charity, moreover, ought to be as the soul of this order, an order which public authority ought to be ever ready effectively to protect and defend. It will be able to do this the more easily as it rids itself of those burdens which, as We have stated above, are not properly its own.” For a discussion of social charity, see section 9.3c.

exclude the other from sharing in the benefits.”¹⁸ Reiterating this point, Pius explains, “[I]t violate[s] right order when capital hires workers, that is, the non-owning working class, with a view to and under such terms that it directs business and even the whole economic system according to its own will and advantage, scorning the human dignity of the workers, the social character of economic activity and social justice itself, and the common good.”¹⁹

2.1d Summary of Pius’ Definition of Social Justice

In summary, from the passages of *Quadragesimo Anno* addressed above, we find that Pius XI’s conception of social justice has three elements. First, the *end* (mediate and remote though it may be) of social justice is clearly the common good of society. Second, the *matter* of social justice (and its immediate end) has as its scope all of human society, with special attention given to the economic realm. And, third, the *subjects* of social justice include all of the institutions of social life—again, with an emphasis given to economic institutions.

Let us now turn to see how these three elements of Pius’ definition of social justice are developed further in subsequent social encyclicals.

2.2 Social Justice in Mater et Magistra

In his 1961 encyclical, *Mater et Magistra*, Pope John XXIII also touches on the question of social justice. In this encyclical, the Pope comments on the teaching of Pius XI in *Quadragesimo Anno*:

¹⁸Ibid., no. 57.

¹⁹Ibid., 101.

Thus Pius XI's teaching in this encyclical can be summed up under two heads. First he taught what the supreme criterion in economic matters ought not to be. It must not be the special interests of individuals or groups, nor unregulated competition, economic despotism, national prestige or imperialism, nor any other aim of this sort....On the contrary, all forms of economic enterprise must be governed by the principles of social justice and charity.²⁰

Earlier, speaking more specifically about how this economic order ought to look, Pope John writes,

Pius XI saw the re-establishment of the economic world within the framework of the moral order and the subordination of individual and group interests to the interest of the common good as the principal remedies for these evils. This, he taught, necessitated an orderly reconstruction of society, with the establishment of economic and vocational bodies which would be autonomous and independent of the State. Public authority should resume its duty of promoting the common good of all. Finally, there should be co-operation on a world scale for the economic welfare of all nations.²¹

It would seem that the economic order, when governed by social justice, would exhibit the following traits. First, the interests of individuals and groups would not be allowed to run rampant; rather, they would be ordered to the common good of society. Second, the autonomous existence of properly ordered groups in society is crucial: the Pope talks of the necessity of economic and vocational bodies that are independent of the State. Finally, it is the duty of the public authority to promote the common good of all.

Saying the previous in a different way, Pope John writes that, "man's aim must be to achieve in social justice a national and international juridical order, with its network of public and private institutions, in which all economic activity can be conducted not

²⁰Pope John XXIII, *Mater et Magistra* [official English translation] (Vatican City: Libreria Editrice Vaticana, 1961, accessed 4 June 2008); available from http://www.vatican.va/holy_father/john_xxiii/encyclicals/documents/hf_j-xxiii_enc_15051961_mater_en.html; Internet, nos. 38-39.

²¹*Ibid.*, no. 37.

merely for private gain but also in the interests of the common good.”²² Here, again, the Pope highlights important features of social justice: a just order involves public and private *institutions* which are directed not only for their own sake but also for that of the *common good*. Also, it is interesting that the Pope doesn’t denigrate private institutions and their attendant private goods; rather, the Pope argues that economic activity must *also* be directed toward the interest of the *common good*.

2.3 Social Justice in *Populorum Progressio*

In his 1967 encyclical, *Populorum Progressio*, Pope Paul VI extends the discussion of social justice to international trade, particularly to the duties of wealthier nations: “Their obligations stem from the human and supernatural brotherhood of man, and present a three-fold obligation: 1) mutual solidarity—the aid that the richer nations must give to developing nations; 2) social justice—the rectification of trade relations between strong and weak nations; 3) universal charity—the effort to build a more humane world community, where all can give and receive, and where the progress of some is not bought at the expense of others.”²³

In this passage, the Pope extends the context of social justice from within a particular political society to the global community as a whole. The subjects of social justice in this context are nations themselves, with just trade relations between rich and poor nations being of utmost concern.

²²Ibid., no. 40.

²³Pope Paul VI, *Populorum Progressio* [official English translation] (Vatican City: Libreria Editrice Vaticana, 1967, accessed 4 June 2008); available from http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_26031967_populorum_en.html; Internet, no. 44.

To explain this extended application, Pope Paul first references a principle from Leo XIII's *Rerum Novarum*: "The teaching set forth by Our predecessor Leo XIII in *Rerum Novarum* is still valid today: when two parties are in very unequal positions, their mutual consent alone does not guarantee a fair contract; the rule of free consent remains subservient to the demands of the natural law."²⁴ Taking this principle and extending it to different subjects, Paul writes, "In *Rerum Novarum* this principle was set down with regard to a just wage for the individual worker; but it should be applied with equal force to contracts made between nations: trade relations can no longer be based solely on the principle of free, unchecked competition, for it very often creates an economic dictatorship. Free trade can be called just only when it conforms to the demands of social justice."²⁵ Thus, rather explicitly, the Pope argues that as there should be a just relationship between individual workers and employers, so should there be a just relationship between nations themselves—particularly when they participate in economic exchange. This is a proper context and application of social justice. Thus, the subjects of social justice include not only institutions *within* a particular society, but societies themselves, considered as wholes that exist in relation to one another.

2.4 Social Justice in *Laborem Exercens*

In his 1981 encyclical, *Laborem Exercens*, Pope John Paul II carries on the discussion of social justice by considering the context of labor unions. He writes, "Catholic social teaching does not hold that unions are no more than a reflection of the 'class' structure of society and that they are a mouthpiece for a class struggle which

²⁴Ibid., no. 59.

²⁵Ibid.

inevitably governs social life. They are indeed *a mouthpiece for the struggle for social justice*[.]”²⁶ Concerning this productive struggle for justice, the Pope writes: “[T]his struggle [for social justice] should be seen as a normal endeavour ‘for’ the just good: in the present case, for the good which corresponds to the needs and merits of working people associated by profession; but it is *not a struggle ‘against’ others.*”²⁷ John Paul conceives the relationship between worker and employer as a unifying one.²⁸ Thus, far from seeing workers’ struggle for justice through the lens of class struggle (in which one party must defeat and eliminate the other), John Paul sees this struggle through the lens of social justice (in which a just and beneficial relationship is established between workers and employers). Thus, the subjects of this particular application of social justice are seen to be unions and employers. Moreover, in this case, the immediate object of social justice is the “good which corresponds to the needs and merits of working people associated by profession.”²⁹

However, this does not eliminate the common good as the ultimate object of social justice. Because of the unitive aspect of work, John Paul argues that work has the power to build community. He explains, “It is characteristic of work that it first and foremost unites people. In this consists its social power: the power to build a community. In the final analysis, both those who work and those who manage the means of

²⁶Pope John Paul II, *Laborem Exercens* [official English translation] (Vatican City: Libreria Editrice Vaticana, 1981, accessed 4 June 2008); available from http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_14091981_laborem-exercens_en.html; Internet, no. 20, italics in the original.

²⁷*Ibid.*, italics in the original.

²⁸*Ibid.*

²⁹*Ibid.*

production or who own them must in some way be united in this community.”³⁰ Thus, the just order between laborers and employers takes place within and contributes to the overall good of the community, i.e., the common good.

2.5 Social Justice in Centesimus Annus

In his 1991 encyclical, *Centesimus Annus*, Pope John Paul II reiterates this distinction between “class struggle” and legitimate struggle on behalf of social justice. He writes, “From [an] atheistic source, socialism...derives its choice of the means of action condemned in *Rerum Novarum*, namely, class struggle. The Pope [Leo XIII] does not, of course, intend to condemn every possible form of social conflict. The Church is well aware that in the course of history conflicts of interest between different social groups inevitably arise, and that in the face of such conflicts Christians must often take a position, honestly and decisively.”³¹ John Paul then links these conflicts between different social groups to social justice: “The Encyclical *Laborem Exercens* moreover clearly recognized the positive role of conflict when it takes the form of a ‘struggle for social justice.’”³² Thus, according to John Paul, among other things, the exercise of social justice has as its subjects “social groups”.

³⁰Ibid.

³¹Pope John Paul II, *Centesimus Annus* [official English translation] (Vatican City: Libreria Editrice Vaticana, 1991, accessed 4 June 2008); available from http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_01051991_centesimus-annus_en.html; Internet, no. 14.

³²Ibid.

2.6 Summary of Social Justice in the Social Encyclicals

To summarize the treatment of social justice throughout the 20th-century papal encyclicals, the following pattern can be ascertained. The popes highlight social groups (or social institutions) as the subjects of social justice, whether they be classes, labor unions, or even nations themselves. Furthermore, while the immediate object of social justice involves just relationships (usually economic ones) between the myriad social groups and the individuals composing them, ultimately, the end of social justice is the common good of society as a whole (which, depending on the context, could be the common good of a political society, or even of the whole global community). Let us now turn to see how this papal presentation of social justice has been understood by commentators and interpreters.

CHAPTER THREE

Interpretations of Social Justice

3.1 Nell-Breuning's Interpretation of Social Justice

Quadragesimo Anno, Pope Pius XI's encyclical that introduced the term *social justice*, was largely drafted by Oswald Von Nell-Breuning, a German Jesuit.³³ Following the release of the encyclical, Nell-Breuning issued a detailed commentary in which he commented on the Pope's introduction of the term:

The Encyclical *Quadragesimo Anno* has finally and definitely established, theologically canonized, so to speak, social justice. Now it is our duty thoroughly to study this concept—the spiritual foundation and supporting pillar of Christian solidarity, as it is called by Heinrich Pesch—according to the strict requirements of scientific theology, and to give it its proper place in the structure of the Christian doctrine of virtue on the one hand, and in the doctrine of right and justice on the other hand.³⁴

Nell-Breuning did not intend to provide this analysis in his commentary; he writes that his commentary “purposely has not been weighed down with investigations so intricate and speculative.”³⁵ However, while Nell-Breuning does not provide a systematic treatment of social justice, there are a few passages in his commentary which help to illuminate his interpretation of this new concept.

First, Nell-Breuning speaks to Pius' mention of social justice as one of the “lofty and noble principles” which must be operative in building up a “juridical and social order

³³For more on Nell-Breuning's role in the development of the encyclical, see Michael Novak, *The Catholic Ethic and the Spirit of Capitalism* (New York: Free Press, 1993), 63.

³⁴Oswald von Nell-Breuning, S.J., *Reorganization of Social Economy: The Social Encyclical Developed and Explained*, trans. Bernard W. Dempsey, S.J. (New York: Bruce Publishing Company, 1936), 5.

³⁵*Ibid.*

able to pervade all economic activity.”³⁶ Specifically, Nell-Breuning addresses the nature of social justice as a *principle*, or *principium*. He identifies the meaning of *principium*, in this context, as a “guiding principle” that is an “essential form and element organically interwoven with economic society, vitalizing the growth and action of this society directing it toward its essential goal.”³⁷ Nell-Breuning contrasts this understanding of the principle of social justice at work in the economy with the notion that the economy directs itself and is in no need of a directing order. He writes: “Liberal economics, or ‘individualist economics’ as it is called by the Pope, erroneously believed that the economic principle could be found in the market, that is, in free competition of individuals in the market. But just as unity of economic society cannot be based upon the labor market, just as little can *economic order* be based upon the market and its free competition.”³⁸

Next, Nell-Breuning addresses the question of how the principle of social justice actually operates within economic society. He writes, “How can social justice be implanted into economic society as a regulating force? The Encyclical gives us a clear answer. ‘The institutions of public and social life must be imbued with the spirit of justice,’ and it must ‘build up a juridical social order able to pervade all economic activity.’”³⁹ Nell-Breuning draws two very interesting conclusions from this selection from *Quadragesimo Anno*. First, he writes that “[s]ocial justice is a spiritual and

³⁶Pius, *Quadragesimo*, no. 88.

³⁷Nell-Breuning, *Reorganization*, 246.

³⁸*Ibid.*

³⁹*Ibid.*, 249-250.

intellectual guiding rule which does not act through itself, but assisted by a power.”⁴⁰ If social justice is to be a “guiding principle” that “vitalize[es] the growth and action” of society, it would stand to reason that there must exist within a society a power through which social justice operates. Nell-Breuning’s second conclusion, then, is that “this power, according to Leo XIII and Pius XI, is the *state*. The right social and economic order is established by the *supreme* authority in society, which in turn is bound by the demands of social justice from which it draws all its legal authority to direct and regulate.”⁴¹ Thus, the state is the power in society within which social justice finds its proper operation. As Nell-Breuning summarizes: “In a properly regulated community, social justice finds its *material realization* in public institutions, and *acts* through public authorities or their representatives.”⁴²

This interpretation of social justice offered by Nell-Breuning is interesting because of the passage of *Quadragesimo Anno* on which it is based. He quotes Pius as writing that the “institutions of public and social life must be imbued with the spirit of justice.” Nell-Breuning writes that “the Pope attaches first importance to governmental and social institutions.”⁴³ However, in his analysis of the power by which social justice operates in society, Nell-Breuning drops social institutions and focuses, seemingly exclusively, on *public, governmental* institutions as the formal locus of social justice. This interpretation is important as we shall see later in Jeremiah Newman’s discussion of the proper scope of social justice (section 3.3).

⁴⁰Ibid., 250.

⁴¹Ibid., emphasis his.

⁴²Ibid., emphasis his.

⁴³Ibid.

Furthering his interpretation of how social justice operates within society, Nell-Breuning writes: “The result of this social justice, always an efficient principle in public authority, shall, according to the Pope’s statement, look first of all to social legislation; it shall bring about a legal social order that will *result in the proper economic order*.”⁴⁴ Nell-Breuning explains how social legislation, with its attendant reform of the social order, will bring about a more just economic order. Contrasting this method with the socialist attempt to reform property and economics, he writes:

Christian social philosophy follows the opposite road, seeing the source of evil in the decay of social order, rather than excesses indulged in by property, and, consequently, first of all seeks to restore order which would lead economics back into firm and regulated channels and would ultimately exert its beneficial influence upon property. In this sense, social justice, as a spiritual and intellectual principle of the form of human society, becomes an institution in the constitution and laws of society.⁴⁵

Thus, the social legislation, which is the first order of business of a public authority imbued with social justice, will look not only, and not even primarily, to economic matters. Rather, such legislation will attempt to restore a broader social order, which will, in turn, lead to economic order being re-established. Thus, in this way, Nell-Breuning retains the broader context of social justice, namely, all social institutions of society (not just economic or legal ones). However, while the *object* of this operation of social justice is the restoration of a broader social order, the power by which this operation takes place in society is still limited to the public authority (and lawmaking primarily). The state is responsible for instituting the social legislation that will bring back social and economic order.

⁴⁴Ibid., emphasis his.

⁴⁵Ibid.

3.2 Social Justice According to Leo Shields

The legal aspect of social justice (for which Nell-Breuning argues) also finds expression in the general consensus at the time that social justice was to be understood as the traditional general or legal justice. In 1941, writing in his *History and Meaning of the Term Social Justice*, Leo Shields maintains that the term *social justice* was to be identified with general or legal justice. Referring to the social encyclicals up to his time, he writes, “The kind of approbation of a scientific tenet, however, that can be expected from the encyclicals is surely given to the view that social justice is legal justice in the proper sense of that term. A formal statement does not appear; nevertheless the texts make it easy to refute those who base some other notion of the term on what they regard as a necessary interpretation of the encyclicals.”⁴⁶ It is necessary then, in understanding social justice, to address its relationship (or perhaps identity) to general or legal justice. Let us turn then to a robust and elucidating treatment of this relationship, offered by Jesuit scholar Jeremiah Newman.

3.3 Legal and Social Justice According to Jeremiah Newman

In his important work, *Foundations of Justice* (1954), we see that while Newman argues for an identification of social justice with legal justice, he maintains that contemporary understandings of legal justice are flawed in that they, among other things, confine the understanding of the *legal* nature of legal justice to merely *human* law. Thus, we will see a presentation of social justice that transcends the conception offered by Nell-

⁴⁶Leo W. Shields, “The History and Meaning of the Term Social Justice” (Ph.D. diss., University of Notre Dame, 1941), 50.

Breuning (which located social justice primarily in public authority and law-making).

Let us begin an analysis of Newman's argument by discussing general justice in Aquinas.

3.3a General Justice According to Aquinas

Justice, according to Aquinas, "directs man in his relations with other men."⁴⁷

This can happen in two ways. First, man is related to other individuals. Second, he is related to the community as a whole. Speaking of this latter form of justice, Aquinas writes,

Now it is evident that all who are included in a community, stand in relation to that community as parts to a whole; while a part, as such, belongs to a whole, so that whatever is the good of a part can be directed to the good of the whole. It follows therefore that the good of any virtue, whether such virtue direct man in relation to himself, or in relation to certain other individual persons, is referable to the common good, to which justice directs: so that all acts of virtue can pertain to justice, in so far as it directs man to the common good. It is in this sense that justice is called a general virtue.⁴⁸

Furthermore, because this *general justice* has to do with the common good, to which law directs, it can also be called *legal justice*: "And since it belongs to the law to direct to the common good...it follows that the justice which is in this way styled general, is called 'legal justice,' because thereby man is in harmony with the law which directs the acts of all the virtues to the common good."⁴⁹

Aquinas goes on to explain that because general justice regards the common good, it is in both the ruler (in so far as laws directed towards the common good are *made*) and in the ruled (in so far as the laws are *obeyed*). Aquinas writes, "[Legal justice]

⁴⁷Aquinas, *Summa Theologica*, II-II, Q. 58, a. 5, co.

⁴⁸Ibid.

⁴⁹Ibid.

is in the sovereign principally and by way of a mastercraft, while it is secondarily and administratively in his subjects.”⁵⁰

3.3b Newman's Conception of the Law Which Pertains to Legal Justice

Newman, in his discussion of legal justice, makes a crucial point about the nature of the law to which legal justice pertains. He writes, “[T]he law referred to in connection with legal justice cannot be solely human law...the lawgiver is not this or that particular temporal ruler, nor the citizen a citizen of this or that State.”⁵¹ The reason for this is that, as quoted above, Aquinas argues that it is legal justice which “directs the acts of all the virtues to the common good.” However, human law alone does not command all acts of virtue. Aquinas writes elsewhere, “Human law does not forbid all vicious acts, by the obligation of a precept, as neither does it prescribe all acts of virtue. But it forbids certain acts of each vice, just as it prescribes some acts of each virtue.”⁵² Thus, if human law does not prescribe all acts of virtue, but legal justice does pertain to all acts of virtue (when ordained to the common good), then the scope of law which legal justice regards must surpass merely human law alone.

What then is the law about which legal justice is concerned? Newman argues that legal justice concerns not only human law, but also divine law and natural law.

Summarizing Aquinas, Newman writes, “Firstly, as God’s creature, [man] should be subject to the divine law whereby he should be directed in all things. Secondly, because

⁵⁰Aquinas, *Summa Theologica*, II-II, Q. 58, a. 6, co.

⁵¹Jeremiah Newman, *Foundations of Justice: A Historico-critical Study in Thomism* (Cork: Cork University Press, 1954), 9.

⁵²Aquinas, *Summa Theologica*, I-II, Q. 96, a. 3, ad 1.

he is a rational animal, he should be subject to the rule of reason; all his actions and passions should be guided by its moderate counsels. Thirdly, since he is also a political and social animal, he should be subject, in addition, to the regulations of human society.”⁵³

Newman argues further that this threefold order under which man lives has itself a deep unity. The different orders about which Aquinas speaks are, in reality, different views of the divine law, under different considerations. Newman writes, “We should not be confused by the idea of a threefold goal and triple law for man for all three converge unto unity. They are not three separate systems independent of one another; rather are they related as are three concentric circles....The laws too are contained in one another, civil law within the natural and the natural within the divine.”⁵⁴

In explanation and summary, Newman writes,

Man, we have seen, as a result of his nature, is a member not merely of one but of many societies; he is a social and political animal. He is a member of the family, the local community, the State, etc., and above these, with all his fellowmen, he is a member of the universal City of God. As a member of these societies he is governed by the one fundamental law—the Divine law of the City of God. By acting within its pattern he secures the common good not only of the City of God but of all lesser societies, which are but means to it, the ultimate good of all. Hence the rules and regulations of these lesser societies are simply declarations and determinations of the divine law. Owing to its pre-eminent position, however, St. Thomas gives special attention to that society which is called political and its rules he also calls “law.” This society contains all lesser societies within it and integrates their common goods into its own.⁵⁵

After presenting this view of Aquinas’ conception of legal justice, Newman goes on to argue that this view has been lost in modern times. Instead of a conception of legal

⁵³Newman, *Foundations*, 13 (summarizing *ST*, I-II, Q. 72, a. 4, co.).

⁵⁴*Ibid.*, 18 (referencing *Summa Theologica*, I-II, Q. 72, a. 4, co.).

⁵⁵*Ibid.*, 25.

justice which includes all of divine law and all common goods of all societies, the modern conception of legal justice is concerned only with the political common good and positive human law. This development, he argues, is connected to the emergence of the conception of the modern state. In late scholastic and early modern political thought, “‘Law’ [came] to mean not primarily the divine law, as at the time of Aquinas, but rather the human positive law of the State.”⁵⁶

Moreover, not only did the emergence of late scholastic and early modern political philosophy exaggerate the priority of human law in legal justice (to the exclusion of other law), its theory of the state itself resulted in a perversion of the object of legal justice. Newman writes, “That philosophy entailed in theory, and accomplished in practice, the setting up of an atomistic and centralized political order.”⁵⁷ No longer was the individual person thought to be a part of a broader political community of which there could be a common good. Rather, the individual and state were thought to be on terms of equality with one another. This led to legal justice taking on the form of particular justice; i.e., justice concerned with individual goods, not common goods. Newman speaks of the late Scholastics “who adopt the contract theory of the origin of civil society [which] reduces society to an aggregate of individuals each of whom is on terms of equality with the State.”⁵⁸

Thus, Newman argues that the proper Thomistic conception of legal justice has been lost in modern times. Instead, an imposter has taken its place, a conception of legal

⁵⁶Ibid., 103.

⁵⁷Ibid.

⁵⁸Ibid.

justice that is concerned with only human law and the political common good—with an emaciated understanding even of these.

3.3c Newman's Understanding of Social Justice

According to Newman, the modern misunderstanding of legal justice explains the emergence of the term *social justice*. Newman argues that the limiting of the meaning of legal justice to the merely political has created a gap that has been filled by the term *social justice*. Explaining, he writes, “Social justice represents a return in content if not in name, to the legal justice of St. Thomas.”⁵⁹ Because legal justice has come to mean justice only concerned with human law and the political common good, social justice has been posited as a form of justice that has a broader context. Commenting on

Quadragesimo Anno, Newman writes:

The Encyclical speaks of social justice as the principle which procures the common good of all society. Again, it says that social justice must pervade all the institutions of peoples and the whole of social life and that the public institutions of people must be such as to make the whole of human society conform to the needs of the common good, that is, to the standard of justice. These citations make it perfectly clear that social justice is justice in society in general and not merely in economic or political society.⁶⁰

Contrary to the notion of justice that focuses only on the political, social justice, according to Newman, concerns all of society: “Society...is manifold, the object of social justice being the common good of all and of each of its manifestations. The family, the district, the city and State too, the nation and international society, the Church and human society—all these form the sphere of social justice.”⁶¹

⁵⁹Ibid., 105.

⁶⁰Ibid., 107.

⁶¹Ibid., 107-108.

Speaking further of the nature of social justice, Newman writes: “As a virtue it is best described as that disposition of the will which inclines individuals and social groups in general to work for the common good of the community of which they are the parts....It determines the rights and duties of individuals, groups and the whole community, so that the common good of all may be obtained.”⁶² Describing how individuals and social groups actually exemplify social justice, Newman continues: “A strong point in the idea of social justice is that individuals and groups may—within certain broad limits—choose their own method of approach to the promotion of the common good.”⁶³ There is a debt of justice that individuals and social groups owe to society as a whole, but much of this debt is rendered outside the lines of human positive law. Furthermore, the manner in which this debt is rendered depends on the natures of the various entities involved, and can be varied depending on those natures and the contexts in which they are exercised. Newman explains, “It is in this that the contrast between social justice and the modern concept of legal justice becomes most evident. Social justice extends to acts of supererogation (though ‘due’ acts in the sense that they must be moral), while legal justice (in its modern acceptation) confines itself to the commands of positive laws.”⁶⁴ Thus, Newman concludes that social justice is simply the old legal justice of St. Thomas in modern parlance.

⁶²Ibid., 108-109.

⁶³Ibid., 109.

⁶⁴Ibid.

3.3d Newman's Identification of Social Justice with the Old Legal Justice is Inadequate

While Newman's arguments are persuasive, one aspect of his conception of social justice would seem to indicate that social justice is not simply identical to legal justice, properly understood. As noted above, Newman maintains that "social groups" can "work for the common good of the community of which they are the parts." However, the notion that social groups can be the subjects of legal justice seems to be a true development of the concept. To illustrate this point, let us turn to Josef Pieper's discussion of justice.

Speaking of the proper subjects of justice, Pieper writes,

In the last analysis it is man, and hence the individual person, who supports and realizes all three fundamental forms of justice [commutative, distributive, legal]. Yet the individual is implicated in three different ways. The individual as associate of other individuals sustains commutative justice, whereas the subject of legal justice is, to be sure, once again the individual, but now as the associate of the species, as it were, as a member of the community, as a 'subject.'⁶⁵

In the context of legal justice, Pieper argues that the primary subject is the individual person, albeit considered as a member of a community. Similarly, in the context of distributive justice, Pieper argues, "So, too, the 'social whole' cannot in any concrete sense make distributive justice a reality; again it is rather the individual man—if not the king, then the dictator, the chief of state, the civil servant or even, in a consistent democracy, the individual, insofar as he has a determining role in administering the common good."⁶⁶

The issue of how social groups can be said to be the subjects of legal justice (and how this is an extension of the traditional notion of legal justice) will be discussed further

⁶⁵Josef Pieper, *Justice*, trans. Lawrence E. Lynch (New York: Pantheon Books, 1955), 51.

⁶⁶*Ibid.*

in chapter seven. For now, let us turn to another analysis of social justice which pertains specifically to the relationship between social groups and social justice.

3.4 Social Justice According to William Ferree

The link, mentioned above, between social justice and social groups is an important one, one that helps to establish the extra-political domain in which social justice operates. In his *The Act of Social Justice* (1943), William Ferree offers an account of how social groups participate in social justice.

Ferree argues that while social justice can be identified with legal justice, it also constitutes a true development of the older notion of legal justice. He maintains that this development arises from the fact that social justice seems to concern not only the ordaining of *other* acts of virtue to the common good, but it also contains specific acts proper to *itself*. Ferree argues that until the concept of social justice was presented, legal justice was understood to be a virtue only formally. It simply ordained other acts of virtue to the common good, but did not have any specific acts of its own; hence it was understood to be a *general* virtue. According to Ferree, in *Quadragesimo Anno*, Pius XI highlights not only the formal but also the material and efficient causes of the virtue and in so doing highlights the specific acts of the virtue of legal justice, acts that are properly its own. Ferree explains, “It is now clear that Social Justice is the same thing as the old legal justice, since it has exactly the same end, the common good. In the hands of Pius XI it received scientific redefinition in terms of the material and efficient cause as well as the formal or final one to which the older philosophers had limited their consideration.”⁶⁷

⁶⁷William Ferree, *The Act of Social Justice* (Washington, D.C.: The Catholic University of America Press, 1942), 79.

What then are the specific acts of legal justice that the concept of social justice brings to light? Ferree answers that, “[Social justice] is that virtue which *organizes normally* (i.e. according to the social necessities of human nature itself) all external human acts.”⁶⁸ Specifically, social justice is directed towards the common good and has as its immediate and proper matter “the organization of human acts into social media and institutions (social habits) of which society is composed.”⁶⁹

Ferree calls the social institutions that are formed as a result of social justice “social habits”. By using the term social habit, Ferree draws an analogy between a good society and a good man: “Just as a man is not called good without qualification because of good acts done now and then, even though they be heroic; but only because of his good habits, i.e., his virtues; so a society is to be called good without qualification, not because of good individuals in it, or some isolated good collective act, but only because of its ‘good social habits,’ i.e. its good institutions.”⁷⁰ Thus, the societal institutions—or social habits—which are the result of the organizing acts of social justice are necessary prerequisites for a justly ordered society.

3.4a Newman's Critique of Ferree

So what of Ferree’s contention that there are specific acts of social justice, acts that form social institutions that are necessary for a justly ordered society? Newman responds to Ferree by arguing that while it is true that social justice involves acts of organization of social institutions, it would seem that such acts are not only directed

⁶⁸Ibid., emphasis his.

⁶⁹Ibid., 202, superfluous italics removed.

⁷⁰Ibid., 142.

toward the common good of all society, but also toward other particular ends. Thus, they could also be conceived to be acts of other virtues, and thus not specific to social justice itself. Newman writes,

The organization of a society calls for many acts of other virtues which are directed, as it were, to a common good in the making. Indeed, on analysis, it will appear that they are directed, not only to the common good of the society which is being formed, but also to that of a greater society whose common good demands the formation of a lesser. Hence it can well be argued that, even in its function of organising new societies, social justice remains fundamentally a general virtue directive of other virtues to the common good of society.⁷¹

The organizing acts that Ferree sees as proper to social justice may in fact be acts of social justice, but they are also acts of other specific virtues. Thus, Ferree does not seem to have the proper grounds to argue that the older notion of legal justice—understood simply as a general virtue with no specific acts of its own—cannot remain as the proper account of social justice.

3.4b Social Habit and Social Justice in Ferree

While Ferree may not have succeeded in his argument for specific acts of social justice, his notion of social habits vis-à-vis social justice is a pregnant one. While the act of organizing “social habits” may not be a specific act of social justice, Ferree may have identified an important dimension of social justice, which could, in the end, reveal it to be a true development of the older notion of legal justice.

In his discussion of social habits, Ferree analyzes the ontology of the organized actions of multiple persons for a common goal. This “community of action” Ferree calls a “society” or “an institution.” Regarding the ontological status of this kind of entity, Ferree poses the question: “Now if that ‘community of action’ which is an institution, is

⁷¹Newman, *Foundations*, 114.

real being and not logical being; what kind of real being is it?”⁷² Ferree naturally rules out substantial being. Only the individual human persons themselves have substantial being. What about accidental being? If an institution had accidental being, wouldn’t this require there to be a “social substance” in which the accidental being of the institution inhered?⁷³ Ferree answers that institutions do, in fact, have accidental being, but this does not require them to be accidents of a problematic “social substance”. Rather, institutions have accidental being by virtue of their status as accidents of human acts, which are themselves accidents of human persons. This results, Ferree argues, from the fact that “an institution is a *manner of acting*, i.e., an *organized manner*.”⁷⁴

Ferree establishes this argument by reference to an objection that Aquinas addresses in regards to the nature of accidents. Specifically, Aquinas addresses the question of whether accidents can have accidents, in the context of whether human acts (which are accidents) can themselves have circumstances as their accidents. Aquinas writes,

[A]n accident is said to be the accident of an accident, from the fact that they meet in the same subject. But this happens in two ways. First, in so far as two accidents are both related to the same subject, without any relation to one another; as whiteness and the art of music in Socrates. Secondly, when such accidents are related to one another; as when the subject receives one accident by means of the other; for instance, a body receives color by means of its surface. And thus also is one accident said to be in another; for we speak of color as being in the surface. Accordingly, circumstances are related to acts in both these ways. For some circumstances that have a relation to acts, belong to the agent otherwise than through the act; as place and condition of person; whereas others belong to the agent by reason of the act, as the manner in which the act is done.⁷⁵

⁷²Ferree, *Act*, 165.

⁷³Ibid., 165-166.

⁷⁴Ibid., 166.

⁷⁵Aquinas, *Summa Theologica*, I-II, Q. 7, a. 1, ad 3.

Thus, Aquinas concludes that human acts—themselves accidents—are able to have accidents. Ferree applies this argument to his notion of an institution as organized action: “Now we have already seen that an institution is a *manner of acting*, i.e., an *organized* manner. Therefore, it inheres in the individuals *not directly*, but *through the medium of their acts*.”⁷⁶

In sum, the individual persons involved in the acting have substantial being, their actions themselves have accidental being (in the persons in which they inhere), and the organization of their acts has accidental being as an accident of an accident (as a *manner of acting*).⁷⁷

This “organization of action”—an institution—occurs at all levels of human existence, from very small institutions to human society itself.⁷⁸ Ferree argues that the establishment of the ontology of human society (or societies, at all levels) is an important element of understanding society and is not, as some claim, a temptation to totalitarianism. He explains, “The fear is certainly not ungrounded that the state will pretend to substantiality, as history testifies from the ‘*polis*’ to the ‘*Drittes Reich*,’ but that is no reason for hiding from the truth. The proper way to resist the tendency to totalitarianism is to keep insisting that the state is *not a substance*, not to maintain that it is *not real*.”⁷⁹ Thus, Ferree argues that by arguing for real accidental being for human societies, the proper balance is struck between human society as some kind of social substance and human society as a mere logical construction.

⁷⁶Ferree, *Act*, 166, emphasis his.

⁷⁷*Ibid.*, 166-167.

⁷⁸*Ibid.*, 167.

⁷⁹*Ibid.*, 168.

With regard to Ferree's conception of social justice, we have already addressed Newman's objection to the former's claim that social justice concerns *specifically and materially* the organizing human acts which constitute institutions. We find Newman's objection convincing. However, what of Ferree's understanding of institutions as having real, accidental being? Could this understanding shed new light on how social justice operates even as a general virtue? We think that Ferree's account of institutions ultimately fails; however, its failure shows the path to the proper relationship between social justice and the older legal justice.

3.4c Social Habit and Institutions Properly Understood

It seems that Ferree starts out with a correct intuition—that the notion of *social habit* is somehow crucial to a proper understanding of social justice. The problem, however, is that Ferree identifies the *social habit* with the *institutions* which, in his scheme, are the results of acts of social justice. A better relationship would seem to be that social habits are *exhibited* by institutions, not identical to them. This can be seen by the analogous relationship that Ferree sets up in order to explain social justice.

Ferree understands there to be some analogy between justice as exercised by individuals and social justice. He writes, "A theory of social justice is as incomplete without a theory of institutions as a theory of individual virtue would be without a theory of habit."⁸⁰ Traditionally, a virtue exercised by a human person is a kind of habit (see chapter six). Thus, if there is an analogy between an individual virtue and a social virtue (however it is to be construed), there would be an analogy between individual habit and social habit. Ferree agrees up to this point. He writes, "Just as a man is not called good

⁸⁰Ibid., 142.

without qualification because of good acts done now and then, even though they be heroic; but only because of his good habits, i.e., his virtues; so a society is to be called good without qualification, not because of good individuals in it, or some isolated good collective act, but only because of its ‘good social habits,’ i.e. its good institutions.”⁸¹ Here, Ferree begins with the correct analogy, but then it breaks down when he identifies social habits with *institutions*. For, in the same way as individual virtue is a type of habit that is exercised by individual persons, it would stand to reason that a “social virtue” is a type of social habit that is exercised by “social persons” (or, say, institutions). However, Ferree confuses things by identifying the social habit with the actual subject of that habit. (This would be akin to identifying habit as exercised by an individual person with that individual person himself.) Thus, Ferree’s use of social habit breaks down the analogy.

Why does Ferree break his analogy down in this manner? It would seem that it is the consequence of his identifying the *individual person* to be the proper subject of social justice. He writes, “It is nothing new to suggest that man is the efficient cause of the act of social justice; but something that has not been sufficiently adverted to is that *only the member of a group* is capable of such an act.”⁸² Ferree is correct to point out the social nature of the subject of social justice, but ultimately the analogy he sets up fails because he still takes the subject of social justice to be the individual person. If the individual person is the proper subject of social justice, then a theory of individual habits, a theory already well-developed by Aquinas, would apply to actions of social justice in the same way as it would apply to any other species of habit. In other words, if individual persons

⁸¹Ibid.

⁸²Ibid., 194, emphasis his.

are the subjects of social justice, there is no theoretical room left for a truly analogous understanding of social habit, for that space has already been taken by the traditional understanding of how individual persons possess individual habits (for more on this traditional understanding, see section 6.2). Thus, the two concepts Ferree is working with—social institution and social habit—are not capable of finding proper place in his theory of the subject and mode of action of social justice (those places already filled by a traditional understanding of individual persons with individual habits). As a result, Ferree is forced to identify the two concepts as one and argue for their existence as special acts of the virtue of social justice. And, as Newman has pointed out, this position is untenable.

The lack of theoretical space for *social habit* in the understanding of social justice would be unfortunate, however, given at least the *prima facie* plausibility of the analogy that Ferree initially sets up (but which he cannot sustain). If individual virtue is a species of individual habit, it would be interesting if social virtue were a species of social habit. But what could social habit mean in this analogy? To answer this question, let us turn to the step at which Ferree's argument seems to go wrong. This is in his identification of *social habit* with *institutions* and the correlative identification of the *individual person* as the *subject* of social justice. What if instead we identify *institutions* as the *subjects* of social justice and understand *social habits* to be exercised by *institutions*? We could then hypothesize that social justice is a type of social habit exercised by an institution.

Ferree actually briefly touches on this idea in his discussion of what constitutes a social group. Specifically, he discusses the possibility of a social group being understood as a *person*. Ferree references Josef Gredt's discussion of the nature of society wherein

Gredt argues that “[A] moral person, which society is, if it is considered formally, is logical being with a foundation in reality; for it is constituted formally by rights and duties, which are relations of reason with a foundation in reality. Materially, of course, society consists in men, who are the subjects of rights and duties.”⁸³ Ferree responds to Gredt’s argument: “But is it ‘rights and duties’ that ‘constitute’ a society at all? Doesn’t the concept ‘society’ apply much more properly to a community of *action* than to an association of *goods*[?]”⁸⁴ Here, Ferree’s intuition seems just; the idea of community of action does seem to be a more likely candidate for the constitution of society (as opposed to the notion of rights and duties). However, Ferree’s understanding of what this community of action means is problematic.

As mentioned above, Ferree thinks that societal institutions are communities of *organized* action. In order to establish these institutions as *real*—not merely logical—beings, Ferree argues that they find their existence as accidents of accidents. Specifically, institutions (or social habits) are *organized* human acts. While this argument may succeed in providing a valid method of establishing the reality of institutions, it is counterintuitive for it seems to conflate social institutions with their actions. While it seems reasonable to argue (as Ferree does against Gredt) that common action is an essential feature of social institutions, it seems unwarranted to *identify* social institutions with (organized) human action itself. One way to illustrate this problem is to analyze the ambiguity of the term “organization of action”, a term which Ferree uses frequently to explain what an institution is.

⁸³Ibid., 162.

⁸⁴Ibid., 163, emphasis his.

The term “organization of action” takes on different meanings depending on which component is emphasized definitionally. If “organization” is emphasized, it would seem that the term “organization of action” means a particular kind of organization, namely, that kind which *acts*. However, if “action” is emphasized, then “organization of action” denotes an entirely different meaning; namely, a kind of action that is organized (or, say, a *mode* of action). Ferree chooses the latter meaning and uses Aquinas’ argument on the existence of accidental accidents to establish the existence of institutions. However, he sacrifices what seems to be the intuition on which his argument rests; namely, the first meaning of the term “organization of action”. For this first meaning of “organization of action” is that which would best correlate with the common-sense understanding of “social institution”, i.e., an organization which acts.

Another way of stating this problem is to analyze the consequences of understanding “institution” to mean a specific kind of human action (an organized kind). For if this definition is accurate, an institution would only exist when there is organized human action occurring. When such action ceases, so would the existence of the institution. However, this contradicts our intuitions about institutions having identity and existing through time (even, presumably, when they are not engaged in coordinated action). These intuitions will be discussed further in section 5.6. However, for now, it is sufficient to note that the definition of “institution” that Ferree uses to establish its reality undermines the very intuitions that motivate Ferree’s employment of the term in the first place. This is permitted by an equivocation on the term “organization of action”.

But why does Ferree make this problematic identification of institution with a manner of human action? He tells us that it is in response to the following object: “[I]f

[an institution] is not a substance itself, it must adhere, as an accident, in some substance; and to have an accidental ‘society,’ a *social substance* must be postulated in which it can inhere; and there is no such thing as a social substance in the real order—what exists in the real order is *individual men*.⁸⁵ While the objection is certainly correct in that there is no such thing as a social substance, the option that Ferree takes to answer this objection (that of the existence of accidental accidents) is not the only path out of it. Going back to Ferree’s discussion of the social group, it would seem that social *personhood* might provide another way. That is, social personhood defined, not in terms of rights and duties, but in a fully analogical way, with divine, angelic and human persons as analogues. It is with the mechanism of analogical personhood that societies could find their proper ontology. Moreover, it is a mechanism which preserves Ferree’s original analogy by allowing for social institutions to be the subjects of social habits. This conception of social personhood will be presented in the following chapter. First, however, we must address one potential barrier to such an understanding. This barrier, the objection that social institutions cannot be the subjects of habits, is best illustrated by Michael Novak’s conception of social justice.

3.5 Michael Novak’s Conception of Social Justice

Michael Novak, in *The Catholic Ethic and the Spirit of Capitalism*, presents his own take on social justice, which is based in large part on Ferree’s conception. What motivates Novak’s conception of social justice? Novak presents his conception of social justice in response to a critique by Frederick Hayek of the traditional interpretation of social justice.

⁸⁵Ferree, *Act*, 165-166, emphasis his.

Hayek objects to social justice on the grounds that it is an understandable, yet entirely inappropriate attribution of intuitions that we have about just individual conduct to social institutions or society at large. He writes, “It is perhaps not surprising that men should have applied to the joint effects of the actions of many people, even where these were never foreseen or intended, the conception of justice which they had developed with respect to the conduct of individuals towards each other. ‘Social’ justice (or sometimes ‘economic’ justice) came to be regarded as an attribute which the ‘actions’ of society, or the ‘treatment’ of individuals and groups by society, ought to possess.”⁸⁶

Thus, taking notions of justice which applied to individual conduct and applying them to problems perceived to be related to society as a whole, people came to understand not only individuals but society as a proper subject of moral critique. What caused this to happen? Hayek answers, “As primitive thinking usually does when first noticing some regular processes, the results of the spontaneous ordering of the market were interpreted as if some thinking being deliberately directed them, or as if the particular benefits or harm different persons derived from them were determined by deliberate acts of will, and could therefore be guided by moral rules. This conception of ‘social’ justice is thus a direct consequence of that anthropomorphism or personification by which naïve thinking tries to account for all self-ordering processes.”⁸⁷

Hayek is limiting himself to critiquing a notion of social justice which has society as a whole as its subject and economic distribution as the primary matter. However, while the popes’ notion of social justice includes social institutions other than society and

⁸⁶Friedrich A. von Hayek, *The Mirage of Social Justice*, (Chicago: University of Chicago Press, 1976), 62.

⁸⁷*Ibid.*, 62-63.

matter other than economic distribution, Hayek's objection remains. Is it inappropriate to expect society (or by extension, other social institutions) to abide by standards of justice in the same way as individual persons are so expected? Is this a mere naïve anthropomorphism that is a characteristic of immature minds?

These questions will be answered later (in chapters four and six), but for present purposes, let us note that Novak appears to take Hayek's objection as sound. He writes, "The virtue of justice, Hayek trenchantly observes, is a habit of personal conduct. But 'social justice,' conceived of as a description of social outcomes which may not necessarily have been brought about by deliberate human decision, does not refer to *personal* moral conduct. Too many writers, Hayek avers, confuse sentences about a state of affairs in society with sentences about a virtue proper to persons."⁸⁸ Novak intends to defend a notion of social justice which is not susceptible to Hayek's critique.⁸⁹

Novak summarizes the problem before proceeding: "If social justice is a regulative principle of social order, it is not a virtue. For if the subject of social justice is society, it is not a person, and only the latter can practice a moral virtue."⁹⁰ One might add that if social justice is not a virtue, then it is not really justice at all.

In response to this problem, Novak offers the following definition of social justice: "*Social justice is a specific modern form of the ancient virtue of justice. Men and women exercise this specific *social* habit when they (a) join with others (b) to change the*

⁸⁸Novak, *Catholic Ethic*, 65.

⁸⁹He writes, "I want to display a meaning of 'social justice' that escapes Hayek's critique[.]"
Ibid., 65.

⁹⁰Ibid., 77.

institutions of society.”⁹¹ Novak further clarifies the end of this kind of behavior: “The virtue of social justice does not consist solely of the habit of association, though, since many forms of association are for *private* purposes. The habit of social justice has as its aim the improvement of some feature of the common good.”⁹²

Novak sees social justice as a particularly modern kind of virtue, made possible by a society that allows for a Tocquevillean art of association.⁹³ Furthermore, while social justice can entail actions to change the institutions and policies of the government, it just as easily entails actions regarding the institutions of *civil society*. Novak writes, “The practice of social justice means activism; it means organizing; it means trying to make the system better. It does not necessarily mean enlarging the state; on the contrary, it means enlarging civil society.”⁹⁴

While Novak’s conception has much to commend itself, I believe it fails in that it does not follow the actual presentation of social justice as given by the popes. Novak feels the pressure to include institutions as the subjects of social justice. While he ultimately rejects institutions as the subjects of social justice, as in Ferree’s conception, the pride of place that social institutions plays in the popes’ definition of social justice finds expression in the immediate object of Novak’s social justice: the changing of institutions. While this inclusion of social institutions in the definition of social justice is ingenuous, it fatally departs from the popes’ presentation of social justice as having social institutions as its *subjects* (see chapter two). This departure is due to Novak’s acceptance

⁹¹Ibid., 77-78, emphasis his.

⁹²Ibid., 79.

⁹³Ibid., 78.

⁹⁴Ibid.

of Hayek's critique that social institutions cannot be the subjects of virtue. When faced with the prospect of social justice either 1) not having institutions as its subjects or 2) not being a real form of justice, Novak wisely chooses the former. I will argue, however, that this is a false dilemma and that neither option is correct.

How can Hayek's objection be answered? How can social institutions be understood to be the proper subjects of action, let alone virtue? The answer lies in the notion of social personhood (chapters four and five), and a theory of social habit and social virtue (chapter six). With these concepts in place, we can then proceed to a proper understanding of social justice (chapter seven).

CHAPTER FOUR

The Idea of Social Personhood

To begin the discussion of an idea of “social personhood”, let us begin with Aquinas' understanding of the unity of order which characterizes societies. We will then move on to his understanding of personhood generally. We will then see how the concept of unity of order might serve to establish a kind of “social personhood”.⁹⁵

4.1 Unity of Order

In the beginning of his commentary on Aristotle's *Ethics*, Aquinas speaks of social groups and the kind of order that they exhibit. According to Aquinas, while social groups—such as political groups and families—do not have substantial unity, they do have a *unity of order*. Aquinas writes, “It must be known moreover that the whole which the political group or the family constitutes has only a unity of order (*ordinis unitatem*), for it is not something absolutely one.”⁹⁶ A distinguishing feature of a social group's unity of order is the ability of the members composing the group to act both for the end of the group and for their own particular ends. Aquinas writes, “A part of this whole, therefore, can have an operation that is not the operation of the whole, as a soldier in an army has an activity that does not belong to the whole army. However, this whole does have an operation that is not proper to its parts but to the whole—for example, an assault of the

⁹⁵The following argument for social personhood rests on my interpretation of a similar argument given by Russell Hittinger in lectures and personal correspondence.

⁹⁶Thomas Aquinas, *Commentary on Aristotle's Nicomachean Ethics*, trans. C.J. Litzinger (Notre Dame, IN: Dumb Ox Books, 1993), I, L. I, no. 5.

entire army."⁹⁷ Thus, the social group, with its unity of order, is capable of group action, but this kind of action is not the only sort available to the members that compose the group.

Because of the ability of social groups with a unity of order to have operations proper to themselves *as wholes*, Aquinas maintains that such groups are to be considered as subjects of moral philosophy. While individual ethics concerns individual persons' operations to an end, domestic ethics and political science both concern the operations of social groups (families and civic groups, respectively).⁹⁸ While Aquinas makes a distinction between family groups and political groups, for present purposes, we may consider the genus of social groups acting with a unity of order.

Now, it would stand to reason that a social group which is capable of action as a whole would then be capable of seeking ends that are common to that whole. In fact, this action for a common end plays a definitional role in such social groups. Describing such groups as "societies", Aquinas writes, "[A] society means a union of men, assembled together for one and the same purpose."⁹⁹ This common end—or common good, for a good is what men act towards¹⁰⁰—is a purpose that is shared by all members of the union.

⁹⁷Ibid., no. 5 at p. 3.

⁹⁸Ibid., no. 6 at p. 3.

⁹⁹Thomas Aquinas, "Against Those Who Attack the Religious Profession," in *An Apology for the Religious Orders*, trans. John Procter (St. Louis: Herder, 1902), 87. To put to rest any question about whether the societies that Aquinas speaks of here are the same kind of social wholes with a unity of order of which he speaks in the Commentary, here Aquinas references an army (which was also referenced in his discussion of social groups with a unity of order): "For, an association means the union of men, gathered together for the accomplishment of some specific work. Thus, all soldiers have a right to associate with one another in the same army; for an army is nothing but a society of men, banded together for the purpose of fighting."; p. 87. Hereafter, the terms "society" and "social group with a unity of order" will be used synonymously.

¹⁰⁰From Aquinas, *Summa Theologica*, I, Q. 5, a. 1: "The essence of goodness consists in this, that it is in some way desirable. Hence the Philosopher says (Ethic. i): 'Goodness is what all desire.'"

And Aquinas argues that this shared purpose is not accidental to the society, but is an essential feature, which goes to the question of the reason for the society's very existence. Speaking of this relationship between group action and common purpose, in the context of a group of men rowing a boat, Aquinas writes, "Nor does it affect the point at issue, whether by its form one agent be sufficient alone for the action, or whether it be necessary to have an assemblage of many agents in order to do the one action; for instance many men to row a boat: since all are as one agent, who is made actual by their being united together in one action."¹⁰¹ The relationship between common action and a society's ontology will be addressed further in the next chapter, but for now it is sufficient to note this fundamental connection.

Given the central role of the common purpose in a society's reality, it is by this purpose that societies are judged: "Hence, as everything ought to be judged with regard to the end for which it is ordained, the different societies which exist, ought to be distinguished and judged, according to the purpose for which they are formed."¹⁰²

The purposes of human beings are diverse and so, while a society must have a common good, Aquinas makes it a point to argue that societies exist in great variety. For example, he distinguishes between public and private societies: "A public society is that wherein men assemble for purposes connected with the common weal. Thus, fellow citizens, or compatriots, form a public society, and become one city, or one kingdom. A

¹⁰¹Thomas Aquinas, *Summa Contra Gentiles*, trans. English Dominican Fathers (New York: Benziger Brothers, 1929), II, c. 30, no. 14.

¹⁰²Ibid.

private society is one established by a few persons, for some private end. Thus, two or three enter into partnership in a mercantile negotiation.”¹⁰³

In addition to there being public and private societies, Aquinas notes that societies can be temporary or perpetual: “Sometimes a number of men, or only two or three individuals, band together in a perpetual society. This is the case with those, who, when they become citizens of some city, form an association, choosing that city for their dwelling-place for ever. They, thus, establish a political society.”¹⁰⁴ For an example of a temporary society, one could give the example of a mercantile partnership that Aquinas already provided.

While every one of these human associations—public, private, temporary, and perpetual—properly bears the name “society”, Aquinas warns that they must be properly distinguished from one another: “Now, these various classes of association, must be judged by different standards. To apply the name of association or society, indiscriminately, to all, is to prove one's own ignorance.”¹⁰⁵ The diversity of societies, and the consideration of their proper due, will enter into our discussion in chapter seven.

To summarize, because the unity of order characterizes groups capable of group operations, it follows that the unity of order is characteristic of groups only if such groups are capable of having a common good (an end for the group, considered as *a whole*, to act toward). This includes a wide array of social groups; such as, families, civic groups, politics, clubs, sports teams and the like. The good involved need not be great, only truly

¹⁰³ Aquinas, *Against Those Who Attack*, 88.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

common. However, excluded from possibility are groups whose good is not common, but rather a summation of individual goods.

4.1a What Kind of Order?

Aquinas argues that certain social groups have a unity of order, but what kind of order is this? Returning to his commentary on the *Ethics*, we see that Aquinas articulates the two kinds of order found in things: "One kind is that of parts of a totality, that is, a group, among themselves, as the parts of a house are mutually ordered to each other. The second order is that of things to an end. This order is of greater importance than the first."¹⁰⁶ Applying this distinction, Aquinas shows how this twofold order applies to a social group: "For, as the Philosopher says...the order of the parts of an army among themselves exists because of the order of the whole army to the commander."¹⁰⁷ This distinction between kinds of order will be addressed further in chapter eight, in the discussion of how social groups act.

Thus far, the twofold distinction of order that Aquinas makes applies to all things, not just social groups with a unity of order (though Aquinas does speak of the twofold order in this context). To further understand the unity of order exhibited by social groups, we must address the relationship of this kind of order to reason. Aquinas describes the relationship of order to reason in a fourfold way:

Now order is related to reason in a fourfold way. There is one order that reason does not establish but only beholds, such is the order of things in nature. There is a second order that reason establishes in its own act of consideration, for example, when it arranges its concepts among themselves, and the signs of concept as well, because words express the meanings of the concepts. There is a third order that

¹⁰⁶Aquinas, *Commentary on Ethics*, I, L. 1, no. 1.

¹⁰⁷*Ibid.*

reason in deliberating establishes in the operations of the will (*ratio considerando facit in operationibus voluntatis*). There is a fourth order that reason in planning establishes in the external things which it causes, such as a chest and a house.¹⁰⁸

In which of these relationships does the unity of order occur? It would seem that the only possibility would be the third order. Unity of order concerns not a mere perception of order, nor a merely analytical order, nor an order like that demonstrated in the creation of the practical arts. Rather, unity of order concerns the *rational actions* of a social group. As discussed above, Aquinas understands social groups with a unity of order to be the subjects of moral philosophy. This is because of the existence of certain operations characteristic of such social groups *per se*. On the question of which order of reason best characterizes social groups with a unity of order, John Finnis writes, “[H]uman actions and societies cannot be adequately described, explained, justified, or criticized unless they are understood as also, and centrally, the carrying out of free choices. For neither the making of free choices nor any of their consequences regarded as such are reducible to nature, logic, or technique.”¹⁰⁹

4.1b A Summary of the Unity of Order

While it seems that the operations of social groups with a unity of order would best fall under the third order of reason that Aquinas outlines, such a classification raises the question of whether social groups are capable of “deliberations” and “operations of the will”. The question of how social groups are capable of action and possess certain powers (like the will), will be addressed in chapters six and eight. For now, it is

¹⁰⁸Ibid., no. 1 at p. 2.

¹⁰⁹John Finnis, *Aquinas: Moral, Political, and Legal Theory*, (Oxford: Oxford University Press, 1998), 22.

sufficient to have established that the unity of order possessed by certain social groups participates in the twofold nature of order generally (order among the group itself and order directed towards an end) as well as the order of reason which pertains to the deliberative operations of the will (operations analyzed in the realm of moral philosophy). Put another way, those social groups which are capable of ordered operations so characterized are understood to possess a *unity of order*.

4.2 Personhood in Aquinas

In his discussion of personhood, Aquinas begins with Boethius' traditional definition of a person as "an individual substance of a rational nature."¹¹⁰ In discussing how this definition of personhood applies to God, Aquinas explains the etymology of the word. The word *person* derives from the term for the masks that Greek actors would wear to amplify their voices while on stage.¹¹¹ Then, according to Aquinas, "as famous men were represented in comedies and tragedies, the name *person* was given to signify those who held high dignity. Hence those who held high rank in the Church came to be called persons."¹¹²

Following this line of reasoning, Aquinas then discusses a modified definition of *person*: "Thence by some the definition of person is given as *hypostasis distinct by reason of dignity (hypostasis proprietate distincta ad dignitatem pertinente)*. And because subsistence in a rational nature is of high dignity therefore every individual of the rational nature is called a *person*. Now the dignity of the divine nature excels every

¹¹⁰Aquinas, *Summa Theologica*, I, Q. 29, a. 1.

¹¹¹Ibid., I, Q. 29, a. 3, arg. 2.

¹¹²Ibid., I, Q. 29, a. 3, ad 2.

other dignity; and thus the name *person* pre-eminently belongs to God.”¹¹³ This passage contains a couple of important elements worthy of discussion. First, why does Aquinas shift in the definition from *substance* (part of Boethius’ definition) to *hypostasis*? And second, what does Aquinas mean when he says that persons are “distinct by reason of dignity”? The answer to the first question will lead to the answer to the second.

Aquinas shifts from Boethius’ use of *substance* to *hypostasis* for the sake of clarity. The word *substance* can be used equivocally. Aquinas explains, “According to the Philosopher (*Metaph.* v), substance (*substantia*) is twofold. In one sense it means the quiddity of a thing (*quidditas rei*), signified by its definition, and thus we say that the definition means the substance of a thing; in which sense substance is called by the Greeks *ousia* (*usiam*), which we may call essence (*essentiam*).”¹¹⁴ This, however, is not the meaning of the word that Aquinas applies to personhood. Rather, when applied to the definition of *person*, substance should be understood as “a subject or *suppositum*, which subsists in the genus of substance (*subiectum vel suppositum quod subsistit in genere substantiae*).”¹¹⁵ Aquinas argues that “individual substance” ought to be understood as meaning a first substance (as opposed to the second substance of genus or species). He explains, “[I]t is reasonable that the individuals of the genus substance should have a special name of their own; for they are called *hypostases*, or first substances (*primae substantiae*).”¹¹⁶

¹¹³Ibid., I, Q. 29, a. 3, ad 2.

¹¹⁴Ibid., I, Q. 29, a. 2, co.

¹¹⁵Ibid.

¹¹⁶Ibid., I, Q. 29, a. 1, co.

4.2a The Divine Persons

In order to further understand Aquinas' meaning of the word *hypostasis* in the definition of person mentioned above ("hypostasis distinct by reason of dignity"), let us turn to Aquinas' discussion of the *divine* persons. Aquinas explains that in the Godhead, the word *person* or *hypostasis* (Aquinas uses these words synonymously) signifies *relation*. He writes, "[I]n God, *what is* and *whereby it is* are the same, according to Boethius (*De Hebdom.*). But the Father is Father by paternity. Therefore He is the same as paternity. In the same way, the other properties are the same as persons."¹¹⁷ Thus, the relations present in the Trinity—paternity, filiation, and spiration—are themselves identical with the divine persons. As Aquinas explains, "For, since the divine simplicity excludes the composition of matter and form, it follows that in God the abstract is the same as the concrete, as *Godhead* and *God*."¹¹⁸ Thus, the property of paternity in God is itself the divine person of the Father. Thus, the property of paternity is not merely a relation *exhibited by* the Father; rather, it *is* the Father.¹¹⁹

Aquinas reiterates this point: "Now the relations or the properties distinguish or constitute the hypostases or persons, inasmuch as they are themselves the subsisting persons; as paternity is the Father, and filiation is the Son, because in God the abstract and the concrete do not differ."¹²⁰ A corollary of this proposition is that the divine

¹¹⁷Ibid., I, Q. 40, a. 1, sed contra.

¹¹⁸Ibid., I, Q. 40, a. 1, ad 1.

¹¹⁹As Aquinas explains further: "Some, then, [consider] that the relations, or the properties, make known the distinctions of the hypostases or persons as resulting therefrom; as also in creatures the properties manifest the distinctions of individuals, which distinctions are caused by the material principles. This opinion, however, cannot stand[.]" Ibid., I, Q. 40, a. 2, co.

¹²⁰Ibid., I, Q. 40, a. 2, co.

persons are distinguished from one another only by virtue of their relations. This makes sense as the very notion of relation itself implies distinction. Aquinas explains, “In a divine person there is nothing to presuppose but essence, and relation or property. Whence, since the persons agree in essence, it only remains to be said that the persons are distinguished from each other by the relations.”¹²¹ Finally, drawing the distinction between how the concept of relation differs among human persons and divine persons, Aquinas writes: “Among us relation is not a subsisting person. So this name “father” among us does not signify a person, but the relation of a person. In God, however, it is not so, as some wrongly thought; for in God the relation signified by the name “Father” is a subsisting person.”¹²²

Thus, in summary, the divine relations (paternity, filiation, spiration) are both the mode of distinguishing between the divine persons as well as the very reality of the divine persons themselves. *Hypostasis*, in the context of divine personhood, means nothing more and nothing less than *relation*.

4.2b Human Persons

Let us continue by examining Aquinas’ use of *hypostasis* in the context of *human* persons. If the meaning of *hypostasis* in the context of divine personhood (i.e., *relation*) is applied to the context of human persons, problems arise. For example, Aquinas addresses the objection that “person in men and angels does not signify relation, but something absolute.”¹²³ Interestingly, Aquinas does not reply to this objection by

¹²¹Ibid.

¹²²Ibid., I, Q. 33, a. 2.

¹²³Ibid., I, Q. 29, a. 4, arg. 4.

answering that, indeed, the notion of human (and angelic) persons does include relation. Rather, he replies with an argument about how the word *person* ought to be understood: “The different sense of the less common term does not produce equivocation in the more common. Although a horse and an ass have their own proper definitions, nevertheless they agree univocally in animal, because the common definition of animal applies to both. So it does not follow that, although relation is contained in the signification of divine person, but not in that of an angelic or of a human person, the word “person” is used in an equivocal sense. Though neither is it applied univocally, since nothing can be said univocally of God and creatures (Q. 13, A. 5).”¹²⁴

This is a pregnant reply. Aquinas acknowledges that “relation” is contained in the definition of divine persons but not in created persons. This acknowledgment has great theoretical import because, as we saw above, the divine persons are *identical* to the divine relations. As Aquinas argues, “As relation distinguishes and constitutes the hypostases, as above explained, it follows that if the personal relations are mentally abstracted, the hypostases no longer remain.”¹²⁵ There is no definitional “space” left in the term “divine person” after the notion “divine relation” is removed. But it is clear that created persons are not divine, and Aquinas admits that they are also not relations (at least not definitionally).¹²⁶ Thus, is there *any* shared meaning in the word “person” when applied to divine persons and human persons? Aquinas argues that there is, that the word “person” is not being used equivocally. How is this so?

¹²⁴Ibid., I, Q. 29, a. 4, ad 4.

¹²⁵Ibid., I, Q. 40, a. 3, co.

¹²⁶From the obvious fact that human persons are *ordered* to relationship it does not follow that relation is part of the *definition* of a human person, let alone that human persons are *identical* to relation (as is the case with the divine persons).

4.2c A Broader Definition of Person

It turns out that there is a broader definition of person that can accommodate the meanings of the word in the divine and created contexts. It is clear that “hypostasis distinct by reason of dignity” is not sufficient as a definition. For it has been shown that *hypostasis* in the context of divine persons means none other than *relation*. And relation is not included in the definition of created persons. Aquinas then gives us a more general definition of person, capable of accommodating all instances of the kind: “For ‘person’ in general signifies the individual substance of a rational figure. The individual in itself is undivided, but is distinct from others. Therefore ‘person’ in any nature signifies what is distinct in that nature (*Persona igitur, in quacumque natura, significat id quod est distinctum in natura illa*).”¹²⁷

We started out this section on personhood by addressing what Aquinas means by the term “individual substance”. It does not mean essence, and we have just found that it cannot mean *hypostasis*, at least in any general meaning of the term that is applicable across the different species of person. Thus, what could “individual substance” mean in this *general* definition of person? The answer is in Aquinas’ shortened definition: “‘Person’ in any nature signifies what is distinct in that nature.” Thus, “individual substance” must be understood to mean “distinctness in a nature”. In the divine nature, what is distinct is the divine relations. Thus, in the divine nature, *hypostasis* or “individual substance” means divine relation. In contrast, in the human nature, this distinctness means something different. Aquinas writes, “[I]n human nature it [person] signifies this flesh, these bones, and this soul, which are the individuating principles of a

¹²⁷Ibid., I, Q. 29, a. 4, co.

man, and which, though not belonging to ‘person’ in general, nevertheless do belong to the meaning of a particular human person.”¹²⁸ Thus, the very meaning of *hypostasis* changes depending on which nature (divine or human) is considered. The very thing that constitutes the divine persons—*relation*—does not exist in human persons. And the very thing that constitutes human persons—individuation of soul and body—does not exist in divine persons. What remains, however, in all cases of *person* is the notion of a *distinctness* in a rational nature (a nature of *dignity*).

4.2d The Analogical Nature of Personhood

This kind of reasoning is, of course, that of *analogical* reasoning. Aquinas points to this fact in his answer to the objection that person is used equivocally in the divine and created contexts. His argument about personhood being found in what is distinct in a nature allows him to answer that the word *person* is not used equivocally. But he adds, “Though neither is it applied univocally, since nothing can be said univocally of God and creatures (Q. 13, A. 5).”¹²⁹ The passage he references is one of the well-known texts in Aquinas on the concept of analogy, particularly in reference to divine attributes. In this passage, Aquinas writes, “[N]o name is predicated univocally of God and of creatures.... Neither, on the other hand, are names applied to God and creatures in a purely equivocal sense, as some have said.... Therefore it must be said that these names are said of God and creatures in an analogous sense, i.e. according to proportion.”¹³⁰ Explaining how this sense of analogy allows for the predication of attributes to both God and created beings,

¹²⁸Ibid.

¹²⁹Ibid., I, Q. 29, a. 4, ad 4.

¹³⁰Ibid., I, Q. 13, a. 5, co.

Aquinas writes: “[W]hatever is said of God and creatures, is said according to the relation of a creature to God as its principle and cause, wherein all perfections of things pre-exist excellently. Now this mode of community of idea is a mean between pure equivocation and simple univocation. For in analogies the idea is not, as it is in univocals, one and the same, yet it is not totally diverse as in equivocals; but a term which is thus used in a multiple sense signifies various proportions to some one thing.”¹³¹

This concept of analogy, as a “community of idea” in which one term has different senses in different settings, is exemplified in Aquinas’ definition of personhood. The word *person* means different things in different natures. However, because *person* denotes distinctness in whatever nature it is understood to reside, there is a shared meaning across the different analogues of personhood. Thus, the word *person* avoids univocation (something impossible for a word describing both God and creature) and equivocation (a complete dissimilitude in meaning).

Describing how this kind of analogical meaning is employed by Aquinas, Gerald Phelan writes, “[T]he common characteristic or *ratio* belongs really and truly to each and all of the participants but to each and all in proportion to their respective being (*esse*).”¹³² According to Phelan, in this kind of analogy, there are two kinds of proportions at work. First, there is a proportion between the common characteristic and the participant. In our example, there is a proportion between “personhood” and “divine person” and a proportion between “personhood” and “human person”. Now, in this kind of analogy, the analogical relationship is not directly between “divine person” and “human person”.

¹³¹Ibid.

¹³²Gerald Phelan, *Saint Thomas and Analogy* (Milwaukee: Marquette University Press, 1941), 19.

Rather, the relationship is between the proportions themselves. As Phelan writes, “[T]here is a proportion between the way the first proportion *holds* and the way the second proportion *holds*.”¹³³ Describing how this proportion obtains, Phelan continues, “Of course, the ultimate basis upon which such analogies rest is the proportion existing between the essence (*quod est*) and existence (*esse*) of every being that is.”¹³⁴ While the present case under discussion presents somewhat of an exception (as the divine essence is identical to the divine existence), it is still meaningful to speak of a proportion existing between “personhood” and the divine Being and a proportion existing between “personhood” and a human being. The analogical relationship resides in the proportion *between the proportions themselves*.

4.2e Consolidating the Definition of Personhood

Understanding *person* to be an analogical concept, we find that Aquinas’ original definition of personhood (“hypostasis distinct by reason of dignity”) must be understood in such a way as to have *hypostasis* indicate the particular instantiation of distinctness in a given nature. As Aquinas explains, “Among the Greeks the term 'hypostasis,' taken in the strict interpretation of the word, signifies any individual of the genus substance; but in the usual way of speaking, it means the individual of the rational nature, by reason of the excellence of that nature.”¹³⁵ Thus, *definitionally*, the inclusion of the word *hypostasis* is redundant (though, of course, it is important in understanding the nature of what “distinct” means in a variety of natures). This leads to Aquinas’ more generalized

¹³³Phelan, *Saint Thomas*, 24-25.

¹³⁴*Ibid.*, 25.

¹³⁵Aquinas, *Summa Theologica*, I, Q. 29, a. 2, ad 1.

definition: “‘Person’ in any nature signifies what is distinct in that nature.”¹³⁶ Moreover, the “by reason of dignity” component of Aquinas’ original definition ensures that person doesn’t signify what is distinct in just *any* nature. It must be a high nature, a nature of *rationality*.¹³⁷

4.3 Social Groups as Social Persons

If, as Aquinas puts it, “*person* in any nature signifies what is distinct in that nature,” is it possible for a social group with a unity of order to meet these definitional criteria? There are two features of the social group that would need to be established in order for a social group with a unity of order to be considered as a person. There would need to be a certain distinctness about the social group, and the social group would need to have a rational nature.

4.3a The First Criterion: Does the Unity of Order Entail Distinctness?

Regarding the first requirement, let us investigate whether the unity of order exhibited by a social group could provide the necessary distinctness. It is important to note here that, given the analogical definition of *person*, we would expect the distinctness exhibited by social groups to be of a different sort than that exhibited by divine, human or angelic persons. Aquinas says as much in his statement that person signifies what is “distinct in that nature”.

We have already presented Aquinas’ argument for the kind of unity displayed by certain social groups (a unity of order). Is this unity in some way related to a certain

¹³⁶Ibid., I, Q. 29, a. 4, co.

¹³⁷Ibid., I, Q. 29, a. 3, ad 2.

distinctness regarding the subject of this unity? It would seem so. In his discussion of the unity of the world, Aquinas writes, “The very order of things created by God shows the unity of the world. For this world is called one by the unity of order, whereby some things are ordered to others.”¹³⁸ The unity of order which is operative in a social group (in this case, the entire world), brings about a oneness which distinguishes it from all of its constituent members.

However, Aquinas speaks of the world being “called” one. Is this merely a unity in speech, or does it have real existence in some way? In his discussion of the names of God, Aquinas touches on this issue: “In creatures, one form does not exist in several *supposita* except by unity of order, as the form of an ordered multitude. So if the names signifying such a form are substantives, they are predicated of many in the singular, but otherwise if they are adjectives. For we say that many men are a college, or an army, or a people; but we say that many men are collegians.”¹³⁹ Here, Aquinas again speaks of calling social groups by singular names, but he explains that this naming is not in speech only. Rather, the various singular names of social groups themselves signify the form of the group that exists by way of a unity of order. Thus, it seems clear that to speak of a college—or an army, or a people—is not just to use a sort of linguistic shorthand to refer to the collection of individuals constituting the whole. Rather, it seems that there is something distinct about a social group that has a unity of order. This distinctness characterizes a real, existing thing (though not existing substantially) which has a certain

¹³⁸Ibid., I, Q. 47, a. 3, co.

¹³⁹Ibid., I, Q. 39, a. 3, co.

singularity in its existence. (The ontology of this real, existing thing will be addressed in more detail in the next chapter.¹⁴⁰)

This real and distinct nature of social groups with a unity of order is evidenced by the fact that these groups have actions that are proper to themselves and not simply to their constituent members. As cited earlier, when discussing the unity of order, Aquinas writes that the social group with a unity of order constitutes a whole that has “an operation that is not proper to its parts but to the whole.”¹⁴¹ Furthermore, later, it is the operations of these groups that Aquinas categorizes as the subject matter of moral philosophy. It seems then that a social group with a unity of order constitutes some distinct entity, in so far as it is capable of operations that cannot be formally reduced to any of its constituent members. This point is reinforced by another passage in which Aquinas discusses the actions of social groups:

That act which a man does by his own choice and of himself is attributed to him insofar as he is a particular person, but an act is attributable to him insofar as he is a part of a community, which act he does not do of himself nor by his own choice, but which is done by the whole community or the majority of the community or by the head of the community...For such a community of men is regarded as one man, such that different individuals appointed to different offices are as it were different members of one natural body.¹⁴²

¹⁴⁰If (as we will argue in the next chapter) it can be established that societies have non-substantial, but *subsistent* being, then the following passage from Aquinas could serve as a further argument for societies’ possession of the distinctness criterion of personhood: “In created things the principles of individuality exercise two functions. The one is that they are the principle of subsistence (since the common nature does not subsist by itself except in the individual): and the other is that they distinguish the suppositis of the common nature from one another.” From *On the Power of God*, trans. English Dominican Fathers (Westminster, MD: Newman Press, 1952), Q. 9, a. 5, ad 13.

¹⁴¹Aquinas, *Commentary on Ethics*, I, L. 1, no. 5.

¹⁴²Thomas Aquinas, *On Evil*, trans. Jean T. Oesterle (Notre Dame, IN: University of Notre Dame Press, 1995), Q. 4, a. 1, co. Also, in *Summa Theologica*, I-II, Q. 81, a. 1, co., Aquinas writes: “In civil matters, all who are members of one community are reputed as one body, and the whole community as one man.”

Moreover, Aquinas explicitly links this kind of unity in action to personhood: “Further still, in a more special and perfect way, the particular and the individual are found in the rational substances which have dominion over their own actions; and which are not only made to act, like others; but which can act of themselves; for actions belong to singulars. Therefore also the individuals of the rational nature have a special name even among other substances; and this name is ‘person’.”¹⁴³ While social persons certainly are not substances, they are characterized by actions that belong to “singulars”—in that they “can act of themselves”—and thus would be candidates for the link that Aquinas sees between acting singulars and personhood.

4.3b The Second Criterion: A Rational Nature?

It appears that the first criterion that a social group with a unity of order must meet in order to be considered a *person*—that of distinctness—can be met. The second criterion is a rational nature. Do social groups with a unity of order have a rational nature? It would seem that, by definition, they do. The reason lies in the kind of order that they possess. As was argued earlier in this chapter, the unity of order is an eminently rational kind of order because it entails rational deliberation and action. In his discussion of how order is related to reason, Aquinas discusses a kind of order “that reason in deliberating establishes in the operations of the will.”¹⁴⁴ This kind of order, when exhibited in a social group, orders the actions of group members to a common end. It is an order of intentional, rational deliberation and action. As Sister Mary Healy explains, the arrangement of people in society is a “deliberate or instinctive ordering in view of a

¹⁴³Aquinas, *Summa Theologica*, I, Q. 29, a. 1.

¹⁴⁴Aquinas, *Commentary on Ethics*, I, L. 1, no. 1.

common good selected by rational creatures endowed with an intellect and will.”¹⁴⁵ How this group deliberation and action takes place is the subject of chapter eight.

But is this kind of rational order defined well enough to meet the criterion of rationality that characterizes personhood? Aquinas clarifies what he means by “rational nature” in his discussion of whether this term can be applied to God’s nature. The objection he addresses is as follows: “[T]he definition of *person*, as given above [an individual substance of a rational nature], does not apply to God...because reason implies a discursive knowledge, which does not apply to God, as we proved above (Q. 14, A. 12); and thus God cannot be said to have a *rational nature*.”¹⁴⁶ In reply, Aquinas argues, “It may be said that God has a rational *nature*, if reason be taken to mean, not discursive thought, but in a general sense, an intelligent nature.”¹⁴⁷ Thus, in regards to the rational nature criterion for personhood, an intelligent nature, understood in a general sense, is sufficient. A unity of order which is constituted by an ordering of a whole to its end, because of the inherently rational nature of this activity, would seem to qualify.

4.4 Summary

Having established that social groups with a unity of order exhibit both distinctness in their nature as well as an associated, intrinsic rationality, it seems appropriate to conclude that these social groups can properly be called *persons*, understanding the term to be an analogical one that applies across a spectrum of analogues. In other words, the “distinct in dignity” criterion of personhood maps

¹⁴⁵Mary Edward Healy, “Society and Social Change in the Writings of St. Thomas, Ward, Sumner, and Cooley” (Ph.D. diss., The Catholic University of America, 1948), 14.

¹⁴⁶Aquinas, *Summa Theologica*, I, Q. 29, a. 3, arg. 4.

¹⁴⁷*Ibid.*, I, Q. 29, a. 3, ad 4.

analogically onto the “unity of order” which societies possess. The *unity* which characterizes societies constitutes a *distinctness*, and the *order* which societies exhibit is an eminently rational order—an order of high *dignity*. Finally, because the personhood in which social groups participate is unique from divine, human, or angelic personhood, it is appropriate, for the sake of clarity, to call these social groups *social persons*.

CHAPTER FIVE

The Ontology of the Social Person

Let us now turn to the issue of the ontological status of a social person. If a social group with a unity of order can be understood to be a person, what kind of grounding in *reality* does such a person have? To begin this discussion, let us turn to a possible objection to the notion of social personhood, an objection based on the question of the ontological status of such a being.

5.1 Subsistence: An Objection

One may object that a social group cannot be a person because it is not a *subsistence*. One might refer to the following passage of Aquinas wherein he presents three aspects of the first substance that characterizes a person:

It [the substance] is also called by three names signifying a reality—that is, *a thing of nature*, *subsistence*, and *hypostasis*, according to a threefold consideration of the substance thus named. For, as it exists in itself and not in another, it is called *subsistence*; as we say that those things subsist which exist in themselves, and not in another. As it underlies some common nature, it is called *a thing of nature*; as, for instance, this particular man is a human natural thing. As it underlies the accidents, it is called *hypostasis*, or *substance*. What these three names signify in common to the whole genus of substances, this name "person" signifies in the genus of rational substances.¹⁴⁸

Now, it is easy to see how a social group can have a *nature*. Social groups come in a variety of kinds and share in the associated natures (city, family, civic organization, etc.). Aquinas' use of *hypostasis* with regard to personhood has been discussed above. *Hypostasis* must have different meanings in different contexts. Here, this is made

¹⁴⁸Ibid., I, Q, 29, a. 2, co.

apparent again in that Aquinas argues that *hypostasis* denotes what it is that underlies the accidents. God, however, has no accidents. Thus, this is one more example of how Aquinas' use of *hypostasis* reflects the analogical nature of personhood.

The things signified by *thing of nature* and *hypostasis* do not seem to pose a problem for the analogical ascription of personhood to social groups with a unity of order. However, could it be that the reality of a person as a *subsistence* adds something to the general definition (“what is distinct in a rational nature”) of personhood—something that would exclude social groups? In this passage, Aquinas uses the word *subsistence* to describe something that exists in itself and not in another. Social groups exist, but they do not exist as substances, they are not “absolutely one”.¹⁴⁹ Is this a requirement that Aquinas makes for the definition of *person*? To answer this question, let us see how Aquinas uses the word *subsistence* elsewhere.

5.2 Subsistence in the Context of the Human Soul

In his discussion of the human soul, Aquinas addresses the following objection to the notion that the human soul is something subsistent: “It would seem that the human soul is not something subsistent. For that which subsists is said to be *this particular thing*. Now *this particular thing* is said not of the soul, but of that which is composed of soul and body. Therefore the soul is not something subsistent.”¹⁵⁰ In reply to the question of the subsistence of the human soul, Aquinas first establishes that the soul has an operation apart from the body. Specifically, the intellectual power, while it attains to knowledge through sensible things, is not a body nor resides in a body properly speaking.

¹⁴⁹ Aquinas, *Commentary on Ethics*, I, L. 1, no. 5.

¹⁵⁰ Aquinas, *Summa Theologica*, I, Q. 75, a. 2, arg. 1.

On the contrary, in order to know what bodies are, the intellectual power must not be a body itself. From this, Aquinas addresses the question of subsistence: “Therefore the intellectual principle which we call the mind or the intellect has an operation ‘per se’ apart from the body. Now only that which subsists can have an operation ‘per se.’ For nothing can operate but what is actual: for which reason we do not say that heat imparts heat, but that what is hot gives heat. We must conclude, therefore, that the human soul, which is called the intellect or the mind, is something incorporeal and subsistent [*incorporeum et subsistens*].”¹⁵¹

Aquinas establishes the subsistent nature of the soul from the fact that the soul has an operation *per se* apart from the body. And, “only that which subsists can have an operation *per se*.” Applying this reasoning to the question of social personhood, the question arises whether social groups can have *per se* operations. Indeed, they can. As mentioned above, in his treatment of the actions of an army—a social group with a unity of order—Aquinas writes, “A part of this whole, therefore, can have an operation that is not the operation of the whole, as a soldier in an army has an activity that does not belong to the whole army. However, this whole does have an operation that is not proper to its parts but to the whole—for example, an assault of the entire army.”¹⁵² Aquinas argues that the army has operations that are not reducible to any part of the army and cannot be understood as operations of anything else but the whole; i.e., the army has an operation as it is itself, *per se*.

¹⁵¹Ibid., I, Q. 75, a. 2, co.

¹⁵²Aquinas, *Commentary on Ethics*, I, L. 1, no. 5.

5.3 Social Persons as Subsistences

It would seem then that because social groups with a unity of order have *per se* operations, they must be understood to be candidates for *subsistence*. Thus, if the requirement of subsistence is added to our working definition of *person* (“that which is distinct in a rational nature”), the social group with a unity of order is still a candidate for personhood. This conclusion is, of course, predicated on there being a legitimate distinction between *subsistence* and *substance*. For example, Aquinas notes that the human *substance* is properly understood to be the composite of form and matter in the human nature. The human soul, being the form, is not the human substance—it is a part. Aquinas writes, “The soul is a part of the human species; and so, although it may exist in a separate state, yet since it ever retains its nature of unibility, it cannot be called an individual substance (*substantia individua*), which is the hypostasis or first substance (*substantia prima*), as neither can the hand nor any other part of man.”¹⁵³ Thus, while Aquinas believes that the soul is a subsistence, he does not allow it to be a first substance.¹⁵⁴

While it seems that Aquinas sees a legitimate distinction between a subsistence and a substance, what is the nature of a subsistence, and what are the grounds for distinguishing it from a substance? It will be beneficial to come to a more complete

¹⁵³Aquinas, *Summa Theologica*, I, Q. 29, a. 1, ad 5.

¹⁵⁴This, incidentally, helps answer why it is that a human soul, while it is a subsistence, is not a *person*. A person is what is distinct in a rational nature. In the rational nature of humanity, it is the complete body-soul composite which is the distinct entity. Thus, while the soul subsists, it does not subsist distinctly in a rational nature. While it is in the nature of a soul to possess rational powers, this is the case only in so far as it is a part of a human substance. Hence, the inherent unnaturalness of the separated soul. See also, Aquinas, *Summa Theologica*, I, Q. 75, a. 4, ad 2.

understanding of this distinction in order to better understand the ontological status of social persons.

5.4 Subsistence and Substance

To further our understanding of the distinction between subsistence and substance, let us first address a passage where Aquinas speaks of “subsisting” and “substanding”:

The individual composed of matter and form substands in relation to accident from the very nature of matter. Hence Boethius says (De Trin.): “A simple form cannot be a subject.” Its self-subsistence is derived from the nature of its form, which does not supervene to the things subsisting, but gives actual existence to the matter and makes it subsist as an individual. On this account, therefore, he ascribes hypostasis to matter, and *ousiosis*, or subsistence, to the form, because the matter is the principle of substanding (*substandi*), and form is the principle of subsisting (*subsistendi*).¹⁵⁵

From this passage, we see that an individual is said to substand in so far as it is a thing which underlies accidents. As Aquinas says elsewhere, “To substand, however, belongs to the same individual things in relation to the accidents[.]”¹⁵⁶ Subsisting, on the other hand, seems to concern existence *per se*. In this passage, Aquinas associates subsistence with the “actual existence.” Finally, because of the association of substanding with accidents and subsistence with existence *per se*, Aquinas associates the former with matter and the latter with form. In fact, he goes so far as to say that matter is the *principle of substanding* and the form the *principle of subsisting*. This distinction is valid for it is possible, in a conception of substance, to abstract from the notion of what it is *which underlies accidents* to simply *what it is* (or more precisely, *that it is*). As Etienne

¹⁵⁵Ibid., I, Q. 29, a. 2, ad 5.

¹⁵⁶Ibid., I, Q. 29, a. 2, ad 4.

Gilson puts it, “The analysis of what makes up the very core of reality can therefore abstract from accident, denuded of any being of its own besides that of a quality, and focus itself on substance.”¹⁵⁷

Now, referring back to subsistence, how is it that the form is the *principle of subsisting*? Aquinas writes that the form “does not supervene to the things subsisting, but gives actual existence to the matter and makes it subsist as an individual.” So it is not as though the form acts on a thing in a way that gives it subsistence. Rather, the form acts on matter to *make* a thing which then subsists. This, of course, is typical Aquinas, as Gilson explains: “The proper role of the form is, therefore, to constitute substance *as substance*. As St. Thomas says, it is what makes it to be substance and enables it to achieve substantiality. Thus conceived, form is *that by which* the substance is *that which is*.”¹⁵⁸ Thus, given this characteristic of form, we see why form is the “principle of subsisting”; that is, the principle by which a thing exists *per se*.

Now, thus far, it would seem that the distinction between subsisting and subsisting (and, by extension, that between subsistence and substance), is simply a conceptual one. It would seem that a thing subsists (and is thought to be a substance) in so far as it underlies accidents and that it subsists (and is thought to be a subsistence) in so far as it has existence *per se*. But the underlying “thing”, the *it*, so to speak, is the same. There is one individual thing being understood under different aspects. Thus, the distinction between substance and subsistence seems to be in danger of being just a

¹⁵⁷Etienne Gilson, *The Christian Philosophy of St. Thomas Aquinas* (Notre Dame, IN: University of Notre Dame Press, 1956), 31.

¹⁵⁸Gilson, *Christian Philosophy*, 32.

conceptual distinction, and thus not sufficient to prevent arguments for social persons' subsistence from turning into arguments for social persons' substantiality.

However, this is not all that Aquinas has to say about subsistence. As it turns out, Aquinas holds that there are two kinds of subsistences. The kind of thing we have been discussing above, a thing which substands and subsists, is considered to be a substance. But not every subsistence is a substance. As Eleonore Stump explains, "Aquinas distinguishes two kinds of subsistent things that can exist on their own, those that are complete substances and those that just subsist, that is, that are able to exist on their own but are not complete substances."¹⁵⁹

As we have seen above, the human soul is an example of a subsistence which is not a substance. Considered in the present discussion, one might be inclined to think that all beings which subsist but are not substances would exist as *immaterial subsisting forms*. For, as we have seen, the form is the principle of subsistence, that which "gives existence". Perhaps some forms can cross over into "the real" without being individuated in matter. However, while some immaterial subsisting forms (like the human soul) are included in non-substantial subsistences, the latter category cannot simply be limited to immaterial subsisting forms. For Aquinas gives another example of a non-substantial subsistence: a severed hand. Getting to the heart of the matter, Aquinas writes:

"This particular thing" (*hoc aliquid*) can be taken in two senses. Firstly, for anything subsistent (*pro quocumque subsistente*); secondly, for that which subsists, and is complete in a specific nature. The former sense excludes the inherence of an accident or of a material form; the latter excludes also the imperfection of the part, so that a hand can be called "this particular thing" in the first sense, but not in the second. Therefore, as the human soul is a part of human nature, it can indeed be called "this particular thing," in the first sense, as being

¹⁵⁹Eleonore Stump, *Aquinas* (New York: Routledge, 2003), 209.

something subsistent (*quasi subsistens*); but not in the second, for in this sense, what is composed of body and soul is said to be “this particular thing.”¹⁶⁰

From this passage, we see that non-substantial subsistences are not limited to immaterial forms. Something as mundane as a severed hand can subsist in this more minimal sense. The requirements seem merely to be that it is meaningful to speak of the entity as “this particular thing” and that the entity not be an accident or a material form.¹⁶¹ These requirements would seem to apply to the social person. It makes sense to speak of a social person as “this particular thing” in so far as “this particular thing” is a whole capable of operations. And in so far as it is a whole in this regard, it is not merely an accident or a material form.¹⁶²

However, the passage from Aquinas just quoted raises a potential difficulty with this more minimal understanding of non-substantial subsistence applying to social persons. At first reading, it seems that Aquinas might be limiting his understanding of this more minimal category of subsistence to those beings which are *parts*. The two examples he gives are clearly parts: a soul is “a part of human nature” and a hand is a part of a human body. They both subsist, but do they subsist by virtue of their “parthood”? If so, is the social person, with its wholeness, precluded from consideration as a non-substantial subsistence?

I answer that while this passage deals only with parts in its discussion of non-substantial subsistences, this is an accidental feature of the discussion, and not a hard requirement for non-substantial subsistences. Aquinas brings up examples of parts in his

¹⁶⁰Aquinas, *Summa Theologica*, I, Q. 75, a. 2, ad 1.

¹⁶¹The soul qualifies because it is a *substantial* form.

¹⁶²For further discussion of society as accidental being, see section 5.6.

discussion of subsistences because of the particular subject matter being discussed: the soul. In writing the above passage, Aquinas is responding to the following objection to the proposition that the human soul is a subsistence: “It would seem that the human soul is not something subsistent. For that which subsists is said to be ‘this particular thing.’ Now ‘this particular thing’ is said not of the soul, but of that which is composed of soul and body. Therefore the soul is not something subsistent.”¹⁶³ The objector argues that the “this particular thing”, in the context of human nature, is the human person, both body and soul. The soul then considered as a part of this complex, would not seem to qualify as a subsistence. Aquinas then replies with a twofold conception of subsistence and, not surprisingly, applies this conception to the notion of “parthood” in relation to the soul. We find that the soul, though it is a part, is not precluded from being a subsistence. Thus, the discussion of “parthood” is not essential to the understanding of non-substantial subsistence, but merely a result of Aquinas’ application of this category to that of the human soul. And he brings up a severed hand (another *part*) to reiterate this point.

While this may at first seem to be an awkward interpretation, the choosing of substantiality/non-substantiality as the primary metaphysical distinction in the genus of subsistences (as opposed to the part/whole distinction, which seems incidental) is supported by another passage in Aquinas. Referring to the soul, Aquinas writes, “[I]f by a ‘this’ we understand a hypostasis or a person, or an individual located in a genus or species, then [the human soul] cannot be said to be a *this*. But if a *this* is said to be anything capable of subsisting of itself, then in this way the soul is a *this*.”¹⁶⁴ In this

¹⁶³Aquinas, *Summa Theologica*, I, Q. 75, a. 2, arg. 1.

¹⁶⁴Stump, *Aquinas*, 209, quoting *De spiritualibus creaturis*, a. 2, ad 16.

passage, we see Aquinas discussing the subsistence of the soul in terms of the primary distinction which operates in the genus of subsistences. The human soul is not a *hypostasis*. As we have seen in the previous chapter, a hypostasis in the context of human nature is none other than a substance. Thus, a human soul is not a substance. But it is capable of subsisting of itself (because it has *per se* operations). Thus, the human soul is a non-substantial subsistence. Here, Aquinas argues for the subsistence of the human soul not in terms of part/whole, but, rather, in terms of substance/non-substance.

There is one final argument for the interpretation that the primary distinction at work in the genus of subsistence is that between substantiality and non-substantiality (and thus for the position that it is possible for there to be whole, yet non-substantial, subsistences). This argument involves the relative nature of “parthood” itself. If Aquinas sees the primary distinction between subsistences to be that some subsistences are parts and some subsistences are wholes, then his example of the severed hand becomes problematic. Aquinas uses the severed hand to illustrate the more minimal sense of subsistence, that which only excludes accidents and material forms. But if this category is also meant to exclude wholes, then the severed hand may not qualify. For while it is certainly the case that, in one sense, the severed hand is a part (in so far as it is a part of the body), once it is severed, it is also, in some sense, a whole. As Aquinas writes, “Nothing prevents certain things being distinct in one respect, and one in another respect.”¹⁶⁵ It seems that, once separated from the body, the hand is something different, an independent, if grotesque, piece of human flesh. In some sense, it maintains its parthood, but in so far as it remains unattached to the body, it has a wholeness about

¹⁶⁵Aquinas, *Summa Theologica*, I-II, Q. 17, a. 4, co.

itself, inasmuch as it is a “particular thing.” In fact, perhaps our intuition that the severed hand remains a part is only true in a subjunctive sense. The severed hand *would* be a part, if it were reattached—and we all know that severed hands ought to be reattached!

This relative nature of the part/whole distinction can also be seen in Stump’s discussion of the human corpse. Stump writes, “Once a human being dies and the soul is gone, Aquinas says, we use such words as ‘flesh’ or ‘eye’ equivocally if we apply them to parts of the corpse. At death, the soul is replaced with a different, non-animating substantial form. The matter of the body is then configured in a substantially different way and so has a form different from the one it had before death.”¹⁶⁶ Thus, after death, while it makes some sense to speak of the body as a part of the human person, in reality, it is no longer a part, but a new whole, a *different thing*. This is perhaps why we use a different word to describe a “dead body”—it is no longer a body, it is a *corpse*. And in so far as it is a corpse, it is a whole.

Thus, if the severed hand can be properly thought of as a whole, and if it is “partness” which defines non-substantial subsistences, then it would seem that the severed hand may not actually be a suitable example of this broader, more minimal conception of subsistence. But this is unacceptable for this is precisely how Aquinas uses the example. The hand, in his view, is a prime example of a non-substantial subsistence. It would seem, then, that we would want to allow for there to be wholes in this broader category of subsistence.

In sum, the most fundamental distinction in the genus of subsistence would seem to be the distinction between substance and non-substance. The reference to “parthood”,

¹⁶⁶Stump, *Aquinas*, 194-195.

then, in Aquinas' discussion of these two kinds of subsistences is merely a contingent feature of the context of the human soul as the immediate subject matter.

5.5 Soul as Substance?

The preceding analysis has rested on an understanding of the soul as a non-substantial subsistence. What if, as Joseph Torchia does in his new work on personhood, one argues for the *substantiality* of the human soul? If the soul is actually a substance, then this seems to undermine our argument by taking away one of the prime examples of a non-substantial subsistence, thereby casting doubt on this category of being as a viable option for social groups. As has already been argued in the preceding sections, it seems that the notion of the human soul as a non-substantial subsistence makes the most sense of Aquinas' discussion of the soul. What then is Torchia's argument to the contrary?

Contrasting Aquinas' understanding of the human soul with the naturalist understanding, Torchia writes, "The naturalists of old assumed that the soul's ability to animate the body places it on an ontological par with what it animates. Like Augustine before him, Aquinas recognizes the soul's ontological distinctness from the body as an incorporeal, simple substance wholly immune to spatial limitations."¹⁶⁷ Why does Torchia come to this conclusion about the substantiality of the human soul? Torchia is drawing on some Thomistic texts where Aquinas seems to indicate that the soul is indeed a substance. For example, as Torchia indicates, Aquinas affirms Augustine's argument that, "Who[ever] understands that the nature of the soul is that of a substance and not that of a body, will see that those who maintain the corporeal nature of the soul, are led astray

¹⁶⁷Joseph Torchia, *Exploring Personhood: An Introduction to the Philosophy of Human Nature* (Lanham: Rowman & Littlefield Publishers, 2008), 133.

through associating with the soul those things without which they are unable to think of any nature; i.e., imaginary pictures of corporeal things.”¹⁶⁸ Also, elsewhere Aquinas refers to both angels and human souls as “incorporeal substances” (*substantiis incorporeis*).¹⁶⁹

However, one could also cite Aquinas in an argument that the human soul is not a substance. As we have already seen, Aquinas argues that the soul cannot be a first substance.¹⁷⁰ In addition, in writing about the substantiality of the human person (body and soul), Aquinas writes, “Body and soul are not two actually existing substances, but one actually existing substance is made from them: for man's body is not actually the same while the soul is present, and when the soul is absent: and it is the soul that makes it to be actually.”¹⁷¹ Indeed, Torchia is aware of this point when he expresses the fact that understanding the soul to be a substance leads to some difficulties. He writes, “Aquinas has now presented two seemingly incompatible theses regarding the relationship between the soul and the body: first, that the soul constitutes the act of a living body and, second, that the soul is a substance in its own right.”¹⁷² If the soul gives being to the body, thus forming one, unified human substance—the human person—how can that soul,

¹⁶⁸Aquinas, *Summa Theologica*, I, Q. 75, a. 2, sed contra, quoting Augustine’s *De Trinitate*, x, 7.

¹⁶⁹Ibid., I, Q. 75, a. 7, co.

¹⁷⁰Ibid., I, Q. 29, a. 1, ad 5.

¹⁷¹Aquinas, *Summa Contra Gentiles*, II, c. 69.

¹⁷²Torchia, *Exploring Personhood*, 134.

considered in itself, also be a substance? How can one substance be composed of another substance?¹⁷³

The answer to this problem lies in the fact that Aquinas uses the word “substance” (*substantia*) differently in different places. It would seem that when he refers to the human soul as a substance, he means something different than when he refers to the substance that is the unity of the soul and body.

This variation in his use can first be seen in the passage where he writes that “Body and soul are not two actually existing substances (*duae substantiae actu existentes*).”¹⁷⁴ A mere two paragraphs later, Aquinas writes, “Nor does the intellectual substance (*substantia intellectualis*) being united to the body as its form prevent the intellect being separate from the body, as the philosophers say.”¹⁷⁵ In this passage, Aquinas clearly refers to the soul as a substance. How is he using the word differently?

The answer can be seen in another passage which concerns his understanding of the soul as a “separate” subsistence. After affirming Augustine's notion of the soul as a substance, Aquinas concludes, “Therefore the nature of the human intellect is not only incorporeal, but it is also a substance (*substantia*), that is, something subsistent (*subsistens*).”¹⁷⁶ It seems that when Aquinas refers to the soul as a substance, he is intending to indicate that it is a substance *in so far as it is a subsistence*.

¹⁷³For more on this dilemma, see Jason T. Eberl, “Aquinas on the Nature of Human Beings,” *The Review of Metaphysics* 58, no. 2 (December 2004): 335-338.

¹⁷⁴Aquinas, *Summa Contra Gentiles*, II, c. 69.

¹⁷⁵*Ibid.*

¹⁷⁶Aquinas, *Summa Theologica*, I, Q. 75, a. 2, sed contra.

Explaining this distinction in the use of substance, Jason Eberl writes, “In his early works, Aquinas took the term ‘substance’ to refer to anything that had *esse*: substance equaled subsistence. In later works, Aquinas makes a distinction between mere subsistence and subsistence as a substance (*hypostasis* or *suppositum*).”¹⁷⁷ Thus, when Aquinas speaks of the human soul as “a substance, that is, something subsistent,” he is clearly employing this distinction. This then makes sense of his statements that the body and soul aren’t actually existing substances. In the former usage, Aquinas uses the word “substance” to denote mere subsistence—something that simply exists in itself and not in another. In the latter example, he uses substance to denote fully substantial subsistent being. What is the difference between a mere subsistence and a fully substantial subsistence? We have seen that in the context of human nature, this difference is played out in terms of the part/whole distinction. However, this account of the distinction between substantial and non-substantial subsistences would only seem to apply to the context of human nature. A full-fledged account of what distinguishes non-substantial and substantial subsistences in every nature is outside the scope of the present discussion. However, it is sufficient to have argued that there is a real distinction between substantial and non-substantial subsistences and that the latter category is not an empty set. Furthermore, social groups with a unity of order seem to be candidates for this category of being, by virtue of their *per se* operations.

5.6 *Alternatives to Subsistent Societal Being: Accidental Being*

Having presented the positive argument for understanding social persons as non-substantial subsistences, let us argue for this position from a different perspective.

¹⁷⁷Eberl, “Aquinas,” 346.

Specifically, let us argue for an understanding of society as non-substantial subsistence by showing why the two alternative understandings of societal being—that of accidental being and substantial being—are unacceptable. Let us first turn to the problems associated with an understanding of society as *accidental* being.

In our discussion of William Ferree's conception of the ontology of society, we critiqued his argument of an understanding of societies as accidents of accidents. We found that, ultimately, this conception of the ontology of society rested on an equivocation and that it couldn't account for our intuitions about the existence of societies through time. However, we now have another reason to reject Ferree's ontology of society. If a society (or social person, in our terminology) is a subsistence, then it must, as Aquinas argues, exist in itself and not in another. However, intrinsic to the notion of “accident” is to exist *in something*. As Gilson explains, “Accidents have no existence of their own to be added to that of the substance in order to complete it. They have no other existence than that of the substance. For them, to exist is simply ‘to-exist-in-the-substance’ or, as it has been put, ‘*their being is to-be-in*’.”¹⁷⁸ Thus, if it belongs to accidents to “exist in”, then societies, by virtue of their subsistence, cannot be understood to be accidents.

Moreover, apart from the issue of subsistence, there is an additional problem with a conception of society as mere accidental being. This problem can be seen in Mary Niemeyer's discussion of group ontology. Niemeyer poses the question, “Is the corporate group real?” She replies, “[T]he group as such is real; it is not merely a collective name for individuals. Its reality, however, is nothing apart from the individuals who compose

¹⁷⁸Gilson, *Christian Philosophy*, 31.

it; the group as such possesses only the reality of an accident.” Explaining further, Niemeyer writes that “the members of a group enjoy in common some accidental form in which they are unified[.]”¹⁷⁹ Speaking of this accidental form which supposedly constitutes society, Niemeyer writes that the formal cause of society is “an accidental form of order existing among the human beings constituting a given society.”¹⁸⁰ Thus, here is where Niemeyer sees the ontological role of the unity of order. There is, among the constituent members of a society, a shared accidental form of order. This order, directed towards common action, provides the unity which enables us to consider the society as one. Moreover, this unity of order is itself the reality of the society.

While there is certainly a fair amount of plausibility to this account, there is also a deep difficulty. Besides the issue mentioned above (that conceiving society as accidental being would seem to be precluded from an understanding of society as a subsistence), this account of Niemeyer's (or any account of society as accidental being) suffers from a deep counter-intuitiveness. How is this so?

Niemeyer's account of society is an account which seeks to explain it at its deepest level, at the level of its *being*. A society, as an accidental form, is something which is *in* its constituent members (as any accident is in its subject). Thus, in the most real sense, *society* is *in persons*. However, does this not actually reverse the intuition we have regarding the relationship between persons and society? That is, don't we typically think that it is *persons* who are *in society*? One could dismiss this intuition as a metaphor

¹⁷⁹Niemeyer, “The One and the Many,” 116-117.

¹⁸⁰Ibid., 66.

or as semantics. However, it seems that there is a deeper reality which is signified by this intuition.

For example, Aquinas does not hesitate to speak of the relationship of persons to society as that of *parts* to a *whole*. Some examples: In his discussion of capital punishment, Aquinas writes, “Now every part is directed to the whole, as imperfect to perfect, wherefore every part is naturally for the sake of the whole....Now every individual person is compared to the whole community, as part to whole.”¹⁸¹ In his discussion of law and conscience, Aquinas writes, “For, since one man is a part of the community, each man in all that he is and has, belongs to the community; just as a part, in all that it is, belongs to the whole.”¹⁸² And, finally, in his discussion of personal injuries, he writes, “The whole of man is directed as to his end to the whole of the community of which he is a part.”¹⁸³

Aquinas applies the part/whole distinction to the issue of persons in community in a way that seems to indicate that a society is a whole to which a person *belongs*. This position of Aquinas makes an understanding of society as just a shared accident somewhat awkward.

This can be seen even more explicitly in Aquinas' statement (quoted above) that “each man in all that he is and has, belongs to the community.” A man, considered as “all that he is and has” would be considered as a man containing all his accidents. If the man's community—his society—is an accidental form which resides in him, then does it

¹⁸¹Aquinas, *Summa Theologica*, II-II, Q. 64, a. 2, co.

¹⁸²Ibid., I-II, Q. 96, a. 4, co.

¹⁸³Ibid., II-II, Q. 65, a. 1, co.

make sense to argue that that accident belongs to itself? For Aquinas writes that a man in all that he is and has, belongs to the community. This leads to a very awkward interpretation if the community to which a man is supposed to belong is actually contained in the man in the first place.

It is necessary here to briefly respond to an objection that may arise. One may be concerned that this argument—regarding persons as “parts” of a whole and as persons belonging “in all that they are” to a community—is a totalitarian argument. It must be stressed, however, that the status of a person as a part of a community in no way implies that that person's end is fully contained in that community nor that the community can dispense with the person or subject it completely to itself. Moreover, Aquinas' argument that “each man in all that he is and has, belongs to the community” does not entail that the community constitutes the full horizon of that man. As Jacques Maritain writes, “Although man in his entirety is engaged as a part of political society (since he may have to give his life for it), he is not a part of political society *by reason of his entire self* and all that is in him. On the contrary, by reason of certain things in him, man in his entirety is elevated above political society.”¹⁸⁴ Moreover, the fact that persons are parts with respect to the community does not imply that persons are not, considered in themselves, wholes. As Maritain writes, “It is a fundamental thesis of Thomism that the person as such is a whole.”¹⁸⁵ Thus, we are not in danger of totalitarianism if we insist, like Aquinas did, that persons are parts of their community.¹⁸⁶

¹⁸⁴Jacques Maritain, *The Person and the Common Good* (Notre Dame, IN: University of Notre Dame Press, 1966), 71, italics in the original.

¹⁸⁵Maritain, *Person*, 56.

¹⁸⁶This, incidentally, is another example of the relativity of the part/whole distinction. In some sense, human persons are parts, but in another sense, they are wholes.

We have seen then that Aquinas' insistence that a person belongs to his community renders the interpretation of society as merely accidental being implausible. This is based on our intuition that persons exist in society, not vice versa. There is another reason to doubt an understanding of society as having accidental being. This stems from the difficulty such an understanding would have in accounting for the fact that most societies are capable of undergoing a change in constituent members.

At first, one might be inclined to think that an accidental form which is shared by a group of persons could remain itself even while the group changes composition. However, this misunderstands the nature of an accident. As we mentioned above, it belongs to an accident to exist *in some thing*. It is not as though an accidental form can have independent existence in so far as it exists in a way that is “coupled” to the substantial person. Rather, it must exist in the person and has no possibility of being outside the person. Gilson addresses just such a potential confusion when he critiques an interpretation of Aquinas' metaphysic which is patterned after the structure of language: “Because our phrases are made up of a subject and predicates, St. Thomas would have concluded that the real is made up of substances of which accidents are predicated and of accidents which are attributed to substances. This is completely to misunderstand his thought and to confuse his logic with his metaphysics.” Rather, we ought to understand Aquinas in this way: “To speak of things as 'substances' is not to conceive of them as groups of accidents bound by some kind of copula to a subject. Quite to the contrary, it is to say that they set themselves up as units of existence, all of whose constitutive elements *are*, by virtue of one and the same act of existing, which is that of the substance.”¹⁸⁷

¹⁸⁷Gilson, *Christian Philosophy*, 31.

Thus, society, considered as an accidental form, cannot be conceived to have existence otherwise than *in persons*. Thus, when a “person leaves the society”, the society, as an accident, ceases to exist in that person. (This is a somewhat awkward way of putting it, but this follows from the theory of society as accidental being.) Thus, when a person leaves a society, there *is* a change in society. Specifically, it is a change of the greatest kind—a change from being to non-being. When a person leaves the society, the society *in that person* ceases to exist. As a similar example, let us look at Aquinas' discussion of the state of the accidental form of a statue once that statue is destroyed. He writes, “It [the statue] has an accidental form which, if the statue be destroyed, passes away also.”¹⁸⁸ Thus, on the accidental form understanding of society, it is unclear the extent to which one could maintain that society as such does not change when its members leave it (or, more accurately, when it leaves its members).¹⁸⁹

Moreover, it is difficult to conceive of how it is possible to even speak of one society existing as an accidental form in many persons. If society is truly an accident, then it would seem that each accident, as it inheres in its subject, would be unique. Indeed, Aquinas writes, “Accidents do not pass from subject to subject, so that the same identical accident which was first in one subject be afterwards in another; because an accident is individuated by the subject; hence it cannot come to pass for an accident remaining identically the same to be at one time in one subject, and at another time in

¹⁸⁸Aquinas, *Summa Theologica*, Sup., Q. 79, a. 2, ad 4.

¹⁸⁹At this point, one could maintain that it is never possible to leave society. For example, a person's death may not disqualify that person from remaining in society in some sense—a la Chesterton's aphorism that “tradition is the democracy of the dead.” However, one could certainly conceive of societies (other than political society as a whole) in which members can join or leave (e.g., a baseball team or a university).

another.”¹⁹⁰ If it is the case that the same accident cannot “be at one time in one subject, and at another time in another”, it would stand to reason that the same accident cannot be in two subjects at the same time. For, as Aquinas argues, accidents are individuated by their subject. Thus, the reason an accident cannot “migrate” from one subject to another is not because there is no mechanism of “migration”. Rather, it is because of the fact that an accident's essence includes the subject in which it is individuated. Thus, if that accident is in another subject, it is necessarily a *different* accident. Thus, if society is considered to be an accidental form, it is unclear how it is possible for one and the same society to exist as an accident in multiple subjects. By the very nature of accidents, the society as it exists in each individual person would constitute a unique entity.

This raises an important issue with regard to the employment of the term “accidental form” in this understanding of society that we are critiquing. It is tempting when first using the term in this context to think of the accidental form as organizing a group of individual persons—as if the group of persons constitute some kind of matter which is organized by a form of order into a society. But this is to grossly misunderstand the nature of an accidental form. An accidental form must inhere in a substance. Aquinas writes that “the essence of an accident is to inhere.”¹⁹¹ Thus, what an accidental *form* “organizes” is the substance in which it inheres—the individual person. Thus, the notion of an accidental form which organizes a *group* of substances is only a metaphor which has no ontological justification. The only way that an accidental form could organize a group of persons would be if the group itself constituted a substance (in which

¹⁹⁰ Aquinas, *Summa Theologica*, III, Q. 77, a. 1, co.

¹⁹¹ Ibid., I, Q. 28, a. 2, co.

the accidental form could inhere). But this is the very extreme which the accidental form view of society is trying to avoid.¹⁹²

Finally, one may concede the preceding points but maintain a view of society as accidental being by arguing that the accidental category of *relation* can be exploited. One of the nine categories of accidents is relation. Could the accidental form of society be related to this category of accident?

The proper answer seems to be that this category of accident is displayed by persons in society, yet the reality of society still cannot be grounded on this kind of accident. For simply conceiving the accidental form of society as that of an accident of relation does not eliminate the above objections to the notion of society as accidental being. However, it is proper to understand this category of accident to be involved in the participation by individual persons in society. When a person is in society, it would stand to reason that this person possesses an accidental form of societal relation. Speaking of the notion of relation as such in creatures, Aquinas writes, “If we consider even in creatures, relations formally as such, in that aspect they are said to be ‘assistant,’ and not intrinsically affixed, for, in this way, they signify a respect which affects a thing related and tends from that thing to something else.”¹⁹³ Thus, on this understanding of relation, it would seem to be an essential feature of persons in society. However, understanding

¹⁹²How might we make sense of the following passage from Aquinas? “In creatures, one form does not exist in several *supposita* except by unity of order, as the form of an ordered multitude. So if the names signifying such a form are substantives, they are predicated of many in the singular, but otherwise if they are adjectives. For we say that many men are a college, or an army, or a people; but we say that many men are collegians” (*Summa Theologica*, I, Q. 39, a. 3, co.). It would seem that we cannot deny the role of a form in a society's being. However, given the arguments of this section, it would seem that this form cannot have *accidental* being. Perhaps, rather, the form exists in the *subsistence* that is a society. This is suggested by Aquinas usage of the singular (a college, an army, or a people) in his description of the names signifying societal forms. More will be said on the relationship between the organization of a society and its being in the upcoming sections.

¹⁹³Aquinas, *Summa Theologica*, I, Q. 28, a. 2, co.

relation in the context of accident, Aquinas concludes, “Whereas, if relation is considered as an accident, it inheres in a subject, and has an accidental existence in it.”¹⁹⁴ Thus, however involved the accident of relation is to persons in society, its being remains that of an accident and is thus still touched by the above objections. This does not prevent us from maintaining that persons in society possess accidents of relation with regard to one another. It simply cannot be maintained that these accidents of relation *constitute the being* of society.

Thus, we see that understandings of society as accidental being (like Ferree's and Niemeyer's) fail to account for basic intuitions we have about a society's being; namely, such accounts fail to account for how persons exist in society and how (most) societies can undergo a change in composition without ceasing to exist. Furthermore, given the very nature of accidents, it is philosophically problematic to argue for one singular accident which could exist in multiple human substances.

5.7 Alternatives to Subsistent Societal Being: Substantial Being

Given the problems with understandings of society as accidental being, one may be tempted to conclude that society has substantial being. As we have seen, in some way, it is proper to understand persons to exist in society. With such a proposition, one is tempted to conclude that society is a substance which, like all substances, has accidents. As all substances do, a society would then undergo change, preserving its substantial unity while accidental features change. Moreover, one characteristic of most societies is that the adding or removing of this or that particular person does not fundamentally alter

¹⁹⁴Ibid.

the society. Thus, it would seem that with regard to a substantial society, persons would be accidents.

This theory, of course, is completely unacceptable. Ontologically, persons cannot be accidents because they are themselves substances. An understanding of society as a substance would also imply that society could be conceived of as existing without its constituent human persons. However, this contradicts the obvious intuition that a society is nothing without the persons of which it is made. Also, if society is a substance, then every individual composing the society must participate in two substantial forms (one for himself and one for the society). However, according to Aquinas, no one thing can have two substantial forms.¹⁹⁵

Morally, it is unacceptable to conceive of persons as accidents of society. While persons must exist in society, persons do not exist *for the sake* of society. Rather, society exists for the sake of persons.

Thus, the arguments against an understanding of society as substantial being are relatively brief and straightforward.

5.8 Advantages of an Understanding of Subsistent Societal Being

Having addressed the various ways that societies cannot exist, we have thus arrived at the only seemingly acceptable mode of societal existence. A society exists as a non-substantial subsistence. A society cannot exist as a mere accidental form because this violates our intuitions about persons belonging to society and a society's ability to undergo change in constituency. Neither can society exist as a substance, for this would imply that the constituent persons are mere accidents.

¹⁹⁵For a discussion of this, see Stump, *Aquinas*, 38-39.

If society is a non-substantial subsistence, then its existence “in itself and not in another” would seem to avoid the problems associated with the understandings of society as accidental being as well as understandings of society as substantial being. Moreover, it would seem that understanding societies to be non-substantial subsistences captures our intuitions that 1) persons belong to society, 2) societies exist through time, 3) societies can undergo change in composition and 4) societies are nothing without their constituent, whole, and non-accidental persons. Understanding a society to be something that exists “in itself and not in another” allows a certain independence of being which can account for the first three intuitions. However, insisting that this subsistence is *non-substantial* allows the fourth intuition to be held as well. Hopefully, we will see more about how this social ontology can account for our intuitions by turning to a discussion of just how a society might exist as a non-substantial subsistence.

5.9 How Societies Have Subsistent Being: A Proposal

Given the previous discussion, we are now in a position to put forth a hypothesis as to *how* societies can be understood to be non-substantial subsistences. A society is a subsistence in that it exists in itself and not in another; that is, it has an act-of-being. However, what prevents this subsistence from being a substance is *how* this act-of-being comes about. Given the above arguments about a society's existence being dependent on a unity of order existing among its members, it would seem that a society's act-of-being is *contingent* on a particular state of affairs of human persons.

Put another way, one characteristic we would want to ascribe to a fully substantial subsistence is that its act-of-being is received immediately from God. In contrast, perhaps it is the case that the act-of-being of a society (a *non*-substantial subsistence)

exists *mediately* through its constituent members. A society thus has its own act-of-being (it is not simply identical to its members), but its act-of-being has as its cause the particular arrangement of its constituent members into a particular form, a unity of order. In this way the ontological independence (for which we have an intuition) is preserved while still maintaining a radical dependency of a society's existence on its constituent members.

Now, it is important to note here that this hypothesis concerning the mediation of a society's act-of-being does not entail an ability to *create* being *per se*, as though somehow the constituent members of a social group could make something out of nothing. This kind of act belongs solely to God. As Gilson puts it, “The act-of-being is the act of acts; it is the primary energy of a being and from it all operations proceed (*operatio sequitur esse*). Since God is very *Esse*, the operation belonging to Him and only to Him is the producing of acts-of-being. To produce an act-of-being is what we call creating. Creating is, therefore, action proper to God.”¹⁹⁶ While the producing of acts-of-being properly belongs to God, this does not exclude the possibility of human persons *participating* in this production via a divinely-ordained human power; that is, God could occasion the existence of social groups on a state of affairs (a unity of order) obtaining among human persons. The act-of-being would, of course, be a participation in God as *Esse*, yet it would be radically contingent on the free arrangements of human persons.

To understand how this interaction could be possible, let us look at a passage of Aquinas where he discusses the act-of-being: “Now it cannot be that the act-of-being is

¹⁹⁶Gilson, *Christian Philosophy*, 371.

caused by the very form or quiddity of the thing, caused, I say, as by an efficient cause, for then a thing would itself be the cause of itself, a thing would itself bring itself into existence, which is impossible. It is necessary, therefore, that everything whose act-of-being is other than its nature should have its act-of-being from another. And as whatever exists by another can be reduced to what is by itself as to its first cause, there must be one thing that is the cause by which all things exist, because it alone is the act-of-being. Otherwise we should have to go to infinity in causes.”¹⁹⁷

In this passage, we see Aquinas arguing that if a thing has an act-of-being which is not part of its essence, it must receive this act-of-being from another thing. In order to avoid an infinite regress, Aquinas concludes that there must be a being which is the cause of all other acts-of-being and which receives its act-of-being from no other source than itself. It is important to note, then, that while God is ultimately the source of all acts-of-being, this does not preclude there being an intermediate source through which God may give an act-of-being. In fact, this possibility is the very premise on which Aquinas constructs his argument, and on which the supposed infinite regress would be based. In other words, it is only because a thing could receive its act-of-being from another thing that an infinite regress could even be possible (thus necessitating a self-existent first cause). Thus, while God is certainly the first cause of all things' acts-of-being, it seems possible that this gift of being could, in some circumstances, be mediated through another being.

It is important to note, however, how extraordinary such an arrangement would be. One may be tempted to understand such an arrangement in terms of other instances

¹⁹⁷Thomas Aquinas, *De Ente et Essentia*, IV. Given his superior translation, cited from Gilson, *Christian Philosophy*, 81.

of human “creation”, such as the baking of bread. Couldn’t one say that the bread’s act-of-being is created and mediated by the baker? In some sense it is true that the bread was brought into being by the baker (as its efficient cause). However, the bread’s *act-of-being* is not mediated by or dependent on the baker. If the baker died or left the premises, the bread would certainly still exist. Thus, the bread’s *existence* is not mediated by the baker, however much the baker was involved in creating the bread.

In the case of social groups, however, the existence of the social group is always and constantly dependent on (though not *identical* to) the capacity for group action which characterizes an otherwise aggregate grouping of individual persons. However this capacity manifests itself, it is the capacity for group action—this unity of order—which is the cause of the group's act-of-being. Thus, not only the group's creation, but its existence through time, is radically dependent on the human persons which together form the mediating principle. This understanding then is quite different from other modes of human “creation”.

It is now apparent how this understanding of a society’s act-of-being can account for our intuitions about the ability of (most) societies to undergo change in composition. If a society’s act-of-being is occasioned by (*but not constituted by*) a unity of order obtaining among a social group, then the membership of that group can change without the society’s act-of-being ceasing to exist. So long as the unity of order is present (this could be conceived as, say, a myriad of relational accidents obtaining between the current members of the group), then the society will continue to exist. Particular members can come and go (as well as their corresponding individuated relational accidents), but the society’s existence through time remains. However, there is no danger of society

“outliving” its members for as soon as the unity of order dissolves among the multitude (whether through intention or disintegration of the group), the mediated act-of-being also ceases to exist.

5.9a An Analogy to a Mediated Act-of-being

An analogy to this kind of mediated being can be found in the transmission theory of political authority. On this theory, while it is in God that all power and authority ultimately rest, God has chosen to invest authority to govern in political communities, who, in turn, select their rulers. Whatever the merits of this understanding of “natural democracy”,¹⁹⁸ it could provide an analogy for our hypothesis about the mediated *act-of-being*. As God may have invested the authority to govern in a community, while preserving His role as the ground of all legitimate authority, God may invest in groupings of individuals the ability to create and sustain the being of social groups, while preserving His obvious role as author and ground of all being. Put another way, as human beings can be understood to be “ruled rulers”,¹⁹⁹ so might they be understood to be “created creators”. As the transmission theory would indicate human beings' participation in the role of God as Lord, our mediation hypothesis could entail human beings' participation in God as Creator. This latter role would go further than mere fashioning of things already existing to the participation in the creation and mediation of being itself.

In conclusion, while this hypothesis about the mediated act-of-being of societies (as non-substantial subsistences) may be considered to be unnecessary metaphysical

¹⁹⁸For such a discussion, see Yves Simon, *Philosophy of Democratic Government* (Notre Dame, IN: University of Notre Dame Press, 1951), 158-176.

¹⁹⁹See Aquinas, *Summa Theologica*, I-II, Q. 91, a. 2.

speculation, it seems that such speculation may be justified by the intuitions for which it can account. We have already outlined the benefit of understanding societies as non-substantial subsistences, in that such an understanding accounts for intuitions about societies existing somewhat independently through time, but still never apart from their constituent members. Understanding this kind of subsistence to have a mediated act-of-being provides an ontological grounding for sensible, but otherwise ungrounded intuitions about societal being. Hopefully, the next two sections will illustrate how further intuitions about societal being are grounded in our conception of non-substantial subsistence.

5.10 A Prime Example of Non-substantially Subsistent Societal Being

It would seem that this category of being—non-substantial subsistence—is an odd one. It contains such varied members as the human soul, a baseball team, and a severed hand. This kind of being subsists (it has an act-of-being) yet it is not a substance, properly speaking. This category of being seems to chart a strange and implausible territory between that of accident and substance. And yet as Aquinas demonstrates in the case of the human soul, this category of being is strictly necessary.

In order to shed more light on this category of being, it may prove useful to consider a particular instantiation of it. As will be argued later,²⁰⁰ *marriage* is an archetypal kind of society. Thus, it would be interesting to see how our understanding of societies as non-substantial subsistences might illuminate our understanding of marriage. Or perhaps more accurately, our understanding of marriage may help illuminate our understanding of non-substantial subsistences.

²⁰⁰See section 7.3.

Speaking of matrimony, Aquinas writes, “The union of two things into one can result only from their being joined. Now such is the effect of matrimony (Genesis 2:24): “They shall be two in one flesh.” Therefore matrimony is a kind of joining.”²⁰¹ The joining of husband and wife in marriage unites the two “in one flesh”. What is the nature of this bond? Aquinas explains that “the bond between husband and wife resulting from those acts [which are externally apparent] is reality and sacrament.”²⁰² Thus, the marital bond is a real bond. And it is this bond that constitutes the marriage society.

If we understand this marriage bond, that is, the marriage society, to be a non-substantial subsistence, we find that certain intuitions about marriage come to light. First, the “one flesh” which is constituted by a married couple seems to be something distinct from each individual considered individually or even from the two individuals considered together. We are inclined to attribute to the married couple some new ontological status after their union. They are not simply two individual persons with accidents of relation between one another. Rather, they are a new whole of which the husband and wife, when considered separately, are now in some sense *parts*. (As Portia entreats Brutus in *Julius Caesar*, “By all your vows of love and that great vow which did incorporate and make us one, that you unfold to me, yourself, your half, why you are heavy...”)²⁰³ Thus, a new, distinct “reality”, as Aquinas calls it, has come into existence.

However, following the characteristics of non-substantial subsistences, this new reality has an act-of-being which involves, in some essential way, the husband and wife.

²⁰¹ Aquinas, *Summa Theologica*, Sup., Q. 44, a. 1, co.

²⁰² Ibid., Sup., Q. 42, a. 1, ad 5.

²⁰³ *Julius Caesar*, Act II, Scene I.

In the case of marriage, we see even more clearly the absurdity of understanding the married couple as a substance of which the husband and wife are mere accidents. Rather, the husband and wife call into being (through the sacrament) a new reality—a reality that is constituted by their very selves. Thus, the non-substantial, yet subsistent, nature of their bond is made manifest.

The marriage bond not only illuminates our understanding of non-substantial subsistences, but it also leads to an understanding of how this category of being can vary from context to context. In a marriage society, it makes no sense to speak of the marriage remaining the same even with a change in “membership”. However, as argued above, other societies can gain or lose members without changing essentially. Our understanding of non-substantial subsistence can accommodate both instances of society.

Also, some societies, like marriage, are permanent. Thus, the subsistence of the marriage bond is an act-of-being which, once begun, continues until the death of one of its members. However, other societies—for instance, baseball teams—can come into existence, exist for a while, and then cease to exist. How this can take place, and its connection to the unity of order characterizing such societies, will be addressed in the following section. However, this fact of temporary existence does not preclude such societies from non-substantial subsistence. For when they did exist, they existed as distinct realities, capable of action, but with an act-of-being brought about through their constituent members.

5.11 Relationship of the Unity of Order to Subsistence

It has been seen that the notion of non-substantial subsistence is capable of accommodating the various kinds of societies that exist in human life, including those

which are more or less sensitive to membership changes and those which are varied in duration of existence. However, while all of these variations are *consistent* with the notion of non-substantial subsistence, why are all of these varied societies a part of this category of being? The answer lies in their unity of order.

It was argued above that one consequence of understanding society as a subsistence was that the constituent persons participate directly in the society's act-of-being. This act-of-being is an effect of a unity of order present among the constituent persons. This point is made by Jeremiah Newman when he writes, "For the State, being an accidental whole, exists only in so far as order reigns among its parts."²⁰⁴ While Newman's understanding of political society as an "accidental whole" may be problematic depending on how it is construed, it is important to note that whatever his meaning, the *existence* of the whole is predicated on *order reigning among it*.

This close relationship between the existence of a society and the unity of order which characterizes it accounts for some further intuitions we have about societies. Earlier, Ferree's understanding of societies as accidents of accidents was critiqued because, among other reasons, it equates the existence of society with its *acts*. While there certainly is an intuition that a society's existence is in some way related to its acts, Ferree's position seems too strong. For we tend to want to ascribe reality to societies even if they may not be acting *at the moment*. For example, a community baseball team—a lesser society formed around the common action of playing, enjoying, and winning baseball games—may experience extended periods of downtime where no acts of the whole take place. For example, during the off-season, the members of the baseball

²⁰⁴Newman, *Foundations*, 37-38.

team may set aside their bats and gloves and go about their daily lives in their families, workplaces and communities. There may be months on end where the members of the baseball team do not act in their capacity as team members. Moreover, the baseball team, considered as a whole, will not be committing any acts as such. However, our intuition is that this baseball team still *exists*. As long as there is an order present among the various constituent members, an order which, in its unity, provides at least the *capacity* for group action, then we would still want to ascribe reality to the team.

Now, what this order looks like in a society would presumably depend greatly on the circumstances. In the case of the baseball team, perhaps the order is constituted by latent relationships between players coupled with an intention to resume group action at some later date. Perhaps one could even ascribe accidents of relation to each of the players whereby they are related to one another in a unique team-like way. More details as to what this order would look like are beyond the scope of this argument; suffice it to say, however, that it is meaningful to speak of such an order existing *without* the order terminating in team acts (or even individual acts by persons in their capacity as team members). However, we would also want to say that as soon as such an order ceases to exist among the team members, the baseball team ceases to exist.

Thus, the *existence* of the unity of order of a society can be distinguished from the accomplishment of the *end* of that order—common action. This point is made even more clear in the previous example of marriage. On the Christian view, marriage, once entered into, is a permanent society only dissolvable upon the death of one of its members. However, unfortunately, it comes to pass that some married couples cease to work toward their common end and even seek separation or civil divorce. However, the permanence

of marriage indicates that even when its constituent members no longer work toward the common goal of the society, the *society still exists*. The unity of order of the society is present, even though the society's members may ignore it, or even try to work against it. In the case of the marriage society, the existence of this unity of order is permanent until death. In the case of the baseball team, the existence of the unity of order is dependent on continued intention and/or relationship. Either way, however, the existence of the unity of order can be distinguished from acts in fulfillment of that order.

Finally, we can see the relationship between the *existence* of a unity of order and the act-of-being of a subsistent society. It is important to reiterate that the phrase “act-of-being” is meant not to imply a literal act by the society (or its constituent members). Rather, it is meant to indicate the society's participation in *esse*, that is, its existence considered *as such*, in contrast to its essence. The constituent persons of a society are intrinsically related to its act-of-being. Specifically, the society's participation in *esse*, i.e., its *subsistence*, is occasioned by a unity of order existing among its parts. However, the existence of this unity of order (and thus of the society itself) does not entail actual fulfillment of its end. Thus, the two features of non-substantially subsistent societies display themselves again. On the one hand, the constituent members are intrinsic to the very being of the society (through their role as “mediators of being”), yet, on the other hand, the being of society is not identical to the accidents of its members (whether the accidents be actions or relations) or even to the members themselves (considered as substances).

To summarize the relationship between a society's existence and its actions, we conclude that a society exists in so far as it possesses the *capacity* for common action,

i.e., in so far as it possesses a unity of order. This unity of order, however, is not *ontologically identical* to society. Rather, a society *displays* or *possesses* a unity of order (this display looking different in different contexts). However, the unity of order is intrinsically tied to the being of the group in the following way: it is the order existing among a group of persons which gives rise to (or is the *occasion* for) the society's subsistent being (its act-of-being).

5.12 Maritain's Argument for the Subsistence of the Church

Jacques Maritain, in his *On the Church of Christ*, provides an argument which could provide a precedent for subsistent societal being. Maritain argues that the Church is a *person* and thus has subsistent being. Describing the ontology of the Church, Maritain writes: "The Church has a double subsistence: a natural subsistence like every human community....And she has, insofar precisely as she is the whole, one and universal, of the organized multitude of those who live with her life, a supernatural subsistence, which presupposes but transcends the natural subsistence of the individual persons who are her members."²⁰⁵ When Maritain speaks of the natural subsistence, he does not mean the kind of subsistence of which this chapter has been concerned. Rather, Maritain uses the word as a sort of shorthand—to indicate that any natural society subsists in so far as it is composed of subsisting human persons. He writes, "A nation subsists with the subsistence of all its individual citizens."²⁰⁶ Thus, he does not intend for

²⁰⁵Jacques Maritain, *On the Church of Christ* (Notre Dame, IN: University of Notre Dame Press, 1973), 18.

²⁰⁶*Ibid.*

this natural subsistence to indicate that sort of participation in *esse*—the unique act-of-being—for which this chapter has been arguing.

It is the second, supernatural subsistence, which Maritain sees as the locus of the Church's real personality. He argues that the Church "possesses herself, supernaturally, insofar as she is the whole—one and universal—of this multitude, a personality, truly and ontologically....She is herself a person in the proper and primary sense of the word, a person who renders a worship to God, who proposes to us the truths revealed by Him, who sanctifies us by her sacraments, who speaks, who teaches, who acts."²⁰⁷ Elsewhere, Maritain states that the Church is "a *person* (common or collective) as Peter or Paul is a *person* (individual)."²⁰⁸ What is the source of this unique personhood which the Church possesses? Maritain argues that "it is so by reason of *the image of Christ* which God sees in this multitude distributed over the whole earth and traversing all the centuries, as He sees it also in the multitude of the blessed."²⁰⁹ But why is the image of Christ in the Church related to her personality? Maritain answers:

Considered in her unity and her universality, or insofar precisely as the invisible grace of Christ animates her vast human organism, the Church bears in her the image of Christ....Through this image the immense multitude of the members of the Church who live with her life is clothed with an individual configuration, so that by means of the individuality of the image of Christ it can receive a subsistence of its own as if it was an individual. The individuality of the image of Christ borne by the Church is an *analogue* of the individuality of the substantial nature possessed by each one of us; and just as in calling Peter or Paul to existence God confers on such and such an individual nature the subsistence which constitutes it subject or person, so also, in calling the Church of His Son to existence God confers on her, through this image which He sees in her, a

²⁰⁷Ibid., 18-19.

²⁰⁸Ibid., 18.

²⁰⁹Ibid., 20.

subsistence which constitutes subject or person a multitudinous whole of human beings.²¹⁰

It is obvious from what Maritain writes that the basis for the personality of the Church is a unique, singular one. In fact, he explicitly denies that the subsistence which the Church enjoys can be had by purely natural societies. Writes Maritain, “No community of the merely natural order can be a *person* at the same time as a multitude of human beings.”²¹¹ Thus, it is clear that, *prima facie*, Maritain would not seem to agree with the argument of this chapter. However, Maritain’s argument can still be used to prove a more minimal point, namely, that it is at least *metaphysically possible* for a group of human persons to, at one and the same time, constitute a body which itself is a subsistence. Now, it may be the case that Maritain is right and that this state of affairs only obtains in a supernatural way in the Church of Christ (via the image of Christ). However, if Maritain is wrong on the point of the singular nature of this occurrence, then at least a minimal hurdle to the notion of societal subsistence has been cleared, namely, that it is not, strictly speaking, *impossible*. Of course, it is important to note that even if Maritain is wrong and subsistent being can apply to natural societies as well as supernatural ones, the mode by which this subsistence obtains must surely differ. Natural societies do not possess, under any circumstances, the capacity to bear the image of God the Son. If natural societies do possess subsistent being (and thus personhood), they must do so through a corresponding *natural* mechanism. A possible candidate for this kind of mechanism—that of a mediate act-of-being—has been offered earlier in this chapter.

²¹⁰Ibid., 20-21.

²¹¹Ibid., 18.

A final note on the possibility of subsistent societal being in both the natural and supernatural orders. Werner Stark, in his *Fundamental Forms of Social Thought*, writes:

Even if complete harmony, or quasi-organical integration, is practically unimaginable down here below, we can well imagine it, with Saint Thomas, to reign in the communion of saints, that happy company of heaven, from which selfishness—the agency which sets men against each other and keeps them apart—has finally departed. Although an element of metaphor remains and must remain, that community of love can truly be likened to a body, the body of Christ; indeed, we are unable to envisage its essence otherwise than under this simile, for in our earthly experience we encounter nothing alive that would be so fully one as a living organism. In this way, organic integration remains the end of all social existence: not a fact, but a norm; not a reality, but an aspiration; not something that we have and hold, but a hope that is conceived in faith and may come to be born of charity.²¹²

Perhaps there is some analogical relationship between the mode of being of natural societies and the mode of being of the supernatural Society. Indeed, Aquinas writes: “A community of men is regarded as one man, such that different individuals appointed to different offices are as it were different members of one natural body, *as the Apostle manifests in regard to the Church* in I Corinthians 12, 12.”²¹³ Perhaps natural societies enjoy subsistent being not because they possess the image of Christ, but because they are analogically related to that Society which does enjoy this singular privilege.

5.13 Summary

In conclusion, we have seen in this chapter that if *subsistence* is a criterion for personhood, social groups are not excluded from personhood. In fact, an understanding of social persons as non-substantial subsistences is perhaps the most viable account of societal being among the various options.

²¹²Werner Stark, *The Fundamental Forms of Social Thought* (New York: Fordham University Press, 1963), 29.

²¹³Aquinas, *On Evil*, Q. 4, a. 1, co., emphasis added.

However, it must be emphasized that the overall argument of this dissertation does not depend on the success of an understanding of society as non-substantial subsistence. While this understanding seems to have its benefits, an understanding of societal being as, say, accidental being could be consistent with the overall argument for social personhood (assuming our objections to the contrary are unfounded). How is this so?

As mentioned in the passage from Aquinas which opens this chapter, *hypostasis* is given as a criterion for personhood. However, from our discussion in the previous chapter, we have seen that the word *hypostasis* itself is used analogically in the definition of personhood. Specifically, in the context of divine persons, it means something entirely different than in the context of human persons. Thus, we concluded that this term is used to denote what it is that is distinct in the various rational natures in which personhood obtains.

Moreover, in his explanation of *hypostasis* as a requirement for personhood, Aquinas indicates that *hypostasis* means that which “underlies the accidents”.²¹⁴ Yet the persons of the Trinity do not possess accidents. Clearly then in his giving of *hypostasis* as a criterion for personhood, he is using this term analogically—in a way that includes various meanings in various contexts.

A similar argument could be applied to the present discussion. Contrary to the arguments of this chapter, if societies (or social persons) do not possess subsistent being, Aquinas' inclusion of subsistence in his definition of personhood is not necessarily problematic. We could understand this subsistence requirement in an analogical fashion.

²¹⁴Aquinas, *Summa Theologica*, I, Q. 29, a. 2, co.

Thus, what it means for a thing to “exist in itself and not in another” could vary from context to context. Specifically, in the context of social groups with a unity of order, perhaps the wholeness which characterizes such groups (and affords the capacity for group action) could be sufficient to establish “subsistence” in this particular nature.

Suffice it to say that while an understanding of societal being as non-substantial subsistence furthers the goal of this dissertation by providing a plausible account of how social persons can exist, such an account is not strictly necessary.

CHAPTER SIX

The Acts of Social Persons

Even if social groups can technically be considered to be subsistences, don't we have an intuition that the word *person* ought to be reserved for individuals that act singularly? Put another way, even if a social group could technically be considered as a social person, when it acts, aren't its acts still just the acts of individual human persons from within the social group? Even if, as Aquinas points out, such groups have operations proper to the whole, are such operations something other than just a collection of individual human persons acting? In what sense can the actions or operations of a social person have the singularity that we seem to associate with true persons?

In answer to these questions, let us turn to an analysis of the actions of social persons.

6.1 The Powers of the Social Person

If, as Aquinas indicates,²¹⁵ social wholes have operations that are proper to them, how are these operations to be understood when the social whole under consideration is a social person (a social group with a unity of order)? To answer this question, it is necessary to look at the principles of human acts, and to see how these principles would apply to social persons. Aquinas notes that the intrinsic principles of human acts are

²¹⁵Aquinas, *Commentary on Ethics*, I, L. 1, no. 5.

power and habit.²¹⁶ Let us address the first principle first: what are the powers proper to the social person?

To answer this question, we can turn, by analogy, to human persons to see what powers of human persons apply analogically to social persons. Given the fact that social persons are constituted by human persons, such a line of reasoning is plausible.

Because the human person is composed of body and soul,²¹⁷ and because the soul is the “first principle” of human life,²¹⁸ the form that orders the matter,²¹⁹ it is proper to look to the powers of the soul to understand the powers of the human person. This does not imply that these powers do not inhere in the body as well. Aquinas argues that the powers of the human person belong to the soul, as regards their principle, whereas some powers belong to the human composite (both body and soul) as regards their subject (such as sight).²²⁰

Moreover, let us discuss the powers of the *rational* soul, as these are the powers that distinguish human persons from other living things.²²¹ First, there is the intellect. The intellectual power has universal being as its object.²²² The intellect is the power of understanding, whether it be knowledge of the good (practical reason) or of truth

²¹⁶Aquinas, *Summa Theologica*, I-II, Q. 49, pr.

²¹⁷Ibid., I, Q. 75, a. 4.

²¹⁸Ibid., I, Q. 75, a. 1.

²¹⁹Ibid., I, Q. 76, a. 1.

²²⁰Ibid., I, Q. 77, a. 5.

²²¹Ibid., I, Q. 78, a. 1.

²²²Ibid.

(speculative reason).²²³ Next, there are the appetitive powers of the soul. These powers, which are ordered toward *good*, are divided into the sensitive appetite and the rational appetite. The sensitive appetite considers only particular goods. It is divided into the concupiscible power, which is inclined toward the goods that are “pleasant to the senses and suitable to nature”, and the irascible power, which is inclined toward that which “wards off and repels what is hurtful.”²²⁴ On the other hand, the rational appetite (the will) is able to consider the common notion of the good. Aquinas explains, “[T]he will regards good according to the common notion of good, and therefore in the will, which is the intellectual appetite, there is no differentiation of appetitive powers[.]”²²⁵

Now, in order to begin to understand how the powers of the human person might be related to the powers of the social person, it is important to understand how the powers of the soul interact. Regarding the relationship between the intellect and the will, Aquinas writes,

[T]he intellect moves the will, because the good understood is the object of the will, and moves it as an end....[W]herever we have order among a number of active powers, that power which regards the universal end moves the powers which regard particular ends. And we may observe this both in nature and in things politic. For the heaven, which aims at the universal preservation of things subject to generation and corruption, moves all inferior bodies, each of which aims at the preservation of its own species or of the individual. The king also, who aims at the common good of the whole kingdom, by his rule moves all the governors of cities, each of whom rules over his own particular city.²²⁶

This passage illuminates how the intellect, which understands the idea of the good, moves the will to actually seek the good itself. Interestingly, in explaining this

²²³Ibid., I, Q. 79, a. 11.

²²⁴Ibid., I, Q. 82, a. 5, co.

²²⁵Ibid.

²²⁶Ibid., I, Q. 82, a. 4, co.

relationship, Aquinas uses an analogy from politics. In this case, Aquinas considers a king who has as his charge the common good of the entire kingdom. The king knows what the common good is—it is a common good *understood*. He then, by virtue of his authority, moves the governors of the cities to act toward each specific, particular good, thereby implementing the common good of all.

It is here that we begin to see how it might be possible to come to an understanding of the powers of a social person. While the particular forms of government are not important here (i.e., monarchy, oligarchy, democracy), Aquinas lays out an important analogical relationship concerning how different aspects of a polity relate to one another in relation to the common good. Further, he specifically draws an analogy between these aspects of a polity and the powers of the human soul. The general distinction at work is that between the element of political society that *understands* the common good of society and the element (or elements) whose duty it is to *seek* the common good, in all its particularities.

This interaction between these elements, however, is not simply one way. The will also moves the intellect. Aquinas writes, “The will moves the intellect as to the exercise of its act; since even the true itself which is the perfection of the intellect, is included in the universal good, as a particular good.”²²⁷ Thus, in the political analogy, the element of society which acts toward the common good directs the element in charge of understanding the common good because that very understanding and knowledge of the common good is a good that itself must be sought. Speaking further to this issue of the will moving other powers of the soul, Aquinas writes,

²²⁷Ibid., I-II, Q. 9, a. 1, ad 3.

Now good in general, which has the nature of an end, is the object of the will. Consequently, in this respect, the will moves the other powers of the soul to their acts, for we make use of the other powers when we will. For the end and perfection of every other power, is included under the object of the will as some particular good....Thus the leader of an army, who intends the common good—*i.e.*, the order of the whole army—by his command moves one of the captains, who intends the order of one company.²²⁸

This analogy is somewhat different than the first in that the leader of the army is analogous to the will, which directs other segments of the army (by analogy, other powers) to their particular goods. What is most important in this context is the fact that, in explaining how the intellect and will move one another, Aquinas has employed two analogous examples of social groups. Further, these two analogies—the polity and the army—are examples of social groups with a *unity of order*. This is important for the following reason.

There is, of course, a strong tradition within philosophy to view the state as the soul writ large.²²⁹ There is nothing new in drawing analogies between the elements of the soul and of the city. However, Aquinas is doing more than simply following this tradition. For, by citing as an analogy to the soul not only the polity, but also an army, it would seem that the controlling analogue is not the political *per se*, but rather, a social group with a unity of order. In other words, social persons, in a variety of instantiations, provide an analogy for the understanding of the human person, particularly with regard to the powers of the soul. The question arises here as to the specifics of the operations of the powers of the social person. This will be addressed later (chapter eight), particularly in regard to the function of the “will” of the social person in the context of social justice.

²²⁸Ibid., I-II, Q. 9, a. 1, co.

²²⁹See, for example, Aristotle’s *Politics* (1277 a5-6) and Plato’s *Republic*.

For present purposes, however, it is sufficient to conclude that social persons have powers that are analogous to the powers of the human soul. Specifically, the powers of the social person would seem to be analogous to the powers of the intellect and will in individual persons.

6.2 Social Persons and Habits

Let us now move on to the second principle of human action: habit. If social persons are capable of action, it would seem that they not only possess powers, but also habits.

6.2a Social Persons and Operative Habits

Describing what it means to have a habit, Aquinas writes, “[I]t is essential to habit to imply some relation to a thing’s nature, in so far as it is suitable or unsuitable thereto. But a thing’s nature, which is the end of generation, is further ordained to another end, which is either an operation, or the product of an operation, to which one attains by means of operation.”²³⁰ A habit, therefore, involves operations toward the end of a thing’s nature. On the relationship between the operations entailed by a habit and a thing’s nature, Aquinas writes, “Wherefore habit implies relation not only to the very nature of a thing, but also, consequently, to operation, inasmuch as this is the end of nature, or conducive to the end.”²³¹ Thus, in order for a thing to achieve the end of its nature, it requires operations which are suitable to that end. Herein lies the domain of habit.

²³⁰Ibid., I-II, Q. 49, a. 3, co.

²³¹Ibid.

As we have already seen in chapter four, Aquinas holds that social groups with a unity of order are the subjects of operation. Following this discussion of habit, it is evident then that such social groups, in so far as their operations are conducive to the fulfillment of their natures, are capable of habits. However, it is important to note here that, thus far, the definition of habit being used is sufficiently broad so as to include non-persons as subjects. For example, Aquinas uses this same definition to conclude that *health* is a habit.²³² Clearly, health is a habit which is not limited merely to persons. Therefore, while thus far we have shown that social groups with a unity of order can be the subjects of habits, this is not the case because of their nature as social persons *per se*, but rather because of their nature as entities with natural ends and operations thereto.

However, Aquinas goes on to discuss another kind of habit, that which has as its subject a thing whose very nature includes a relation to action: “But there are some habits, which even on the part of the subject in which they are, imply primarily and principally relation to an act. For, as we have said, habit primarily and of itself implies a relation to the thing’s nature. If therefore the nature of the thing, in which the habit is, consists in this very relation to an act, it follows that the habit principally implies relation to an act.”²³³ Thus habits can exist in things in two ways. First, inasmuch as a thing is disposed to certain operations in fulfillment of its nature, it possesses habits. However, certain things exist who have, by their nature, an intrinsic ordering to *action*. Thus, habits are not present in a sort of accidental way, only to bring about the fulfillment of such beings’ ends. Rather, operations (or actions) are an intrinsic feature of these things’

²³²Ibid., I-II, Q. 49, a. 1, co.

²³³Ibid., I-II, Q. 49, a. 3, co.

being, and thus habits reside in them in a more essential way (or in a “primary” or “principal” way, as Aquinas puts it).

Aquinas has something further to say about these kinds of habits, namely, that they reside in powers. He writes, “Now it is clear that the nature and the notion of power is that it should be a principle of act. Wherefore every habit which is subjected in a power, implies principally relation to an act.”²³⁴ Thus, because being principally related to action belongs to the nature of power, those habits which pertain to such actions are properly thought to reside in powers.

Now, is there any reason to believe that this latter kind of habit—Aquinas calls it an *operative habit* (*habitus operativus*)—occurs in the aforementioned social person? It would seem so given the nature of the unity of order which characterizes the social person. In order for an operative habit to be present in a subject, the subject must, by its nature, be ordered to act. This is precisely what happens when a social group possesses a unity of order. The unity of order is exemplified in *common action* toward a common good. Indeed, without at least the possibility of this common action, the unity of order finds no place and dissolves. Thus, it would seem that social persons are just those kinds of beings that are the subjects of this more specific understanding of habit.

Incidentally, the fact that social persons possess operative habits seems to buttress the earlier claim that social persons have powers. For Aquinas speaks of operative habits residing in powers. Thus, if social persons have operative habits—which, because of the nature of their unity of order, they would seem to—it would stand to reason that they also possess powers.

²³⁴Ibid.

6.2b Social Persons as Meeting the Three Conditions for Habit

Another passage of Aquinas supports the claim that habits are necessary for social persons. In discussing the necessity of habits generally, Aquinas sums up the general definition of habit: “Habit implies a disposition in relation to a thing’s nature, and to its operation or end, by reason of which disposition a thing is well or ill disposed thereto.”²³⁵ He then goes on to illustrate three conditions that must be met for a being to *require* a habit. Specifically, these three conditions must be met for a thing to *need to be disposed to something else*. The first condition is a very general one and rules out only God. Aquinas writes, “The first condition is that which is disposed should be distinct from that to which it is disposed; and so, that it should be related to it as potentiality is to act.”²³⁶ This first condition states that there must be some distinction between the thing which possesses the habit and the thing to which the habit disposes. There must be some room for potentiality and thus an actual movement to actuality that habit effects.

The second condition is: “that which is in a state of potentiality in regard to something else, be capable of determination in several ways and to various things.”²³⁷ Thus, if there is only one end of a thing and only one means to that end, then habit is unnecessary because the thing’s nature will be entirely sufficient to bring about fulfillment.

The third condition is: “in disposing the subject to one of those things to which it is in potentiality, several things should occur, capable of being adjusted in various ways:

²³⁵Ibid., I-II, Q. 49, a. 4, co.

²³⁶Ibid.

²³⁷Ibid.

so as to dispose the subject well or ill to its form or to its operation.”²³⁸ Not only must there be a multiplicity in ends and means of operation, but the operations themselves must be capable of adjustment to properly effect the end(s) to which the being is disposed.

Now, it is clear that these three conditions for the necessity of habit apply to the social person. First, a social person possesses potentiality and is distinct from the common good to which it acts. While this potentiality is not a material potentiality, there are several precedents for nonmaterial potentiality in Aquinas (the human soul and angelic beings, for example).²³⁹ Moreover, this potentiality exists in a social person maximally. That is, the social person finds its very existence in this capacity for movement from potentiality to actuality through the process of common action. Apart from this action (or, more accurately, the *capacity* for this action), a social person does not even exist (otherwise only a social aggregation would exist).

Second, a social person could have multiple common ends (the good of the group itself, the good of society, etc.) and there would be numerous intermediate ends that must be pursued and myriad ways in which to pursue them. This is exemplified in the very need for a unity of order. If there were only one end and one means to that end, a social group would have no need for the unity of order (and the corresponding authority structure) that characterizes social persons. In fact, the multiplicity of ends and means is even more striking for a social person than for an individual person, given the

²³⁸Ibid.

²³⁹See Ibid., I, Q. 75, a. 5, ad 1 and I, Q. 50, a. 2, ad 3, respectively.

multiplication of potentiality resulting from the numerous human persons which make up a social person.

Third, a social person would have multiple adjustable operations occurring to bring about the desired end(s). One way in which this facet is displayed is through the secondary aspect of order that a social person exhibits: that of *co-ordination*. This co-ordination among a group is an example of the first kind of order of which Aquinas spoke (and will be addressed in more detail in chapter eight). In order for the social person to act for its common good, the individual members must co-ordinate with one another. However, this co-ordination, which takes place over varied and changing circumstances, must be a dynamic process. One particular action of the whole at one time may require different ways of co-ordinating than at other times. Indeed, the different intermediate ends that make up common action will themselves fluctuate, calling for changes in the way the members co-ordinate. Thus, the social person seems to be a hallmark of a thing which not only has a multiplicity of ends and means, but also requires these ends and means to be duly adjusted.

6.2c Social Persons and Natural Habit

There is one further line of argument which can be employed to demonstrate that not only do social persons possess habits, but they require them, perhaps even more than human persons. This argument stems from Aquinas' discussion of natural habits.

Aquinas argues that human persons can possess, in part, habits by nature. He explains, "There are, therefore, in man certain natural habits, owing their existence, partly to nature, and partly to some extrinsic principle[.]"²⁴⁰ As an example of this, Aquinas writes

²⁴⁰Ibid., I-II, Q. 51, a. 1, co.

that “the understanding of first principles is called a natural habit. For it is owing to the very nature of the intellectual soul that man, having once grasped what is a whole and what is a part, should at once perceive that every whole is larger than its part: and in like manner with regard to other such principles.”²⁴¹ Thus, the understanding of first principles is a natural habit, meaning that some of this power comes simply from the nature of the rational substance that is the human person.

However, in the case of social persons, these kinds of natural powers are not available. While social persons have natures to be sure, and while social persons have powers, they do not have natural powers—powers that incline, at last partially, toward the good on their own, apart from explicit rational exercise. In other words, because there is no substantial being to a social person, every exercise of its powers (every exhibition of its habits) must be done explicitly and “consciously”, as it were.²⁴² Thus, all of the social person’s powers and habits are active and rational. There are no natural powers to be cooperated with. It would seem then that in order for a social person to achieve its end, all the more so must it need habits, and operative habits at that.

Thus, not only do social persons meet the conditions that Aquinas lays down for the necessity of habits, but they sometimes meet such conditions in an even stronger way than human persons. Given the latter’s obvious possession of habits, it would seem that social persons must also possess habits. And, as has been shown above, they possess the same kind of habits that are possessed by human persons: those habits which reside in

²⁴¹Ibid.

²⁴²For more on what this kind of action looks like, see chapter eight.

powers. Aquinas writes that “habits are in the soul in respect of its powers.”²⁴³ Because, as was shown above, social persons can have operative habits—habits that reside in powers—and because habits are necessary for the common action that is characteristic of social persons, we can conclude that social persons have habits in powers in an analogous manner as do human persons.

6.3 Social Persons and Virtues

Having treated the subject of social persons and habits, it is now possible to address social persons and *good* habits, i.e., *virtues*. According to Aquinas, virtue “denotes a certain perfection of a power.”²⁴⁴ As mentioned above, Aquinas distinguishes between natural powers and rational powers. The former are directed toward their end simply by their nature. The latter are not and due to the multiplicity of means that can attain the end of a rational power, habits are necessary. According to Aquinas, virtue exists in both kinds of powers. He writes, “Now there are some powers which of themselves are determinate to their acts; for instance, the active natural powers. And therefore these natural powers are in themselves called virtue. But the rational powers, which are proper to man, are not determinate to one particular action, but are inclined indifferently to many: and they are determinate to acts by means of habits[.]...Therefore human virtues are habits.”²⁴⁵ While it is proper to call natural powers by the name virtue, the kind of virtue which involves specifically rational powers (and thus habits) is called

²⁴³ Aquinas, *Summa Theologica*, I-II, Q. 50, a. 2, co.

²⁴⁴ Ibid., I-II, Q. 55, a. 1, co.

²⁴⁵ Ibid.

human virtue. Because justice is a species of human virtue, this is the kind of virtue with which the present discussion will be most concerned.

Discussing human virtue specifically, Aquinas argues that it is an *operative habit*. In other words, the powers in which human virtue resides are powers in reference to *act*. As opposed to powers in reference to being, which concern matter (potential being), virtue has as its subject powers in reference to act, which concern form (the principle of action).²⁴⁶ Now, because human virtue concerns powers in reference to act, and because these powers concern the form, human virtue concerns the human soul (the soul being the form of the body). Aquinas summarizes, “[T]herefore, human virtue, of which we are speaking now, cannot belong to the body, but belongs only to that which is proper to the soul. Wherefore human virtue does not imply reference to being, but rather to act. Consequently it is essential to human virtue to be an operative habit.”²⁴⁷

Having established that human virtue involves rational powers and that these powers are related to action, Aquinas presents a general definition of human virtue. Specifically, Aquinas defends St. Augustine’s definition: “Virtue is a good quality of the mind, by which we live righteously, of which no one can make bad use, which God works in us, without us.”²⁴⁸ Aquinas argues that this definition captures the essence of virtue because it involves all of its causes. With regard to its formal cause—its genus and difference—virtue is a specifically *good* kind of *quality* (or as Aquinas substitutes, a good *habit*).²⁴⁹ The matter about which virtue is concerned is the subject, which in the above

²⁴⁶Ibid., I-II, Q. 55, a. 2, co.

²⁴⁷Ibid.

²⁴⁸Ibid., I-II, Q. 55, a. 4, arg. 1.

²⁴⁹Ibid., I-II, Q. 55, a. 4, co.

definition is the mind (or as Aquinas puts it, the rational part of the soul).²⁵⁰ Regarding the final cause, Aquinas argues that “the end of virtue, since it is an operative habit, is operation.”²⁵¹ Specifically, this operation is directed toward *good*. Thus, it is that “by which we live righteously, of which no one can make bad use.” Finally, the efficient cause of virtue depends on whether it is acquired or infused. St. Augustine’s definition involves infused virtue (“which God works in us without us”). However, this element of the definition can be removed to obtain a general definition of virtue. Presumably, the efficient cause of acquired virtue would be the nature of the powers of the soul to bring about *action*.²⁵²

Having outlined the definition of human virtue, let us see if it applies not only to human persons, but to social persons. First, with regard to the formal cause, we have already argued above that social persons possess habits. Specifically, they possess *operative habits*, habits residing in powers which are, by nature, referenced to action. To the degree that these habits are *good* habits, they constitute the formal cause of virtue. With regard to the material cause, to the degree that a social person exists and possesses rational powers, it would be the subject—or material cause—of virtue. With regard to the final cause, social persons’ powers are ordained explicitly to goods common to the social group. Moreover, as has been argued, social persons require habits to achieve these common goods. Thus, to the degree that social persons have habits ordered to their goods, they possess the final cause of virtue. Also, it should be noted that social persons

²⁵⁰Ibid., I-II, Q. 55, a. 4, ad 3 and Q. 56, a. 1.

²⁵¹Ibid., I-II, Q. 55, a. 4, co.

²⁵²Ibid., I-II, Q. 55, a. 1, co.

are persons precisely because of their unity of order. Because this unity of order is intrinsically ordained to common action (and thus to common goods), it would appear that social persons would meet this criterion of virtue maximally. Finally, with regard to the efficient cause, by virtue of their possession of rational powers, social persons would appear to meet this criterion. While these powers do not have a natural component (in the sense of natural inclination) like their human counterparts, the joint, co-operative action attendant to social persons' powers should suffice as a proper efficient cause.

It seems then that not only can social persons possess habits, they can possess *good* habits, namely, virtues.

CHAPTER SEVEN

Social Persons and Social Justice

Now that we have discussed social persons and their ability to possess virtues, let us look specifically at the question of a social person possessing the virtue of justice.

Aquinas holds that “the proper matter of justice consists of those things that belong to our intercourse with other men[.]”²⁵³ Accordingly, he defines justice as “a habit whereby a man renders to each one his due by a constant and perpetual will.”²⁵⁴ Taking this definition and applying it to social persons, we find that social persons exercise the virtue of justice when they render to each his due by a constant and perpetual will. This understanding of justice exercised by social persons raises two questions. First, what is the “each” of justice as exercised by social persons—other human persons, other social persons, or perhaps the common good? Second, how might we understand the will of social persons to exhibit the virtue of justice? In other words, what would such an action of a social person *look like*? The first question will be addressed in this chapter. The second question in the next.

7.1 The Recipients of Acts of Justice by Social Persons

Aquinas clarifies what is qualified to be the recipient of just acts: “[F]orasmuch as it belongs to justice to rectify human acts...this otherness which justice demands must needs be between beings capable of action. Now actions belong to supposita and wholes

²⁵³Aquinas, *Summa Theologica*, II-II, Q. 58, a. 1, co.

²⁵⁴Ibid., II-II, Q. 58, a. 1, co.

and, properly speaking, not to parts and forms or powers....Hence, justice properly speaking demands a distinction of supposits, and consequently is only in one man towards another.”²⁵⁵ When Aquinas speaks of justice being “only in one man towards another,” he does not mean this to be “one man *immediately* towards another.” For Aquinas speaks not only of particular justice (justice which directs man in his relations to other individuals²⁵⁶), but also of general justice. Aquinas writes that justice can direct man in relations with other men “as regards his relations with others in general, in so far as a man who serves a community, serves all those who are included in that community.”²⁵⁷ This raises an important question as to the difference between justice as exercised by social persons and *social justice*.

As we have seen in chapter two, a common feature of social justice as defined by the popes is that it is directed toward the *common good*. Thus, social justice would seem to be a subset of justice as practiced by social persons. Social persons can render what is due to individual human persons, other social persons, as well as the common good. When individual persons or social persons are the recipients of just acts by social persons, then a form of particular justice is exhibited. When the common good is the recipient, then *social justice* is involved. Thus, we have arrived at a specific definition of social justice that accounts for the two features of the papal presentations: social groups as subjects and the common good as the object. *Social justice* is exhibited when *social*

²⁵⁵Ibid., II-II, Q. 58, a. 2, co.

²⁵⁶Ibid., II-II, Q. 58, a. 7, co.

²⁵⁷Ibid., II-II, Q. 58, a. 5, co.

persons act for the *common good*. Thus, social justice is an extension of the traditional legal justice into the domain of acting social persons.

7.2 The Common Good as the Object of Social Justice

In order to further an understanding of acts of social justice, it is important to address in more detail the nature of the common good to which acts of social justice are directed. Let us return to Jeremiah Newman and his discussion of the common good. Newman identifies one of the central issues of any discussion of the common good: “How can the common good be, at one and the same time, the good of the whole and the good of the individual? How exactly do the members of a community, by obeying the law of that community, achieve a good which is the good of all and of each of the members? In other words, how does legal justice affect other individuals by ordering virtuous acts to the common good of any society?”²⁵⁸

To answer this question, Newman looks at the temporal common good of political society. While there are many other lesser human societies each with its own common good, these latter common goods are a part of the common good of a larger political society or State. Newman writes, “The common good of the State is the principal common good of temporal human societies, the common goods of the lesser communities being integrated into but by no means absorbed by it. For since every common good is both the good of the whole and the good of the parts, the common good of the State must include the common goods of all and each of the communities within it. This, among other things, entails respecting their rights, which derive from an order higher than the

²⁵⁸Newman, *Foundations*, 36.

State.”²⁵⁹ Thus, an act for the sake of the common good is *ipso facto* an act for the sake of all the individuals and lesser communities that make up a political society as a whole.

But why is this the case? Newman argues that the common good should be understood to contain two constitutive elements, the proximate end and the remote end. These two elements must unite and interact in order for the temporal common good of society to be achieved.²⁶⁰

First, as Newman explains, “the proximate end of the State consists in the availability to the citizens of those conditions, material and moral, which are necessary for the living of the good life, namely, peace, prosperity and, most important of all, training in virtue.”²⁶¹ The remote element of the common good, Newman writes, “consists, not in the conditions for virtuous living, but rather in the attainment of the good life by each and every member of the State and in the consequent happiness which is virtue’s reward.”²⁶²

Newman writes that the first element, that of securing the conditions necessary for the good life is an “achievement of collective action.” It is distinct from the actual attainment of the good life of each citizen (the second element) which depends on the personal action of individual citizens.²⁶³

Summarizing, Newman argues, “Viewed as ‘the conditions for virtuous living’ the common good is a means; viewed as ‘the good life’ it is an end. By keeping this

²⁵⁹Ibid., 37.

²⁶⁰Ibid., 38.

²⁶¹Ibid.

²⁶²Ibid.

²⁶³Ibid.

distinction in mind we can see how the common good of the State can, at the same time, be the good of all and of each of the citizens.”²⁶⁴ It is important to note here the difference between Newman’s conception of the common good and contemporary attempts to “instrumentalize” the common good completely. Such attempts focus exclusively on the first, more immediate end of the common good, the securing of the conditions for virtuous living.²⁶⁵ However, the remote end is lost: the attainment of the good life by all of the citizens. Newman emphasizes the importance of this attainment by *all* citizens: “The common good, viewed as the attainment of the good life, must needs mean the attainment of it by each and all. If any individual fails to attain to it, then the common good, viewed as the conditions for good living, cannot as a result be fully attained either.”²⁶⁶ Newman concludes, “[The temporal common good] accrues to the whole when individuals are virtuous and it accrues to individuals from the co-operation of the whole.”²⁶⁷

Another way of expressing this position was provided by Jacques Maritain in his *Person and the Common Good*. Maritain writes,

²⁶⁴Ibid., 39.

²⁶⁵For an example, see John Finnis, “Public Good: The Specifically Political Common Good in Aquinas,” in *Natural Law & Moral Inquiry: Ethics, Metaphysics, and Politics in the Work of Germain Grisez*, ed. Robert P. George (Washington, D.C.: Georgetown University Press, 1998), 174-209.

²⁶⁶Newman, *Foundations*, 39. The attainment of the good life by *all* members of society is a high bar for the achievement of the common good. Certainly, however, the common good can be achieved imperfectly or in a real, but less than complete manner.

²⁶⁷Ibid., 40. It should be noted that Newman’s account is thoroughly Thomistic. Speaking of the purpose of human society, Aquinas writes, “It seems that the end for which a community is brought together is to live according to virtue; for men come together so that they may live well in a way that would not be possible for each of them living singly. For the good is life according to virtue, and so the end of human association is a virtuous life.”; from *De Regimine Principum*, I, c. 15, in *Aquinas: Political Writings*, ed. R.W. Dyson (Cambridge: Cambridge University Press, 2002), 40.

The end of society is the good of the community, of the social body. But if the good of the social body is not understood to be a common good of *human persons*, just as the social body itself is a whole of human persons, this conception also would lead to other errors of a totalitarian type. The common good of the city is neither the mere collection of private goods, nor the proper good of a whole which, like the species with respect to its individuals or the hive with respect to its bees, relates the parts to itself alone and sacrifices them to itself. It is the good *human* life of the multitude, of a multitude of persons; it is their communion in good living. It is therefore common to both *the whole and the parts* into which it flows back and which, in turn, must benefit from it.²⁶⁸

Maritain argues that because political society is composed of human *persons*, the common good which is its end must flow back upon and provide for the good life *together* of all the persons of society.

It can be seen how, by the very nature of the common good itself, just acts for the common good of a society must entail just treatment of the constitutive elements of that society. This raises a question, however. With acts of justice toward the common good flowing back on the individual persons (and presumably social persons as well) within society, how, specifically, ought each element of society be treated? With a plurality of kinds of persons constituting society, how ought each one to be treated?

Aquinas answers this question generally: “the proper act of justice is nothing else than to render to each one his own.”²⁶⁹ But what is each one due? Aquinas answers with what he calls the object of justice: the right or *ius*. This “right” (not to be understood in the modern sense of the word) is a kind of equality: “It is proper to justice, as compared with the other virtues, to direct man in his relations with others: because it denotes a kind of equality, as its very name implies; indeed we are wont to say that things are adjusted

²⁶⁸Maritain, *Person*, 50-51, emphasis in original.

²⁶⁹Aquinas, *Summa Theologica*, II-II, Q. 58, a. 11, co.

when they are made equal, for equality is in reference of one thing to some other.”²⁷⁰

However, this kind of equality that Aquinas speaks of is not simple one-to-one equality. Rather, it is a proportional equality, with each party receiving what is due in proportion to its nature. Aquinas writes, “[T]he matter of justice is external operation, in so far as an operation or the thing used in that operation is duly proportionate to another person, wherefore the mean of justice consists in a certain proportion of equality between the external thing and the external persons.”²⁷¹ It is important to note that this proportionality is not that of distributive justice, which concerns the proportional distribution of goods common to a community to constitutive members based on their *contribution*. Rather, the proportionality proper to legal or social justice concerns that which is duly proportionate to another person. But how are we to determine what is duly proportionate to each member of society? To answer this question, let us turn to Russell Hittinger’s discussion of social pluralism and the *munus regale*.

7.3 The Munus Regale

Hittinger sees in the development of 20th century Catholic social thought a presentation, explanation, and defense of the *munera*—understood as the functions, roles, gifts, or vocations—of the various social institutions of society. Hittinger explains, “Pius XI (1922-29), to whom we attribute the teachings on social justice and subsidiarity, is the pope who began to systematically develop the ontology of the *munera*. During his pontificate, individuals, families, corporations, churches, the state itself, and even international authorities, were said to be the bearers not only of *iura* (rights) but also of

²⁷⁰Ibid., II-II, Q. 57, a. 1, co.

²⁷¹Ibid., II-II, Q. 58, a. 10, co.

munera—of having roles to play, gifts to give.”²⁷² These *munera* are to be understood not simply as immunities from governmental intrusion, but rather as roles or vocations that persons and social institutions offer to society. It is these positive functions that, in turn, lead to immunities in positive law.²⁷³

In his discussion of these *munera*, Hittinger specifically highlights the importance of “the *munus regale*—the function, mission, gift, or vocation of ruling.”²⁷⁴ Using John Paul II’s discussion of marriage, Hittinger argues that this first social institution is the prime analogate for understanding the nature of ruling as self-gift:

[B]y focusing upon the first institution of marriage, [John Paul II] is trying to identify what every vocation, mission, social station has in common. Marriage was instituted to transfer into the visible reality of the world the mystery hidden from eternity in God, and thus to be its sign....[H]ere in Genesis, we find the original meaning of participated royalty. Divine rule is made visible in (1) mastery over one’s own body, (2) dominion over things of the earth (3) in reciprocal rule over one another’s bodies. Interestingly, the first sign of the social *munus regale* is not the state but rather what the Pope calls the ‘protosacramental’ institution of matrimony.²⁷⁵

Thus, this role of kingly rule, understood ultimately as participation in Christ’s servant ruling, is to be found in all institutions in society. Hittinger argues that the limiting of this kingly office to temporal monarchs, and then the privatization of social institutions altogether, has resulted in the loss of the *munus regale* among the many institutions of modern society.²⁷⁶

²⁷²Russell Hittinger, “Social Roles and Ruling Virtues in Catholic Social Doctrine,” *Annales Theologici* 16 (2002): 390-391.

²⁷³Hittinger, “Social Roles,” 393.

²⁷⁴*Ibid.*, 388.

²⁷⁵*Ibid.*, 401-402.

²⁷⁶*Ibid.*, 403.

Hittinger argues along with the popes that we must recapture this notion of the *munus regale* of social institutions in order to properly ground the rights and immunities of persons and account for their *public* role under law. He writes, “The idea of participated royalty, plurified in distinct *munera*, provides the context for the issues of social pluralism and subsidiarity.”²⁷⁷ Having presented Hittinger’s argument for the *munera*, let us see how he applies it to the areas of social justice and subsidiarity.

Social justice, according to Hittinger, is “nothing other than the manifold organicity of the common good; or, to put it in another way, it is the demand that the common good be brought about through organizations, institutions, and groups....All issues of social justice encounter *munera* already established in and ordered to a common good.”²⁷⁸ Thus, social justice involves the achievement of the common good through the *munera* of the various and multiform social institutions of society. With this in mind, Hittinger discusses the principle of subsidiarity in its relationship to *munera* and social justice.

Oftentimes, subsidiarity is taken to mean “smaller is always better.” However, with the understanding of the *munera* of social institutions in mind, this simplistic understanding of subsidiarity is untenable, for the various *munera* of social institutions come from their created natures. Subsidiarity is a principle of respect for the various *munera* of social institutions, not a means of determining the *munera* themselves. Hittinger explains, “Subsidiarity does not tell us who has which function or *munus*. One has to look elsewhere (natural law, positive law, divine law) for the *munera*. Therefore,

²⁷⁷Ibid., 407.

²⁷⁸Ibid., 393-394.

subsidiarity cannot be used to settle the debates about the ontology or the distribution of *munera*; rather, it is a principle governing the relations of already-distributed functions. In papal teachings since Pius XI, subsidiarity is proposed as a principle of non-absorption, not a principle that necessarily requires devolution.”²⁷⁹ Thus, subsidiarity “does not require ‘lowest possible level’ but rather the ‘proper level.’”²⁸⁰

Summarizing the relationship between subsidiarity, justice, and the *munera*, Hittinger writes, “Subsidiarity cannot create a social ontology, and it would be useless or even destructive to make subsidiarity do that kind of work....For the question of just relations between social offices and institutions presupposes the existence of these social forms, each having its own *esse proprium*.”²⁸¹

7.4 Social Justice and Subsidiarity

We can now apply Hittinger’s discussion to that of the right or *ius* of social justice. In the context of social justice, the proportional equality of which Aquinas speaks as the object of justice is none other than subsidiarity, understood aright. The various *munera* of the human and social persons of society find their roots in the created order. What is *due* to each of these persons is governed by subsidiarity, which is to say that each person must be treated with due accord to its *munus* and thus should not be improperly interfered with from above (which is more common) or from below (which is less common, but still possible). Of subsidiarity, Pope Pius XI writes:

²⁷⁹Ibid., 395.

²⁸⁰Ibid., 396.

²⁸¹Ibid., 397.

As history abundantly proves, it is true that on account of changed conditions many things which were done by small associations in former times cannot be done now save by large associations. Still, that most weighty principle, which cannot be set aside or changed, remains fixed and unshaken in social philosophy: Just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do. For every social activity ought of its very nature to furnish help to the members of the body social, and never destroy and absorb them.²⁸²

Here we see that the principle of subsidiarity applies to individuals and social groups in that it is equally wrong for “greater” or “higher” social groups to take or subsume the functions proper to the lesser entities. Hittinger's discussion of the *munera* helps us to understand the source of the functions of individuals and the various social groups of society. And it is this principle—governing the interactions of human and social persons within society—which, when ordered to the common good, constitutes the *ius* of social justice.

Moreover, this fact can be seen through the nature of the common good itself. In the context of Newman's understanding of the common good, we find that the common good both 1) allows for the conditions for the proper exercise of the various *munera* of social and human persons and 2) is instantiated when the various social and human persons do, in fact, accomplish their *munera*.

It can be seen then how the mechanism of social personhood unites both the emphasis of the popes on the roles and rights of social institutions with the nature of general justice as a *virtue* in Aquinas. Social justice—understood as the practice of general justice, extended not only to human persons, but to social persons—allows the social institutions' *munera* to be properly respected in the domain of real, not just

²⁸²Pius, *Quadragesimo*, no. 79.

metaphorical, justice. Social institutions, being persons, are able to participate in general justice by acting for the common good. Then, by the nature of the common good itself, they are, in turn, able to be treated properly as persons themselves. They are not involved in general justice merely secondarily, treated as mere aggregations of individual persons who are the only proper subjects of virtue.²⁸³ Rather, social institutions—as real entities who participate analogously in personhood—are true subjects and objects of justice.

Speaking of the relationship between the common good and goods of lesser societies, Newman writes,

The common good of the State is the principal common good of temporal human societies, the common goods of the lesser communities being integrated into but by no means absorbed by it. For since every common good is both the good of the whole and the good of the parts, the common good of the State must include the common goods of all and each of the communities within it. This, among other things, entails respecting their rights, which derive from an order higher than the State.²⁸⁴

Social personhood is the mechanism by which the common goods of these lesser societies can be brought into full participation in the common good of society at large.

Put another way, by Maritain's argument, the common good must benefit human beings making up political society because they are *persons*. Thus, if social groups are to be given their proper due as social groups (not merely as collections of individuals), then it stands to reason that social personhood is an appropriate way of allowing social groups to enter the community of beings for which the common good must provide. Maritain's argument can be extended to include not only individual, but social persons.

²⁸³Recall that Aquinas limits the proper subjects and objects of justice to persons: "Hence, justice properly speaking demands a distinction of supposita, and consequently is only in one man towards another" (*Summa Theologica*, II-II, Q. 58, a. 2, co.).

²⁸⁴Newman, *Foundations*, 37.

With this conception of social justice, subsidiarity finds an interesting place within the Thomistic tradition: as the right or *ius* of general justice. Without the notion of social personhood, only individual persons could be understood to be the subjects and possessors of the virtue of general justice. Thus subsidiarity, with its individual *and institutional* subjects, would not seem to be related to general justice, or even to justice *per se* (understood as a virtue practiced by persons). However, with social personhood, the subjects of general justice are understood to extend not only to human persons, but to social persons. Subsidiarity then becomes the way to understand the *ius* of general justice, i.e., what is due to persons (both human and social) according to the common good. This *ius* of social justice is the reflection then of the *munera* which social persons, in turn, owe to the common good.

7.5 Subsidiarity and the Debitum Praecepti

At this point, it is important to address the relationship between subsidiarity as the *ius* of social justice and the *debitum praecepti*—the debt rendered by legal justice. Following Newman's analysis, we find that St. Thomas addresses two main kinds of debt.²⁸⁵ Of the first kind of debt, *debitum legale*, Aquinas writes, “One is legal debt, to pay which man is compelled by law; and thus man owes honor and worship to those persons in positions of dignity who are placed over him.”²⁸⁶ Of the second kind of debt, *debitum morale*, Aquinas writes, “The other is moral debt, which is due by reason of a

²⁸⁵Ibid, 46.

²⁸⁶Aquinas, *Summa Theologica*, II-II, Q. 102, a. 2, ad 2.

certain honesty: it is in this way that we owe worship and honor to persons in positions of dignity even though we be not their subjects.”²⁸⁷

Of the relationship of both of these kinds of debts to law, Newman writes, “[T]he *debitum morale* is what is in accordance with the natural moral law while the *debitum legale* is that which is due because of the direct command of positive law.”²⁸⁸ Now, how do these two kinds of debts relate to the debt of legal justice, the *debitum praecepti*? Speaking of the debt of legal justice, Aquinas writes that, “it belongs properly to legal justice to consider a precept as binding[.]”²⁸⁹ How then does this “precept” relate to natural law and positive law? Newman replies, “[T]he *debitum praecepti* of legal justice is the due which is rendered by all lawful action. Every virtuous act, since it is within the law, is a rendering of a *debitum* in this wide sense.”²⁹⁰ This conclusion is, of course, reasonable given that, as we have seen in chapter three, the law of which legal justice is concerned is not limited to just positive human law, but rather all of the divine law, including the natural law. It is reasonable then that the debt which legal justice renders is as broad as the domain covered by law itself and is thus co-extensive with the *debitum morale*.

However, given our argument that 1) social justice is an extension of legal justice to social persons and 2) subsidiarity is the *ius* of social justice, what implications does the nature of the *debitum praecepti* have for subsidiarity? If social justice is a genuine

²⁸⁷Ibid.

²⁸⁸Newman, *Foundations*, 48.

²⁸⁹Aquinas, *Summa Theologica*, II-II, Q. 79, a. 2, co.

²⁹⁰Newman, *Foundations*, 49. For a similar understanding of the scope of the *debitum praecepti*, see Normand J. Paulhus, “Uses and Misuses of the Term ‘Social Justice’ in the Roman Catholic Tradition,” *Journal of Religious Ethics* 15, no. 2 (Fall 1987): 267.

extension of legal justice, then presumably the *debitum praecepti* as the debt rendered by legal justice would apply to the *ius* of social justice. In other words, the *debitum praecepti* is, in the context of social justice, equivalent to the principle of *subsidiarity*. This equivalency has interesting consequences for our understanding of subsidiarity.

First, the scope of subsidiarity is seen to be quite wide. It was seen in Pius' treatment of the term that he sees the domain of subsidiarity to include individuals and social groups. However, understanding subsidiarity to be equivalent to the *debitum praecepti* of social justice, we find that subsidiarity governs *all lawful action for the common good*. Thus, the principle of subsidiarity does not function only in the realm of positive law. Subsidiarity must include not only the protection of the *munera* of persons in positive law, but respect for the *munera* with regard to the demands of all law, including divine and natural law.

It can be seen, therefore, that understanding subsidiarity as the *ius* of social justice has significant implications for our understanding of the scope and application of subsidiarity—a principle which, in popular application at least, has traditionally been limited to arguments for the protection of institutions of civil society through positive law.

7.6 Summary

The conception of social justice presented in this chapter—an extension of general justice to include not only individual human persons but also social persons—also makes sense of an important passage from Pius XI's *Divini Redemptoris*, an encyclical that is a sort of accompaniment to *Quadragesimo Anno*. As we have seen, in the latter encyclical, Pius emphasizes social groups as the subjects of social justice.

However in *Divini Redemptoris*, Pius emphasizes individual persons as the subjects of social justice:

Now it is of the very essence of social justice to demand for each individual all that is necessary for the common good. But just as in the living organism it is impossible to provide for the good of the whole unless each single part and each individual member is given what it needs for the exercise of its proper functions, so it is impossible to care for the social organism and the good of society as a unit unless each single part and each individual member - that is to say, each individual man in the dignity of his human personality - is supplied with all that is necessary for the exercise of his social functions (*munus*). If social justice be satisfied, the result will be an intense activity in economic life as a whole, pursued in tranquility and order. This activity will be proof of the health of the social body, just as the health of the human body is recognized in the undisturbed regularity and perfect efficiency of the whole organism.²⁹¹

In this passage, Pius clearly includes in the meaning of social justice what is contained in the traditional definition of general justice—individual persons acting for the common good. However, Pius also discusses the nature of the common good and the fact that, in order for the common good to be achieved, each member of society must be allowed to flourish. We have already seen this in Newman’s conception of the common good.

It is also important to note from this passage that Pius speaks of “each single part and each individual member” of society being treated justly. This then squares with his treatment of social justice in *Quadragesimo Anno* where he speaks of social justice having social groups as its subjects. Individual human persons as well as the constitutive parts of society are all capable of contributing to the common good, and thus must all be

²⁹¹Pope Pius XI, *Divini Redemptoris* [official English translation] (Vatican City: Libreria Editrice Vaticana, 1937, accessed 4 June 2008); available from http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_19031937_divini-redemptoris_en.html; Internet, no. 51.

treated justly in order to ensure the fulfillment of their social functions (for the sake of the common good).

CHAPTER EIGHT

A Phenomenology of Social Justice

If certain social groups can be considered as persons, with corresponding powers, habits and virtues, it might be beneficial to sketch a sort of phenomenology of the exercise of powers by social persons. Specifically, I will use John Finnis' account of group action and apply his insights to the preceding argument for social personhood and social justice. In point of fact, however, this phenomenology is not strictly required. As Aquinas speaks of the unique virtue of justice: "[A] thing is said to be just, as having the rectitude of justice, without taking into account the way in which it is done by the agent[.]"²⁹² If it can be shown (as hopefully it has) that social persons are able to possess virtues like justice, it is not strictly necessary to assess, let alone understand, how such virtues are exercised. However, we shall proceed as though such an account will be illuminative.

8.1 The Unity of Order and Group Action

John Finnis provides an account of group action which has much to recommend itself. Finnis' account of social action is related to the nature of a social group's unity of order. Following Aquinas, Finnis argues that this unity of order has two elements: "There is (A) the interrelationship(s), the co-ordination, between the members of the group (the parts of the whole). More importantly and fundamentally, there is (B) the

²⁹²Aquinas, *Summa Theologica*, II-II, Q. 57, a. 1, co.

relation between the group and the purpose or point (*finis*, ‘end’) of the associating-together and co-ordination by its members which makes it a group.”²⁹³

The unity of order displayed by a social group is important in understanding the actions of that group because social groups enjoy their unity of order as an order of *action*. Finnis writes, “[T]he social group is understood as an order of human persons considered as *acting* persons; indeed, the group is studied as an order—system, pattern, interrelationship, co-ordination—of voluntary (and thus also intelligent, even if misguided) actions, activities, *operationes*.”²⁹⁴ Human societies, Finnis continues, “have their distinctive reality as orders of intelligent, voluntary, purposive action.”²⁹⁵ Thus, to understand the nature of group actions, the order by which these group actions are constituted is important. Incidentally, it is important to note again that the social group is constituted by *persons* with a *capacity* for group action, not simply as the action itself (see chapter five).

Let us now take the two aspects of the unity of order of a social group and see how they are exemplified in social action. In order to understand the nature of a social act, Finnis (following Aquinas) analyzes it in terms of its object. The example that Aquinas frequently uses to describe group action is the actions of an army in battle. In this case, there exists a variety of individual persons acting in concert with one another (for example, a president or king, an army commander and an individual soldier). And, as Aquinas explains, these individuals also have particular ends: “Now the objective of

²⁹³Finnis, *Aquinas*, 25.

²⁹⁴*Ibid*, 26.

²⁹⁵*Ibid.*, 27.

the soldier is to overcome the enemy and that is further directed towards the victory of the whole force, the victory which is the general's objective; and this objective in turn is further directed towards the well-being of the state, which is the objective of the president or king."²⁹⁶ While each member of the army's particular end is distinct, they are related to one another in that they are all related to the ultimate, common goal: the well-being of the state. This goal is the immediate goal of the king, and is the reason for all of the other goals to exist. However, as Aquinas writes, "[A]lthough [this] objective is first in intention, it is last in realization, and is the effect of the other causes."²⁹⁷

In this example, we can see the two elements of the unity of order that Finnis mentions: the *co-ordination of all the members of a social group towards the goal of a common action*. The king's desire to protect the well-being of the society is the initial cause of the army commander being ordered to war, and of the latter's ordering a particular soldier to fight a particular battle. However, the king's goal of protecting the well-being of society is dependent on the army commander and soldier, and will only be realized if the other members of the social group are successful in their ends.

8.2 Social Powers and Social Action

So far, this account of social action is general and accounts for social action in terms of the group understood as a whole. Let us try to further understand this account in terms of the various powers of a social group, understood as a social person. Specifically, how might this example be understood in terms of the analogous powers of

²⁹⁶Ibid., 32, quoting *Disputed Questions on the Power of God*, Q. 7, a. 2, ad 10.

²⁹⁷Ibid.

intellect and will (the two powers that Aquinas connects analogically to the acts of social groups)?

In Aquinas' analogy mentioned above (section 6.1), the king corresponds to the intellect of society, in that he understands what the common good is. Finnis speaks of this element of a society (of any size or kind) in terms of what it is in a society that sets a *policy* for that society. He writes, "[T]here is indeed what I shall call a policy (however implicit, 'unstated', informal, and privy to the group itself), a policy which the relevant members choose to *participate* in carrying out."²⁹⁸

Aquinas also speaks of the intellect moving the will in terms of a king directing regional governors to implement the common good. We can flesh this out further in terms of Finnis' notion of policy:

[A]cts of rulers (directors, coaches...) and their delegates can be acts of the group even when it is not obvious that some co-ordinated, joint action is under way. For it belongs to rulers and their delegates to initiate group action by words and deeds which define what shall be the public policy co-ordinating the future actions of relevant members of the group. Indeed, the very fact that leaders and their functionaries are looked to (willingly or reluctantly, *de jure* or merely *de facto*) as authors of 'public policy' indicates that their seemingly isolated acts of making such a policy have their meaning and reality as parts of wider, lasting patterns of co-ordination of actions (and therefore, of course, of dispositions to act).²⁹⁹

Thus, in a particular society, whoever is entrusted with leadership authority forms a public policy, and in communicating that policy to the other members of the society, moves them to act in co-ordination with one another to fulfill the stated goal. Also, in clarification, Finnis mentions that this kind of group action can take place at all levels of social action: "In this analysis I take the term 'public policy' from politics, particularly

²⁹⁸Ibid., 28.

²⁹⁹Ibid., 28-29.

the law and politics of states; but it applies analogically to every group capable of acting as a group.”³⁰⁰

The act of setting the public policy of a social group then belongs to what would be considered the *intellect* of the social person. What about the *will*? Following Aquinas’ analogy, the will is that element of society which *brings about* the common good. In Finnis’ terms it is that element which implements the public policy. As indicated in the quotation above, this action is undertaken by the leadership in so far as it promulgates the public policy and the rest of the group insofar as the relevant members co-ordinate to bring the policy about. This action exemplifies both aspects of the unity of order mentioned above in that it involves a 1) co-ordinated effort towards a 2) common objective.

8.3 Social Action in the Context of Social Justice

Taking this understanding and applying it a step further, let us look at what such group action would look like in the context of a social group displaying social justice. Finnis describes several features of the co-ordination attendant to social action toward a common end. Let us look at them in the context of a social person acting toward the common good of society, i.e., exercising social justice. Because justice resides in the will, we will see that the exercise of social justice will primarily involve the elements of a social group which are involved in the implementation of a public policy (in this case, working toward the common good).

³⁰⁰Ibid., 29.

8.3a Social Action and Intermediate Ends

Within the context of social action, the various intermediate ends that are necessary to achieve the ultimate goal of an action are all possibilities for the object of social co-ordination. Thus, as a social group acts toward one final goal, the kinds of co-ordination that take place at the various levels of the group will look differently depending on the intermediate goal that is being sought in that context.³⁰¹ The application of this to acts of social justice is important. Because social co-ordination requires the achievement of multiple intermediate ends by various members of a social person, it may be the case that a member of a social person is undertaking an act of social justice without being aware of it. For, while all acts of social justice must be formally directed toward the common good, the matter of the various intermediate ends that accomplish a formal act of social justice may not be readily apparent as acts of social justice. For example, a mother educating her children may do so with only her children's sakes in mind. However, her actions constitute an act of social justice: a family educating children so that they may contribute to the common good of society. Thus, social co-ordination exhibits a feature similar to general justice itself: acts may be immediately and materially directed to particular ends, while mediately and formally directed toward the common good.

Finnis also notes that while co-ordination within a social group will follow the public policy instituted in some fashion, how this is done will vary. He writes, "At each level, co-ordination is either by constant unanimous agreement or, more likely, by following the directives or group/public policy determined, and made known to the other

³⁰¹Ibid., 35.

members by some [leader or leaders]. A fuller account of how purposes give the direction essential to co-ordination will include an account of agreement, convention, authority, and law[.]”³⁰² Thus, the ultimate purpose of social action, as well as all intermediate ends, will certainly inform group co-ordination, but in different ways. This depends on, among other things, the level at which the co-ordination takes place and the kind of group which is acting. Further, Finnis argues that “[c]o-ordination may be more or less limited in its objective and subject-matter, and in its duration.”³⁰³ Again, these factors depend on the particular context of the co-ordination as well as the nature of the goal that is intended.

Applying this insight to the exercise of social justice, we find a natural application. Social justice, being an expansion of legal justice, involves law (rightly understood, as not being limited to merely human law). As was argued by Newman above, the various social institutions in society exhibit specific norms which structure their behavior to the common good of society. In Finnis’ framework, these norms of behavior are the mechanism by which the public policy of a social group is propagated and effected. Those norms that pertain to a human society as a whole we give the special name *law*.

8.3b Social Action and Explicit, Rational Authority

Finnis notes another feature of social co-ordination, namely, if a particular kind of co-ordination is longer-lived and well-defined, it may involve certain kinds of arts or techniques. Finnis explains, “Even relatively unlimited and open-ended forms of co-

³⁰²Ibid., 36.

³⁰³Ibid.

operation, such as political community, will usually involve common resort to arts and techniques such as language or, more technically, the practices and institutions (by no means *merely* technical) of law.”³⁰⁴ However, it is important to note that the co-ordination attendant to social actions is always *constituted* by free human choices. Finnis writes, “Co-ordination in human groups is by self-determining (and group-constituting) free choices, made for reasons not reducible to any art or set of arts....Social theory cannot be reduced to any number of crafts, however far-reaching their scope and refined the material whose mastery they teach.”³⁰⁵ This, of course, is related to the nature of the unity of order of a social group—that order being rooted in the capacity for rational group *action*.

This feature of social co-ordination is in contrast to an overemphasis on non-rational (or “super”-rational) forces occurring in social action. For example, in his discussion of social justice, Michel Novak argues that the meaning of social justice can be illumined by other principles, with *spontaneous order* and *catallaxy* among them.³⁰⁶ “Spontaneous order,” according to Novak, “is not ‘spontaneous’ in the sense that it is automatic and universal, but only in the sense that it arises out of many free choices and, from any one point of view, contrary purposes.”³⁰⁷ While Novak is right to point out that the social cooperation attendant to social justice is a feature of free human acts, his emphasis on spontaneous order can be problematic because it is an order that is, from the perspective of the human actors, borne from “contrary purposes”. There does not seem to

³⁰⁴Ibid., 36.

³⁰⁵Ibid.

³⁰⁶Novak, *Catholic Ethic*, 80-81.

³⁰⁷Ibid., 82.

be the proper role for explicit, conscious co-ordination, specifically that of social groups acting *per se*—that is, *as a whole*.

This problem can be seen further in Novak's use of the Hayekian term *catallaxy*. Novak writes, "[The] capacity of free agents to achieve forms of social order apart from constant direction from above, but not apart from those rules and procedures that appertain to 'the constitution of liberty,' produces what Hayek calls catallaxy. Catallaxy is the order achieved through the exercise of natural instincts for social adaptation and social cooperation."³⁰⁸ It appears that Novak tries to separate the two features of the unity of order that Aquinas gives, and for which Finnis provides a phenomenology. Novak allows for the horizontal co-operation among human persons for a common end. However, he seems to de-emphasize the first (and, according to Aquinas, more important) element—the tying of horizontal co-operation to the common end as communicated and directed from the social leadership.³⁰⁹ This is not to say that some group action does not arise without explicit direction from a group's leadership, and certainly we can even imagine co-ordinated human actions of groups without an existent leadership structure.³¹⁰ However, there does seem to be a danger in overemphasizing the degree to which spontaneous, horizontal co-operation is sufficient to provide for the important social action necessary to social justice. Oftentimes "natural instincts" are not enough and the vertical co-operation that involves a public policy and a structure of leadership is necessary to accomplish true social co-ordination.

³⁰⁸Ibid.

³⁰⁹Another way of putting this could be that Novak acknowledges the role of an analogical power of *will* in social action, but not of *intellect*.

³¹⁰Finnis even provides an example of this when Aquinas speaks of the co-ordinated actions of students in a classroom, without leadership or direction (Finnis, *Aquinas*, 36).

8.3c Social Action and Proper Autonomy

Finnis highlights a final characteristic of social co-ordination: “Though co-ordination almost always involves some leadership, some exercise of authority, it always requires the exercise of autonomy by the parties to the co-ordination, the members of the team or other group.”³¹¹ Thus, while leadership is crucial to formulating and implementing the public policy, a successfully co-ordinated social action will allow each segment of the social group its proper autonomy, allowing it to carry out its necessary function. This is none other than the principle of subsidiarity applied *within* a social group. Within a group, social co-ordination requires the respecting of the functions of the various constitutive elements of that group—whether they be determined by nature, or simply by convention.

Summarizing this interaction between authority and autonomy, Finnis highlights the following passage from Aquinas: “[M]en who are slaves or subjects in any sense, are moved by the commands of others in such a way that they move themselves by their free-will; wherefore some kind of rectitude of government is required in them, so that they may direct themselves in obeying their superiors; and to this belongs that species of prudence which is called political.”³¹²

This characteristic of social co-ordination has important implications for another objection to the notion of social justice offered by F.A. Hayek. As we saw in chapter three, Hayek objected to social justice on the grounds that it was an inappropriate anthropomorphism which ascribed the traits of virtue to social groups. Hopefully, this

³¹¹Finnis, *Aquinas*, 37.

³¹²Aquinas, *Summa Theologica*, II-II, Q. 50, a. 2, co.

objection has been met through our arguments for social persons as being truly capable of virtue. However, Hayek levels another objection against social justice, namely, that it can only have meaning in a command economy. Hayek writes, “‘Social justice’ can be given a meaning only in a directed or ‘command’ economy (such as an army) in which the individuals are ordered what to do; and any particular conception of ‘social justice’ could be realized only in such a centrally directed system. It presupposes that people are guided by specific directions and not by rules of just individual conduct.”³¹³

Hayek’s argument reflects a partial truth. As we have seen, social justice does indeed operate within a context of unity of order, of which an army is one example. However, the actions of an army are not the only example of a unity of order at work within a social group. As we have seen, a unity of order can be displayed by a host of social groups, so long as the groups are capable of common action. Thus, it is inappropriate for Hayek to choose one particular instantiation of a unity of order and assume that this is the paradigm case for a society in which social justice obtains. As Finnis’ points out, social action characterized by a unity of order is not simply an example of centralized, top-down command to which underlings must simply submit and obey. Rather, the authority that is characteristic of proper social action necessitates the respecting of the autonomy of the constituent members of the group. And as Aquinas points out, men who are subjects must still “move themselves by their free-will” and “direct themselves in obeying their superiors.” The fact that an army has a stronger (and less forgiving) authority structure is an accidental feature of this particular instantiation of a unity of order.

³¹³Hayek, *Mirage*, 69.

The problem with Hayek's objection can be seen in the alternative it implies. If any sort of "directedness" in an economic order is equivalent to a command economy in which citizens are "ordered what to do", then it would seem that there are two, and only two, possibilities for societal arrangement (or at least that of the economic order of society). Either 1) societal order is reduced to an aggregation of merely individual conduct or 2) societal order is expressed in a collectivist, command model. This two-pronged arrangement, as we have seen above in Maritain's discussion of the common good, is unacceptable. Maritain writes,

The common good of the city is neither the mere collection of private goods, nor the proper good of a whole which, like the species with respect to its individuals or the hive with respect to its bees, relates the parts to itself alone and sacrifices them to itself. It is the good *human* life of the multitude, of a multitude of persons; it is their communion in good living. It is therefore common to both *the whole and the parts* into which it flows back and which, in turn, must benefit from it.³¹⁴

There must be a kind of order which neither subsumes the freedom of all the constituent members of society nor leaves the members merely to their own devices. The former error denies the dignity of human persons and the latter denies their proper sociality. The unity of order, of which Aquinas speaks, is the needed kind of order which properly characterizes society; it respects the proper autonomy of the members of a social group while also providing the authority structure necessary to bring the group (and its members) to fulfillment in common action toward its common good.

8.4 Summary

Through Finnis' application of Aquinas' unity of order to the specifics of social action, we can see how social persons might possess powers and habits, exercising them

³¹⁴Maritain, *Person*, 50-51, emphasis in original.

virtuously for the sake of the common good. Specifically, Finnis' “phenomenology” of social action helps us to see the roles of intermediate ends, rational authority and proper autonomy in the exercise of social justice.

CHAPTER NINE

Objections

In order to further defend the argument of this dissertation, let us turn now to a few possible objections.

9.1 The Totalitarian Objection

One objection that may be levied against the notion of social personhood is that to assign to the state a personality of its own is to run the risk of totalitarianism. For if personality is given to political society (or other social groups) then presumably that society has corresponding rights. Could this introduce a conflict between the rights of individual persons and the rights of social persons, a conflict which, in all likelihood, would resolve in favor of social persons? Furthermore, our arguments to the contrary, does ascribing personality to political society necessarily involve understanding society as a substance? Could this then change the fundamental unit of social existence from human persons to political groups? Would this not have potentially disastrous consequences for the well-being and rights of individual human persons?

9.1a Gierke's Analysis of the Problem

In his classic work, *The Development of Political Theory*, Otto von Gierke anticipates this objection to social personality. Gierke maintains that the medievals did not arrive at the concept of real social personality, but that this *failure* led to problems very much like those outlined above. Gierke traces the development of the organic conception of human society during the Middle Ages: “[I]f an organic conception of

human societies was to some extent directly implied in the original thought of the middle ages, which everywhere started from the idea of the whole, so also the later philosophic theory of the State [understood here as political society as a whole], under the influence of biblical allegories and antique models, carried out universally the comparison of mankind at large and every smaller society to an animate body.”³¹⁵ After identifying several features of this organic conception, Gierke concludes: “But despite all such elaborations the medieval organic theory of the State halted without reaching its final goal....For in the question as to the ‘subject’ of the State’s power, which determines all juristic constructions of the State, the organic idea gains its usefulness and relevance only in so far as it issues in the legal concept of the personality of the unitary whole. But no such result was attained in the middle ages.”³¹⁶ Gierke argues that during this time, the notion of a “juristic person” was developed, but this was simply an invention of human law and came to be regarded as a “creature of pure thought” (*persona repraesentata*) or of fiction (*persona ficta*).³¹⁷ Gierke concludes that there is “not the slightest trace of the thought which would seem to lie so near at hand: that of deepening the concept of the juristic person by combining with it the concept of the social organism, of treating the substantial living unity ascribed to the latter as at the same time a ‘subject’ of rights, and

³¹⁵Otto Friedrich von Gierke, *The Development of Political Theory* (New York: W. W. Norton & Company, 1939), 148.

³¹⁶*Ibid.*, 149-150.

³¹⁷*Ibid.*, 150.

thus replacing the phantom of the ‘persona ficta’ by the concept of a real Group-Personality.”³¹⁸

Gierke argues that the unfortunate result was that instead of society being understood as a unified subject of personality, there arose *two* subjects, the *ruler* and the *people*. “As between the two ‘subjects’ of rights, embodied or supposed to be embodied in the ruler and the popular assembly,” Gierke writes, “the only dispute was as to which had the higher and fuller right.”³¹⁹

If emphasis is given to the ruler, Gierke argues that the consequence is a personification not of society as a whole, but of the office of the ruler: “[T]he ruler’s office, outlasting its temporary holders, was constituted the permanent bearer of a distinct sphere of rights and duties....[I]n the discussions on the ‘subject’ of the State’s power within the sphere of competence expressed by this ‘dignitas,’ the State’s personality, so long as the throne was occupied, was completely absorbed in the personality of the living ruler.”³²⁰

On the other hand, Gierke writes, “[I]f the people was made a ‘subject’ of rights, standing beside or above the ruler, this ‘subject’ could not be identified with the whole organized and unified body, since the head was excluded. Instead, a separate ‘subjectivity’ was attached to ‘the People’ as a ‘subject’ set over against ‘the Government.’”³²¹ This situation was particularly problematic because when subjectivity

³¹⁸Ibid. It is important to note here that “substantial living unity” does not seem to be a prerequisite for a genuine notion of group personality. Group personality is better construed as a non-substantial subsistence (see chapter five).

³¹⁹Ibid.

³²⁰Ibid., 151.

³²¹Ibid.

was assigned to the people, as separated from the ruling party of society, the consequence was the reduction of the “people” to a mere summation of individuals. Gierke explains, “[M]en were in general driven steadily onward to a conception which explained this [“the People”], as every other ‘universitas,’ to be in the last analysis merely a sum of individuals taken together as a juristic unit.... Thus indeed the doctrine of popular sovereignty even in its medieval phase contained the germ, later to grow so luxuriantly, of a purely atomistic and mechanical construction of the ‘People’ regarded as the ‘subject’ of all State-power.”³²²

Thus, with the failure of the medievals to arrive at the notion of the personality of the state as a whole, there began a contention among the parts of society for sovereignty. Any potential notion of the personality of the State (understood as political society) as a whole was lost in this debate. Gierke writes, “In the longstanding division of the State’s ‘right-subjectivity’ between ruler and people there were but few who expressly spoke of the personality of the State itself. And even these few construed the ‘persona civitatis’ to mean nothing more than either the ‘ruler’s personality’ or the ‘people’s personality’ according to the sense of their own time.”³²³

9.1b Maritain and Sovereignty

The contention between the ruler and the people as to which ought to be the subject of sovereignty led to a problematic situation. This problem is best explained by Jacques Maritain’s discussion of the concept of sovereignty, a concept with which

³²²Ibid.

³²³Ibid., 162.

Maritain takes significant issue. His trouble with sovereignty can easily be seen when it is applied to the dual subjectivity (ruler or people) of society which Gierke describes.

First, Maritain describes the problematic nature of sovereignty when it is assigned to (or claimed by) the ruler. This is made clear in the thought of Jean Bodin. Addressing the concept of sovereignty applied to the ruler, Maritain writes,

[T]he Sovereign is no longer a part of the people and the body politic: he is 'divided from the people,' he has been made into a whole, a *separate* and transcendent whole, which is his sovereign living Person, and by which the other whole, the immanent whole or the body politic, is ruled from above. When Jean Bodin says that the sovereign Prince is the image of God, this phrase must be understood in its full force, and means that the Sovereign—submitted to God, but accountable only to Him—transcends the political whole just as God transcends the cosmos. Either Sovereignty means nothing, or it means supreme power *separate* and *transcendent*—not at the peak but *above* the peak.³²⁴

Obviously, Maritain sees this feature of sovereignty as problematic. However, this separate and transcendent feature of sovereignty is not limited to times when sovereignty is claimed by a ruler. It also is demonstrated when the *people* claim sovereignty. This is shown in the thought of Rousseau. Maritain writes, "Rousseau, who was not a democrat, injected in nascent modern democracies a notion of Sovereignty which was destructive of democracy, and pointed toward the totalitarian State; because, instead of getting clear of the separate and transcendent power of the absolute kings, he carried, on the contrary, that spurious power of the absolute kings to the point of an unheard-of absolutism, in order to make a present of it to the people."³²⁵

Concluding his discussion of sovereignty, Maritain writes: "In order to think in a consistent manner in political philosophy, we have to discard the concept of Sovereignty,

³²⁴Jacques Maritain, *Man and the State* (Washington, D.C.: The Catholic University of America Press, 1998), 34.

³²⁵*Ibid.*, 45.

which is but one with the concept of Absolutism.”³²⁶ Why did Maritain want to discard this concept? The reason is that Maritain sees the concept of sovereignty inextricably linked to the notion of an *absolute, transcendent* power which rules *externally*, from *above* or *without*. This problematic meaning characterizes sovereignty wherever it appears, whether in the claims of a single ruler or in the claims of the people. We can then ask, what is the origin of this problematic meaning of sovereignty? Gierke answers the question. As we have seen, when society is not understood to be an organic whole—the subject of personality—the result is a dualing conception of the proper subject of power within society. A part—whether it be the ruler or the people—is raised above the rest and understood to possess power over against the rest of society. While this itself does not lead inexorably to the totalitarian absolutism which Maritain decries, it is easy to see (as Gierke and Maritain point out in the history of political philosophy), how the externality of the subject of power can lead to transcendence, at which point the turn to absolutism is not far away.

So we see little validity in the objection that social personhood is dangerous because it must lead to totalitarianism. On the contrary, we see that the failure of the medievals to come to the concept of social personality, coupled with the advent and development of the conception of sovereignty, could itself have led in part to the dangers of totalitarian absolutism. If society as a whole maintains its unity in personality (but not in substantiality), then there is less risk of locating power in only a part of society and less risk of that one part lording its power over against the rest of society in an inappropriate and unjustified manner.

³²⁶Ibid., 49.

9.1c The Totalitarian Objection and the Unity of Order

Another reply to the objection that social personhood could lead to totalitarianism involves the nature of a unity of order. As we have seen, only social groups with a unity of order can be understood to be social persons, by analogy. However, the very notion of a unity of order prevents a totalitarian application. Of the unity of order, Aquinas writes, “[T]he whole which the political group or the family constitutes has only a unity of order, for it is not something absolutely one. A part of this whole, therefore, can have an operation that is not the operation of the whole, as a soldier in an army has an activity that does not belong to the whole army.”³²⁷ Thus, by the very nature of a social person (a social group with a unity of order), there are ends of its constituent members that do not terminate in the common end of the group. Thus, the totalitarian option is excluded.

9.1d The Totalitarian Objection and the Munera

Finally, social persons—whether society as a whole, or the many constitutive social groups within society—have *munera*, as discussed in chapter seven. With *munera* come not only rights and immunities, but also duties. Thus, understanding social persons to have *munera*—certain functions or gifts they are to offer society—would mitigate any tendencies toward the subsuming action of totalitarianism—the very opposite of the serving nature of *munera*.

9.2 The Unnecessary Personhood Objection

One might object to the thesis put forth in this dissertation by arguing that while social justice does seem to have social groups as its subjects, the notion of “social

³²⁷Aquinas, *Commentary on Ethics*, I, L. 1, no. 5.

personhood” is unnecessary to establish these groups as capable of virtuous action, specifically real acts of the virtue of justice. The objector might cite the following passage from Aquinas: “[F]orasmuch as it belongs to justice to rectify human acts, as stated above (57, 1; I-II, 113, 1) this otherness which justice demands must needs be between beings capable of action. Now actions belong to supposits (*suppositorum*) [Cf. I, 29, 2] and wholes (*totorum*) and, properly speaking, not to parts and forms or powers[.]”³²⁸ One could argue that because Aquinas considers social groups with a unity of order to be wholes capable of action (see section 4.1), such wholes are capable of acts of justice without the need for them to participate in personhood.

In reply to this objection, it is first important to note the context in which the above passage is situated. Aquinas is responding to the question of whether justice is always towards another. Thus, in his argument that justice must be between beings capable of action, he is intending to refute the notion that justice can be a completely self-referential virtue.³²⁹ He is not intending to open up the domain of justice to non-personal actors. This can be seen later in this very passage when Aquinas concludes: “Hence, justice properly speaking demands a distinction of supposits, and consequently is only in one man towards another.”³³⁰ Noticeably missing in the candidates for just acts is the whole mentioned above. Thus, it would seem that Aquinas' above discussion of wholes as capable of action was meant to be a general description of all entities which could act, which would then be followed by a narrowing constraint as to which of these entities

³²⁸Aquinas, *Summa Theologica*, II-II, Q. 58, a. 2, co.

³²⁹Aquinas argues that justice can be thought to exist in one and the same man, but only in a “metaphorical” way (Aquinas, *Summa Theologica*, II-II, Q. 58, a. 2, co.).

³³⁰Ibid., II-II, Q. 58, a. 2, co.

could be understood to act *justly*. Concluding that justice properly concerns supposits, Aquinas seems to limit justice to multiple human persons, excluding non-personal wholes as well as a sole, self-referencing human individual.

Finally, if Aquinas intended non-personal wholes to be capable of just actions, then the following passage would prove difficult. In his discussion of whether justice is a general virtue, Aquinas writes: “Justice, as stated above directs man in his relations with other men. Now this may happen in two ways: first as regards his relation with individuals, secondly as regards his relations with others in general, in so far as a man who serves a community, serves all those who are included in that community.”³³¹ If Aquinas intended wholes to be subjects of justice, then there would be no need to qualify the just relationship between a man and a community (the latter being a prime example of a social whole). However, Aquinas writes that man can have just relations with others in general because a man who acts justly towards a community acts justly towards *all those who are included in that community*. Thus, it seems that, properly speaking, the beings that are capable of justice are human persons. A community can be the subject of justice in so far as it is made up of human persons. Thus, Aquinas doesn't seem to think that the community, considered as a non-personal whole, can be capable of acts of justice *per se*.

While this reply may be sufficient in establishing that non-personal wholes are not capable of just acts, does it not prove too much? For in limiting the beings capable of just action to supposits, does not Aquinas then exclude the possibility of social persons as

³³¹Ibid., II-II, Q. 58, a. 5, co.

capable of just action? After all, social persons are not “supposits”—the term intended by Aquinas to denote substantiality.³³²

There are a couple of ways to reply to this objection. First, what Aquinas says here must be understood within the broader context of what he says about personhood. If, as it is hoped, we have been successful in arguing that social groups with a unity of order are capable of meeting Aquinas' criteria for personhood, then this particular passage must be read in light of that argument. This interpretation would have Aquinas speaking about justice primarily in the context of human persons and thus it would stand to reason that he would refer to beings capable of justice as supposits. Or we could reply that in so far as a “supposit” indicates “substance”, we should look to Aquinas' discussion of those substances which happen to be persons. In other words, we should look to his discussion of *hypostasis*. As we have seen, in the context of personhood, *hypostasis* is an analogical term which has different meanings in different natures. Thus, Aquinas' limiting of beings capable of just actions to supposits would not preclude social groups, so long as they are capable of participating in the analogical notion of what *hypostasis* denotes in rational natures, i.e., personhood.

Another way to reply would be to address the question of the criteria for virtue generally. If only *persons* are capable of human virtue (of which justice is a species), then non-person wholes would be precluded from acts of justice. As we have seen in chapter six, virtues are habits and habits reside in powers. In so far as justice is a human virtue³³³, it would seem that justice would require a human power. Indeed, as we have

³³²Aquinas' use of *supposit* in this example includes a reference to I, Q. 29, a. 2, which is a discussion of substance.

³³³See Aquinas, *Summa Theologica*, II-II, Q. 58, a. 3.

seen, Aquinas argues that it resides in the will.³³⁴ Thus, if a non-person social whole was capable of acts of justice, such acts would have to reside in a power, namely, the human power of the will. This seems like a difficult, if not nonsensical, proposition—unless there is a mechanism like social personhood to do the analogical work necessary.

In conclusion, it seems that the middle ground can be held. It is possible to maintain that acts of justice can be performed by non-substantial social persons, but not by non-personal social wholes (social groups without a unity of order). Thus, the mechanism of social personhood is indeed necessary to allow social groups with a unity of order to participate in real, not merely metaphorical, acts of justice.

9.3 Reductio Ad Absurdum: *Can a Social Person Have Its Feelings Hurt?*

One might object to the notion of social personhood by arguing that if social groups can have powers like the will (in which social justice resides), then it stands to reason that they must also have the other powers of the human person. This would include the sensitive powers and thus could lead to absurd situations such as social persons having “feelings”. Moreover, if social persons have other powers, then they would presumably have the other habits (and thus virtues) associated with those powers. Are we really prepared to ascribe to social groups the whole array of human virtue?

There are a couple of ways to respond to this objection. First, it is important to note that social persons are not a species of the genus of human persons. Thus, it is not necessary that social persons possess all of the qualities (including powers) of human persons. Rather, a social person is, in its own right, a proper analogue of *person*. It might be the case that, because social persons are composed of human persons, human

³³⁴Ibid., II-II, Q. 58, a. 4.

persons are the closest analogue to social persons. However, it does not follow from this that social persons must have all of the characteristics of human persons.

Recall that in chapter six we argued that it is appropriate to limit the discussion of the powers of the social person to the *rational* powers. This is due to the fact that social persons, by virtue of their unity of order, are intrinsically ordered to rational action. In fact, the capacity to act for a common end is the very thing that constitutes the social person in the first place. However, it is not clear what role, if any, other non-rational powers would play in the fulfillment of a social person's nature. Moreover, it is difficult to understand how non-rational powers could even be made to be consistent with the eminently rational organizing unity of the social person. Finally, we have an excellent example of just such a person which has rational powers, but no non-rational ones: the angel. Aquinas argues that angels have only intellect and will and that “it is in keeping with the order of the universe for the highest intellectual creature to be entirely intelligent; and not in part, as is our soul.”³³⁵ Thus, personhood *per se* clearly does not have as a requirement the possession of sensitive appetites.

Leo Shields provides a final way of replying to the objection that the notion of social personhood requires that social persons possess sensitive appetites. While it is not necessary that social persons have these appetites, perhaps social groups can be understood to have appetites in an analogical way (after all, the whole notion of personhood is an analogical concept). Shields addresses the question of how a society can be the subject of justice without being a substance. He writes,

[T]he metaphysician can answer that while society is not a substance, it is somehow better than substances, not simply but in a certain respect; it has a

³³⁵Ibid., I, Q. 54, a. 5, co.

higher being than the human substances which are the matter it informs, just as any form is better than its matter; consequently it somehow possesses virtually all the powers natural to men, among them being the power to act and suffer. And this is evident too for common sense; the state can act through its governors and suffer through its members.³³⁶

While Shields does not employ the analogical concept of personhood to account for how societies are capable of possessing powers, he does identify the intuition that societies, considered as wholes, can in some respect be said to act and to *suffer*. Now, for a thing to suffer, it must have passions, the latter being located in the sensitive appetite.³³⁷ Thus, in so far as a social person is capable of suffering in the manner that Shields identifies, to that degree it could be said that the social person has sensitive appetites. And, of course, this understands the appetites, like all powers of the social person, to be considered in an *analogical* manner.

9.3a Do Social Persons Possess All Virtue?

Now let us turn to the second aspect of this section's objection, the question of whether we want to ascribe the whole array of human virtues to social persons. Virtues are good habits, and habits reside in powers. Thus, if it is the case that (because of their unity of order) social persons only *require* the powers of intellect and will (while other powers are in some sense “optional”), it follows that the application of the full domain of human virtues to social persons is already circumscribed. For if the social person does not possess all of the human powers, it will not require all of the human virtues.

Recall that habits are necessary for a being when its nature alone cannot bring about its fulfillment (see section 6.2). Virtues, being good habits, are necessary for social

³³⁶Shields, “History and Meaning,” 13.

³³⁷Aquinas, *Summa Theologica*, I-II, Q. 22.

persons only in so far as they exhibit this quality. Thus, to arbitrarily ascribe all human virtue to a social person is to fail to see the connection between the purpose of virtue in fulfilling a being's end. It has hopefully been seen in the discussion of social justice and *munera* (chapter seven) how the virtue of justice, as exercised by social persons, is conducive to the attainment of social persons' natures. However, it would seem wise to take any further ascriptions of virtues to social persons on a case by case basis, carefully considering how a particular virtue would be necessary to the fulfillment of a social person's nature. An exhaustive treatment of all of the virtues that could potentially be exercised by social persons is outside the scope of this dissertation. However, one example might prove useful. The virtue of *social charity* is another example of a virtue which could be exercised by social persons. Incidentally, it, like social justice, would also reside in the “will” of the social person.

A brief analysis of how social charity might be exercised by social persons will not only help answer the objection that further ascription of virtues to social persons is problematic, but it will also serve to fill out our understanding of the exercise of social justice.

9.3b Social Charity

In *Quadragesimo Anno*, Pope Pius XI not only introduces the term *social justice* but also the term *social charity*. Pius does not explain much about what he means by *social charity*. The closest thing to a definition is given by the Pope in one of his discussions of social justice. Speaking of social justice, he writes, “[T]he institutions themselves of peoples and, particularly those of all social life, ought to be penetrated with this justice, and it is most necessary that it be truly effective, that is, establish a juridical

and social order which will, as it were, give form and shape to all economic life.”³³⁸ The Pope follows this with a statement about social charity: “Social charity, moreover, ought to be as the soul of this order, an order which public authority ought to be ever ready effectively to protect and defend.”³³⁹ What does it mean for social charity to be the soul of the order which is established by social justice? To shed more light on the subject, let us turn to Pope John Paul II's 1987 encyclical, *Sollicitudo Rei Socialis*.

9.3b.1 Social charity and solidarity. While John Paul II's *Sollicitudo Rei Socialis* is not explicitly about social charity, his discussion of solidarity is helpful in understanding what Pius XI might have meant by the new term. It may even be the case that solidarity is a form of social charity, or perhaps even identical to it.

Discussing the context and definition of solidarity, John Paul writes,

It is above all a question of interdependence, sensed as a system determining relationships in the contemporary world, in its economic, cultural, political and religious elements, and accepted as a moral category. When interdependence becomes recognized in this way, the correlative response as a moral and social attitude, as a "virtue," is solidarity. This then is not a feeling of vague compassion or shallow distress at the misfortunes of so many people, both near and far. On the contrary, it is a firm and persevering determination to commit oneself to the common good; that is to say to the good of all and of each individual, because we are all really responsible for all. This determination is based on the solid conviction that what is hindering full development is that desire for profit and that thirst for power already mentioned. These attitudes and "structures of sin" are only conquered - presupposing the help of divine grace - by a diametrically opposed attitude: a commitment to the good of one's neighbor with the readiness, in the gospel sense, to "lose oneself" for the sake of the other instead of exploiting him, and to "serve him" instead of oppressing him for one's own advantage (cf. Mt 10:40-42; 20:25; Mk 10:42-45; Lk 22:25-27).³⁴⁰

³³⁸Pius, *Quadragesimo*, no. 88.

³³⁹*Ibid.*

³⁴⁰Pope John Paul II, *Sollicitudo Rei Socialis* [official English translation] (Vatican City: Libreria Editrice Vaticana, 1987, accessed 4 June 2008); available from http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_30121987_sollicitudo-rei-socialis_en.html; Internet, no. 38.

With its “firm and persevering” commitment to the common good, John Paul II's conception of solidarity bears an initial resemblance to legal justice. Moreover, with his statement that solidarity is a moral and *social* attitude, one might even think he has social justice in mind. However, when we look at the underlying causes of the problems for which solidarity is the solution, we find that the issue is “structures of sin.” The solution, solidarity in action, requires the “help of divine grace” and the willingness to “lose oneself” for the sake of one's neighbor. These characteristics lead one to believe that solidarity is a form of charity.

Charity is a theological virtue which is infused through God's grace.³⁴¹ On the question of the object of charity, Aquinas writes, “[T]he aspect under which our neighbor is to be loved, is God, since what we ought to love in our neighbor is that he may be in God. Hence it is clear that it is specifically the same act whereby we love God, and whereby we love our neighbor. Consequently the habit of charity extends not only to the love of God, but also to the love of our neighbor.”³⁴²

Thus, in John Paul's presentation of solidarity, we see a virtue which in its object of the common good and nature as a social attitude resembles social justice. However, in its dependence on God's grace and its emphasis on the self-sacrificial love it entails, it resembles the theological virtue of charity. What, then, is the status of the virtue of solidarity?

It would seem that solidarity could be understood to be the social charity which Pius argued is the proper accompaniment to social justice. Specifically, if social justice is

³⁴¹Aquinas, *Summa Theologica*, I-II, Q. 62, a. 1.

³⁴²Ibid., II-II, Q. 25, a. 1.

an extension of legal justice to the domain of social persons, perhaps solidarity/social charity is an extension of the theological virtue of charity to the domain of social persons.

In his identification of solidarity as a “moral and social attitude” we have already seen a hint that John Paul might intend for solidarity to be a virtue exercised not only by individuals, but also by social groups. Indeed, in several places in *Sollicitudo Rei Socialis*, John Paul refers to nations and social groups as involved in the exercise of solidarity.³⁴³ For example, after outlining the duties which the exercise of solidarity entails for individual persons, John Paul writes, “The intermediate groups, in their turn, should not selfishly insist on their particular interests, but respect the interests of others.”³⁴⁴

Moreover, after detailing the duty of the Church to stand by the poor in their requests for justice, John Paul writes, “The same criterion is applied by analogy in international relationships....Surmounting every type of imperialism and determination to preserve their own hegemony, the stronger and richer nations must have a sense of moral responsibility for the other nations[.]”³⁴⁵ Finally, addressing the scope of the virtue of solidarity, John Paul writes, “Solidarity helps us to see the ‘other’—whether a person, people or nation—not just as some kind of instrument, with a work capacity and physical strength to be exploited at low cost and then discarded when no longer useful, but as our ‘neighbor,’ a ‘helper’ (cf. Gen. 2:18-20), to be made a sharer, on a par with ourselves, in the banquet of life to which all are equally invited by God.”³⁴⁶ Thus, it is reasonable to

³⁴³John Paul II, *Sollicitudo*, nos. 23, 26, 39, and 40.

³⁴⁴*Ibid.*, no. 39.

³⁴⁵*Ibid.*

³⁴⁶*Ibid.*

conclude that John Paul's conception of solidarity includes not only individual persons, but social groups (including nations) as its subjects. Thus, it would seem to be a candidate for the social charity that Pius XI saw as so closely tied to the exercise of social justice.

With regard to the understanding of solidarity/social charity as a form of the theological virtue of charity, John Paul addresses this subject explicitly: "Solidarity is undoubtedly a Christian virtue. In what has been said so far it has been possible to identify many points of contact between solidarity and charity, which is the distinguishing mark of Christ's disciples (cf. Jn. 13:35). In the light of faith, solidarity seeks to go beyond itself, to take on the specifically Christian dimension of total gratuity, forgiveness and reconciliation."³⁴⁷ Given the points of contact between solidarity and charity, yet the distinction which John Paul seems inclined to maintain, perhaps it can be said that solidarity is a true development of the virtue of charity because it extends the theological virtue to include not only individuals, but also social groups. This seems to fit with the seeming purpose of the encyclical: to strongly indicate the implications of Christian charity for not only the individual realm, but the realm of international society: "Solidarity therefore must play its part in the realization of this divine plan, both on the level of individuals and on the level of national and international society."³⁴⁸

In summary, perhaps we can understand solidarity to be social charity in the following ways. First, it is social in that it has as its subjects not only individuals, but

³⁴⁷Ibid., no. 40.

³⁴⁸Ibid.

social groups, including nations. Second, it is charity in that it is an explicitly Christian virtue which instantiates the Gospel call to communion with God and neighbor.

Such an understanding of social charity is linked closely to social justice in that its immediate object is the common good—understood, in this context, as the Common Good of the Divine Communion, made known and present in all the peoples of the world.³⁴⁹ Also, on this reading, social charity, like social justice, is a general virtue in that it directs acts of all the other virtues. As Aquinas writes, “[I]t is charity which directs the acts of all other virtues to the last end[.]”³⁵⁰ Finally, given that charity, like justice, resides in the will³⁵¹, it would follow that social charity resides in the will, both of individual and social persons.

Given the complementarities of social justice and social charity, it can be seen how Pius XI would refer to the latter as the “soul” of the order which is established by social justice. Moreover, of the connection between charity and the other virtues, Aquinas writes, “All the moral virtues are infused together with charity....Now it is evident that charity, inasmuch as it directs man to his last end, is the principle of all the good works that are referable to his last end. Wherefore all the moral virtues must needs be infused together with charity, since it is through them that man performs each different kind of good work.”³⁵² Thus, an understanding of how social charity operates within the domain of social persons must needs shed light on our understanding of social justice. For, following the analogy, without social charity, social justice is impossible.

³⁴⁹Ibid.

³⁵⁰Aquinas, *Summa Theologica*, II-II, Q. 23, a. 8, co.

³⁵¹Ibid., II-II, Q. 23, a. 2, co.

³⁵²Ibid., I-II, Q. 65, a. 3.

9.3b.2 Summary. The preceding has been an attempt to roughly outline how one might go about ascribing further virtues to social persons. While much more work would need to be done to establish social charity as the companion to social justice in social persons, it has hopefully been seen how such a task could bear fruit in not only coming to a better understanding of social justice, but in furthering our understanding of the roles (the *munera*), actions and duties of social groups with a unity of order in the fulfillment of their natures. Thus, such a task, far from detracting from the plausibility of social persons displaying virtues (the original objection leveled in this section), would serve to illuminate the teachings of the popes on the nature of the social order.

9.4 The Distributive Objection

Another objection to our conception of social justice could involve the distributive component of social justice. As we saw in chapter two, throughout the social encyclicals the popes envisaged a strong role for social justice in the economic domain. Specifically, it seems that such an application of social justice included a distributive component. As an example, recall that the very first use of the term social justice in the encyclicals followed the following discussion by Pius XI: “But not every distribution among human beings of property and wealth is of a character to attain either completely or to a satisfactory degree of perfection the end which God intends. Therefore, the riches that economic-social developments constantly increase ought to be so distributed among individual persons and classes that the common advantage of all, which Leo XIII had praised, will be safeguarded[.]”³⁵³ Pius then introduces social justice as the means of accomplishing this task.

³⁵³Pius, *Quadragesimo*, no. 57.

One could argue that while the economic dimension of social justice may be abstracted from, the distributive component may not. Thus, while the types of goods distributed to individuals through social justice may not always be material goods, there must always be some sort of distribution present if social justice obtains. The objector could argue, therefore, that the distributive component of social justice ought to be an essential feature of a definition of the term. Thus, our conception of social justice—as the extension of legal justice to social persons—is inadequate because, though it can account for acts of distributive justice, such acts do not constitute an essential feature of the definition.

Moreover, one could cite sources even outside of the Catholic tradition which understand social justice to include, essentially, some distributive component. For example, of the distributive nature of social justice, John Stuart Mill writes,

If it is a duty to do to each according to his deserts, returning good for good as well as repressing evil by evil, it necessarily follows that we should treat all equally well (when no higher duty forbids) who have deserved equally well of us, and that society should treat all equally well who have deserved equally well of it, that is, who have deserved equally well absolutely. This is the highest abstract standard of social and distributive justice; towards which all institutions, and the efforts of all virtuous citizens, should be made in the utmost possible degree to converge.³⁵⁴

Here, Mill outlines the form of distributive justice: that society ought to treat all equally well who have deserved equally well of it. Mill seems to identify this understanding of distributive justice, part and parcel, with social justice.

Furthermore, Ben Jackson, in his review of contemporary treatments of social justice, concludes the following:

³⁵⁴John Stuart Mill, *Utilitarianism*, ed. Samuel Gorovitz (New York: Bobbs-Merrill Company, 1971), 55.

In summary, then, it seems that the concept of social justice can be distinguished on two main grounds. First, justice is conceptualised as a virtue that applies to a 'society' and not simply to individual behaviour: social institutions that distribute material resources and social positions are open to assessment as just or unjust. Second, social justice also has a substantive political content: it recommends the alleviation of poverty and the diminution of inequality (or at least certain dimensions of it) as a matter of justice rather than charity.³⁵⁵

Jackson includes the distributive component in the first feature of social justice. He even adds the distribution of specifically *material* goods to the second feature of the definition. Finally, Jackson points out the nature of social institutions as the subjects of social justice.

Could not one argue then that Jackson's conception of social justice is more true to the popes' presentation? After all, it contains both institutions as the proper subjects and an explicit distributive component. (Perhaps the lack of the common good as object could be forgiven?)

9.4a The Nature of Distributive Justice

In reply to this objection, we must first look carefully at the nature of distributive justice itself. We will see that, when understood properly, it is impossible for there to be a distributive component in the essential definition of social justice.

Speaking of distributive justice, Aquinas identifies it as a species of particular justice, that is, justice ordered to individual persons. He writes, “[P]articular justice is directed to the private individual, who is compared to the community as a part to the whole. Now a twofold order may be considered in relation to a part.”³⁵⁶ The first kind of

³⁵⁵Ben Jackson, “The Conceptual History of Social Justice,” *Political Studies Review* 3, no. 3 (September 2005): 360.

³⁵⁶Aquinas, *Summa Theologica*, II-II, Q. 61, a. 1, co.

particular justice concerns one individual's relationship to another individual. This is commutative justice. Of the second kind of particular justice, Aquinas writes, “On the second place there is the order of the whole towards the parts, to which corresponds the order of that which belongs to the community in relation to each single person. This order is directed by distributive justice, which distributes common goods proportionately.”³⁵⁷

Now, what are these common goods which are proportionally distributed to individuals? While the common goods could take a variety of shapes, both material and non-material,³⁵⁸ it is important that Aquinas speaks of these common goods as “goods of the community.”³⁵⁹ Thus, these goods held in common by the community must be distinguished from the common good (singular) *of* the community. This distinction prevents the following easy reply to the objection considered in this section. One might be tempted to argue that, given that the common good of society “flows back” onto the members of society (see section 7.2), there is a distributive component already built into the conception of social justice presented in this dissertation. However, while it is appropriate to speak of the common good being distributed back to the persons of society, this is not the same kind of distribution that is characteristic of distributive justice. Rather, in the context of the common good (singular), “distribution” is a shorthand way of indicating that the common good has, as constitutive elements, the flourishing of every person that makes up the community. In contrast, the distribution

³⁵⁷Ibid.

³⁵⁸In addition, distributive justice could apply not only to community goods, but also to community burdens (e.g., taxation).

³⁵⁹Aquinas, *Summa Theologica*, II-II, Q. 61, a. 1 ad 2 and ad 3.

that is characteristic of distributive justice hinges on the degree to which persons contribute to society (or bear its burdens). Aquinas explains, “In distributive justice a person receives all the more of the common goods, according as he holds a more prominent position in the community. This prominence in an aristocratic community is gauged according to virtue, in an oligarchy according to wealth, in a democracy according to liberty, and in various ways according to various forms of community.” Thus, in distributive justice, not only can one person receive more of the common goods than another (depending on his degree of prominence), but the very criterion of prominence itself can vary from community to community. Therefore, this conception of distribution is very different from that which attends to the common good, for, as Maritain argues, the common good flows back on each person of the community because of the *equal* dignity that characterizes all human persons (irrespective of their relative prominence).

While this distinction between common goods and *the common good* prevents the preceding reply to the objection in this section, it also has consequences for the possibility of an essential distributive component to social justice. For if we take seriously the popes’ presentation of social justice, we must take seriously the component which has the common good (singular) as its object. However, speaking of justice directed toward the common good, Aquinas writes, “[T]he good of any virtue, whether such virtue direct man in relation to himself, or in relation to certain other individual persons, is referable to the common good, to which justice directs: so that all acts of virtue can pertain to justice, in so far as it directs man to the common good.”³⁶⁰ The fact

³⁶⁰Ibid., II-II, Q. 58, a. 5, co.

that all virtues can be directed toward the common good leads Aquinas to conclude that, “It is in this sense that justice is called a general virtue.”³⁶¹ Thus, if social justice is directed towards the common good in this way, then a distributive component cannot belong to its essential definition any more than any other virtue which is directed toward the common good would be included in its definition. Aquinas writes that “legal justice is essentially the same as all virtue, but differs therefrom logically.”³⁶² Legal justice is co-extensive with all virtues, in so far as they are directed toward the common good. Thus, to give distributive justice pride of place in a definition of social justice (understood as an extension of legal justice) would contradict the nature of social justice as a general virtue.

This all assumes, however, that social justice is an extension or form of legal justice. This is a good assumption given the popes' presentation of social justice as a virtue directed toward the common good. However, one could theoretically take a different interpretation. One could argue that social justice is not an extension of legal justice, and thus not a general virtue at all. Rather, it is a particular *subset* of the virtue of distributive justice. Specifically, it is a species of distributive justice which is directed toward the common good.

With this interpretation, one could argue that the distributive component is an essential feature of the definition of social justice (given that the definition of the species includes the genus). And, with this interpretation, because social justice is the species of distributive justice which directs to the common good, this aspect of the popes' presentation is preserved. Why is this an unacceptable definition?

³⁶¹Ibid.

³⁶²Ibid., II-II, Q. 58, a. 6.

While this definition is theoretically consistent, it is unacceptable for two reasons. First, this definition does violence to the texts of the papal encyclicals. For, as we have seen in chapter two, the popes intended for social institutions to be the subjects of social justice. Addressing the subjects of distributive justice, Aquinas writes, “The act of distributing the goods of the community, belongs to none but those who exercise authority over those goods; and yet distributive justice is also in the subjects to whom those goods are distributed in so far as they are contented by a just distribution.”³⁶³ Because the subject of distributive justice is that entity which holds authority over goods held in common, if social justice is merely a species of distributive justice, it would seem that social institutions are relegated to being only secondary participants in social justice. They can only exercise social justice in so far as they are “contented by a just distribution.” This hardly seems to fit with the robust role that the popes saw social institutions playing in the exercise of social justice.

The second reason why the definition of social justice as a species of distributive justice is unacceptable is that it would severely limit the acts of social institutions that could be considered acts of social justice. To illustrate this, let us turn to Aquinas' response to an objection that distributive justice is not distinct from legal justice because they both concern the common good. Aquinas writes, “It belongs to legal justice to direct to the common good those matters which concern private individuals: whereas on the contrary it belongs to particular justice to direct the common good to particular individuals by way of distribution.”³⁶⁴ Clearly, Aquinas sees that acts of legal justice and

³⁶³Ibid., II-II, Q. 61, a. 1, ad 3.

³⁶⁴Ibid., II-II, Q. 61, a. 1, ad 4.

distributive justice are distinct.³⁶⁵ Thus, it follows that there is a whole set of actions that social institutions could take for the common good which would be precluded from being acts of social justice. For if social justice is merely a species of distributive justice, only those acts for the common good which concern *distribution* are candidates for acts of social justice. Thus, the objector has won a pyrrhic victory: the distributive component has become an essential feature of the definition of social justice, but at the price of every other domain of action for the common good.

9.4b Summary

In conclusion, we have found that the objection that social justice must contain an essential distributive component is unacceptable for it must imply one of two problematic situations. First, if the objector wishes to preserve social justice as a form of legal justice (which the papal texts suggest), then the objector's wish to have a distributive component in the essential definition is ruled out by the fact that legal justice is a *general* virtue. (Or, it is rendered trivial in that *every* kind of virtue is included in the definition of social justice in so far as social justice, as a general virtue, includes all virtue.)

The second route the objector could take would be to concede that an essential distributive component is inconsistent with social justice as a general virtue. He could continue with a definition of social justice as distributive justice considered in its relation to the common good. However, this route is unacceptable because it does violence to the words and intentions of the popes in their presentation of social justice (by severely circumscribing the domain of possible acts of social justice).

³⁶⁵For a similar discussion of different kinds of due, see Aquinas' application of this distinction in the context of distributive and commutative justice (Ibid., II-II, Q. 61, a. 1, ad 5).

Thus, we are forced to conclude that while distributive justice finds a rightful place in the exercise and application of social justice, it cannot be an essential feature of the definition—at least not any more so than the myriad other virtues which are able to be considered as acts of social justice (in so far as they are directed toward the common good).

9.5 A Rawlsian Objection

Finally, one could object to our social-personhood understanding of social justice on Rawlsian grounds. Specifically, the mechanism of analogical personhood is a feature of the Thomistic (or, more broadly, Christian) tradition and would be highly controversial, if not nonsensical, to those outside of this tradition. And given that the subject under consideration is the nature of *justice*, it would seem that a proper accounting of social justice ought to be accessible and justifiable to everyone.

The objector could argue that the Rawlsian project is better suited in that it seeks to articulate a conception of justice that is accessible to all and justified to all reasonable people based on an overlapping consensus. Within this framework, the Rawlsian could seek to account for the features of social justice as presented by the popes. Specifically, the objector could argue that the Rawlsian scheme is capable of supporting a notion of social justice that incorporates its direction toward the common good and its subjects being social institutions—all without the controversial Thomistic philosophical tradition entering into the discussion. The objector might argue along the following lines.

9.5a Justice and Social Institutions according to Rawls

Starting with the question of how Rawls might account for social institutions as the subjects of social justice, let us start with his discussion of his political conception of justice. Speaking of this conception, Rawls writes that it is “worked out for a specific kind of subject, namely, for political, social, and economic institutions.”³⁶⁶ Thus, any objection that Rawls' political conception of justice only affects *political* institutions can be dismissed immediately. Rawls sees a broader scope for the subject of his conception.³⁶⁷ Elaborating, Rawls states that his conception of justice applies to the “basic structure” of society. He explains, “By the basic structure I mean a society's main political, social, and economic institutions, and how they fit together into one unified system of social cooperation from one generation to the next.”³⁶⁸ Another way that Rawls puts this conception is that society is a “social union of social unions.”³⁶⁹

Rawls' conception of justice would then appear to fit at least one of the features of social justice: that of having all of the institutions of society as subject. However, there is still the question of *how* institutions are capable of being understood to be the subject of justice. Rawls could reply in two ways to this question.

First, he might argue that the question of exactly *how* various institutions exhibit justice is outside the scope of his project—it would require appeal to comprehensive doctrines. This is plausible given that a robust metaphysic of social institutions is

³⁶⁶John Rawls, *Political Liberalism* (New York: Columbia University Press, 2005), 11.

³⁶⁷The reason he calls it a *political* conception is to distinguish it from a conception that is grounded in a comprehensive doctrine. In other words, it is “freestanding” (*Political Liberalism*, 12).

³⁶⁸*Ibid.*, 11.

³⁶⁹*Ibid.*, 206.

necessary to account for how a group of persons can perform just acts. Rawls explicitly seeks to ground his conception of justice politically; that is, in a way that appeals to no metaphysical grounds. Or, put another way, he seeks to argue for a conception that is justified by *all* (reasonable) metaphysical grounds. Rawls writes, “[P]olitical liberalism looks for a political conception of justice that we hope can gain the support of an overlapping consensus of reasonable religious, philosophical, and moral doctrines in a society regulated by it.”³⁷⁰ Thus, Rawls concludes that, “Political liberalism, then, aims for a political conception of justice as a freestanding view. It offers no specific metaphysical or epistemological doctrine beyond what is implied by the political conception itself.”³⁷¹

To the question of *how* social institutions actually exercise justice, Rawls could also reply that, while he isn't specifically required to provide an explanation, he does have some sort of idea of how social institutions might act. For example, one could cite an article early in Rawls' writings which discusses justice as a virtue of social institutions. He writes, “Throughout I consider justice only as a virtue of social institutions, or what I shall call practices. The principles of justice are regarded as formulating restrictions as to how practices may define positions and offices, and assign thereto powers and liabilities, rights and duties.”³⁷² In a footnote, Rawls elaborates on what he means by “practices”: “I use the word 'practice' throughout as a sort of technical term meaning any form of activity specified by a system of rules which defines offices, roles, moves, penalties, defenses,

³⁷⁰Ibid., 10.

³⁷¹Ibid.

³⁷²John Rawls, *Collected Papers*, ed. Samuel Freeman (Cambridge, MA: Harvard University Press, 1999), 47-48.

and so on, and which gives the activity its structure. As examples one may think of games and rituals, trials and parliaments, markets and systems of property.”³⁷³ It is not necessary to further analyze Rawls' conception of justice as virtue or practice. Rather, suffice it to say that while an account of how institutions could exercise justice is not strictly necessary to Rawls' project (given his goal of a strictly “political” conception), if pressed, Rawls could possibly provide such an account.

9.5b Rawls and the Common Good

We have seen that Rawls' “political conception of justice” may be able to provide the first feature of social justice—that of social institutions as its subjects. What about the second criterion, that of the common good as the object of social justice?

While Rawls' typically does not speak of the common good in such terms, he does link the political conception of justice to a common end in the following way: “[I]f citizens are acting for the right reasons in a constitutional regime, then regardless of their comprehensive doctrines they want every other citizen to have justice. So you might say they're all working together to do one thing, namely, to make sure every citizen has justice. Now that's not the only interest they all have, but it's the single thing they're all trying to do. In my language, they're striving toward one single end, the end of justice for all citizens.”³⁷⁴

Not only does this common end of justice for all citizens obtain in society, it is what distinguishes society from other associations. Rawls writes, “[I]n an association people cooperate as members of the association to achieve whatever it is that moved them

³⁷³Ibid., 47.

³⁷⁴Ibid., 622, quoted in a 1998 interview with *Commonweal's* Bernard Prusak.

to join the association, which will vary from one association to another. As citizens they cooperate to achieve their common shared end of justice; as members of associations they cooperate to realize ends falling under their different comprehensive conceptions of the good.”³⁷⁵ Thus, what distinguishes society from other associations is that citizens, as members of society, work toward their “common shared end of justice”. Linking this even more explicitly to the common good, Rawls writes, “I assume a society has a conception of justice that meets conditions of this kind [conditions of basic human rights] cohering with an idea of advancing the common good. Otherwise we may not have a society but something else.”³⁷⁶

Thus, Rawls' entire project can be viewed as an attempt to establish a genuine common end for all citizens, that is, to attempt to arrive at a conception of justice which can be shared by all citizens, of all comprehensive doctrines, in a way that allows for citizens to cooperate on free and equal terms. This work toward justice is a task shared by all citizens and is thus a common end, i.e., a common good. It seems then that the notion of the common good is built into the very core of Rawls' project.

It should be noted that while Rawls seems to have a common good mechanism in his theory, the fact that this political conception of justice must be available to *all* reasonable comprehensive doctrines limits the scope of what it contains. Put another way, if the political conception is “a module, an essential part, that in different ways fits into and can be supported by various reasonable comprehensive doctrines,” then the

³⁷⁵Rawls, *Political Liberalism*, 42, footnote.

³⁷⁶Ibid., 109-110, footnote.

content of the conception must be limited to that area of agreement which constituted the overlapping consensus.³⁷⁷

9.5c The Political Conception of Justice

What then is this political conception of justice, a conception which is a “good” held in common by all (reasonable) citizens? Rawls gives two principles which make up this political conception of justice. First, “Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value.”³⁷⁸ The second principle of justice concerns inequalities: “Social and economic inequalities are to satisfy two conditions: first, they are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least advantaged members of society.”³⁷⁹

Rawls sees these two principles of justice to be the answer to the following question: “What is the most appropriate conception of justice for specifying the fair terms of social cooperation between citizens regarded as free and equal, and as fully cooperating members of society over a complete life, from one generation to the next?”³⁸⁰ Thus, in order for citizens to cooperate in society, they must be ensured their rights and liberties as free and equal members of society (Rawls' first principle). And, to the degree

³⁷⁷Ibid., 144-145.

³⁷⁸Ibid., 5.

³⁷⁹Ibid., 6.

³⁸⁰Ibid., 3.

that inequalities obtain in society, these inequalities must not result from injustice nor must they be to the detriment of the least advantaged in society (Rawls' second principle). Together, these principles form Rawls' conception of the common good.

9.5d Critique of the Rawlsian Objection

Having addressed Rawls on the question of the subjects of social justice (social institutions) and the object of social justice (the common good), is it possible that Rawls can provide a competing account of social justice, one that has the advantage of being metaphysically neutral? Moreover, given the fact that the above features of social institutions and the common good seem to play such a central role in Rawls' project, could we even say that the very thing Rawls is arguing for is a notion of social justice? To answer this question, let us first turn to Rawls' conception of the common good. I will argue that his conception is deficient and thus not a genuine possibility for the object of social justice. Moreover, given his unacceptable understanding of the common good, we will see that his understanding of social institutions as the subjects of social justice also becomes problematic.

9.5e Critique of Rawls' Notion of the Common Good

As we have seen, Rawls links his understanding of the common good to the shared striving of citizens for justice for all. Justice, however, is the political conception of justice and thus must not contain explicit metaphysical content. Because it must be accessible to all reasonable persons, the common good (along with the political conception on which it is based) must be freestanding. While it may (and should) be justified by various comprehensive doctrines, it cannot contain *in substance* any

philosophical or religious content which would be contained in a particular comprehensive doctrine. This poses a problem, however. Certain philosophical/religious perspectives, like the one addressed in this dissertation, contain conceptions of the common good which *do* entail explicit metaphysical and/or religious content. Thus, from these traditions' perspectives, the notion of a purely “political” common good—that is, a common good with no reference to potentially controversial metaphysical claims—would be excluded from possibility.

As an example, let us take the conception of the common good given by Jeremiah Newman. This conception involves two components. Not only must the common good provide the conditions for human flourishing, but it involves *actual* flourishing human beings. Because of these two features, the common good, according to Newman, necessarily includes understandings of the good life. For how else could the common good provide for and include the *living* of the good life by citizens? This conception of the common good is explicitly metaphysical (in that it appeals to a philosophical anthropology, among other things). Thus, on Rawls' terms, Newman is left with a choice. He could abandon his metaphysical conception of the common good for Rawls' metaphysically neutral version. Or he could maintain his conception of the common good and be excluded from the overlapping consensus. But if this latter choice is made, then Newman must be labeled “unreasonable” (for only unreasonable comprehensive doctrines are incapable of participating in the overlapping consensus). We are left then with a situation where by simply holding a metaphysical understanding of the common good, a citizen is thought to be unreasonable. This is apart from any analysis of the

actual *content* of the conception of the common good. Rather, it arises from the metaphysical nature of the conception alone.

Thus, we arrive at a situation where, in order to preserve the common good of society as a genuinely *common* end (one that is accessible to and worked toward by all reasonable persons), we must characterize as *unreasonable* those persons who, by virtue of their own metaphysical conception of the common good, cannot subscribe to the political conception offered by Rawls.

Moreover, not only is Rawls forced into the position of labeling seemingly reasonable people as unreasonable, but the problem we have identified cuts to the core of his claim to a metaphysically-neutral common good. For the notion that the common good of society must not contain metaphysical content is itself a metaphysical claim. It is, of course, a *negative* claim. But it has metaphysical content nonetheless. For Rawls to claim that there is a common good of society which contains principles of justice which have no explicit metaphysical appeal is to claim, at the very least, that it is *possible* for such a non-metaphysical, ideologically-neutral common good to *exist*. However, this is a metaphysical claim—it entails, among other things, a conception of what it is to be human—i.e., to be human is to be capable of living in society with a common good that has no metaphysical content. Thus, in addition to being forced into the awkward position of calling seemingly reasonable people unreasonable simply because they hold a metaphysical understanding of the common good, the Rawlsian claim to a metaphysically-neutral common good itself fails.

9.5f The Implication of Rawls' Untenable Notion of the Common Good

Rawls' problematic understanding of the common good has implications for his understanding of social institutions as the subjects of justice. This connection is best seen through Charles Taylor's discussion of the relationship between common goods and social structures. Taylor puts his argument forward in the context of distributive justice, but we can look at his argument in general and apply it to the present discussion. Essentially, Taylor argues that the social organization of a community depends on what that community holds as the human good. Taylor writes, "The Aristotelian meta-view I want to put forward here as a background to discussing principles of distributive justice is that these principles are related to some notion of the good which is sustained or realized or sought in the association concerned."³⁸¹ Not only is the good realized in the association (or community), but the latter is formed by the former. Taylor illustrates this connection by considering both the atomist and social understandings of human beings in society.

9.5f.1 The atomist conception of the human good. Taylor discusses "atomist views" of the human good as those "for which it is conceivable for man to attain it [the good] alone."³⁸² Thus, while association may aid in the individual human's attainment of the good—for instance, by helping to protect against attack or helping to increase productivity—it is conceivable that individual humans could attain the good alone. Taylor explains, "[T]here are imaginable circumstances in which we could enjoy

³⁸¹Charles Taylor, *Philosophy and the Human Sciences* (New York: Cambridge University Press, 1985), 292.

³⁸²*Ibid.*, 292.

security, or a high living standard, alone: for example, on a continent in which there were no others, or in a land of paradisiac natural abundance.”³⁸³

Given this atomist understandings of the human good, society has a purpose, but only in assisting the individual secure those goods which are rightfully his, whether he is in community or not. Taylor writes, “For the atomist, there is such a thing as the aims of society, that is, purposes which society fulfils for individuals, who are morally self-sufficient in the sense that they are capable of framing these purposes outside of society.”³⁸⁴ Thus, already we see the purpose of association emerge. On the atomist view, human association, whether it be the social contract itself, or any other lesser association, exists in order to secure the goods of the individual (e.g., life, liberty, property).

9.5f.2 The social conception of the human good. Let us now turn to Taylor's discussion of the connection between the good of a community and its social organization in the context of a “social view” of the human good. Taylor describes the social view as that which “holds that an essential constitutive condition of seeking the human good is bound up with being in society.”³⁸⁵ The first consequence of a social view of the human good is that the question of what *kind* of social organization is constitutive of seeking the good. Taylor writes, “[A]ny social view sees a certain kind or structure of society as an essential condition of human potentiality, be this the polis, or the classless society, or the hierarchical society under God and king, or a host of other such views which we have

³⁸³Ibid.

³⁸⁴Ibid., 293.

³⁸⁵Ibid., 292.

seen in history.”³⁸⁶ These societal structures reflect the various understandings of the human good (the good in a classless society is understood quite differently than the good in the Greek polis). Thus, on the social view, we see that the social organization of society also follows from its understanding of the good.

9.5g Taylor's Argument Applied to Rawls

We have seen Taylor's argument that whether we consider atomist or social views of the human good, either way, we must confront the fact that the social structures of a particular society will follow the understanding which that society has of the human good. This argument has two implications for Rawls' project.

First, it is a consequence of Taylor's argument that if a society is to have *any* social structure, it must then have an understanding of the human good. Given the fact that Rawls does accept the fact that society has a social structure (see section 9.5a), he would seem to be forced into an acknowledgment that there is a corresponding notion of the human good to which those social structures are ordered. However, this is just the kind of understanding that Rawls' disallows as a normative feature of societal organization. Rawls only allows the “political” good, not understandings of the human good as a whole.

Second, and more specific to this particular discussion, Taylor's argument shows that Rawls' problematic understanding of the common good has implications for his understanding of the social institutions that make up society. The original promise of the Rawlsian critique addressed in this section was that it could provide the features of social justice (social institutions as subjects and common good as object) without the

³⁸⁶Ibid., 294.

controversial Thomistic metaphysic. We have shown that Rawls' project is not up to the task in providing a non-metaphysical notion of the common good. Now, using Taylor's argument involving the connection between the human good and social structures, we see that Rawls' problematic understanding of the common good results in a problematic understanding of social institutions. How is this so?

We have seen that a society's structures follow its understanding of the good. In Rawls' case of the good, we have seen that even in its broadest sense, i.e., the good held in common (the common good), Rawls cannot help excluding some positions (for instance, those views of the common good that are explicitly metaphysical or religious in nature). The consequence then is that Rawls' social institutions, which must follow his conception of the good, must also be narrowed down to exclude those social institutions which are ordered to a metaphysical or religious common good. Thus, the social institutions that exist in Rawls' scheme are not universal in scope, able to accommodate all reasonable comprehensive doctrines. Rather, they are the specific social institutions that would exist in order to achieve the specific common good that Rawls' envisages: his political conception of justice. Thus, Rawls' understanding of the common good and the social institutions ordered thereto is merely one among many competing understandings of the human good. This is not a problem *per se*. However, it constitutes the failure of the Rawlsian attempt to construct an understanding of the common good (and thus an understanding of social institutions) which is agreed upon by all reasonable people. And it was this promise that undergirded the objection addressed in this section. As it turns out, the Rawlsian has to argue for an understanding of the common good (and of its corresponding social institutions) from what turns out to be the *Rawlsian* comprehensive

doctrine. Thus, the Rawlsian cannot object to the employment of a Thomistic comprehensive doctrine on the grounds that such an employment is a partisan effort.

CHAPTER TEN

Conclusion

10.1 Summary

We have seen that, according to the twentieth-century popes, social justice has social institutions as its subjects and the common good as its object. Oswald Von Nell-Breuning interpreted social justice to be primarily concerned with public institutions and social legislation. Jeremiah Newman, however, understood social justice to be identical to the older Thomistic legal justice, properly understood. This understanding is correct in so far as social justice is properly concerned not only with public institutions and the political common good, but with all social institutions and common goods in society. However, social justice cannot simply be identified with the older legal justice because the latter was not understood to have subjects other than individual human persons. William Ferree offers an understanding of social justice that involves social institutions; however, instead of having these institutions as the subjects of social justice, he identifies them as the immediate object. Furthermore, his understanding of social institutions as social habits is pregnant, but ultimately unsuccessful, because it grounds the ontology of the social institution in common *action*, rather than in a group with the *capacity* for common action. Finally, Michael Novak follows Ferree by arguing for an explicitly cooperative aspect to acts of social justice, but he runs into problems because he also identifies individual persons as the subjects of social justice. This is due to his acceptance of the Hayekian critique of social institutions as incapable of virtuous action.

The answer to the Hayekian critique, and thus to the definitional problem of social justice, lies in the concept of *social personhood*. Social persons, by virtue of their unity of order, are distinct in a rational nature. Their unity arises from their capacity to act as wholes, and their rationality from the capacity for common action itself. While not strictly necessary, social persons are most plausibly understood to be non-substantial subsistences, charting a middle course between accidental being and substantial being. Furthermore, we find that Aquinas draws an analogy between such social groups and human persons, particularly in regards to *powers*. Thus, social persons have analogical powers, including the powers of intellect and will. Also, by virtue of their unity of order, social persons require habits (residing in powers) for the fulfillment of their natures through the exercise of common action. The virtue of social justice is then a particular kind of good habit exercised by social persons.

Taking this conception of social justice and understanding it in terms of Newman's reclaimed legal justice, we find that social justice is the old legal justice extended to include social persons. That is, the object of social justice is the multiform common good of human society with all of the lesser common goods integrated therein. The subjects of social justice go beyond public institutions to include all of the lesser societies contained in human society as a whole (including the whole itself). All of these societies have norms by which they seek common good(s), a particular subset of which we call civil or human *law* (i.e., those norms instituted by political society). Moreover, the common good of society flows back upon all of the persons (individual and social) contained within and, in so doing, must provide for the flourishing of the *munera* of all lesser societies. Acts of social justice for the common good thus entail the rendering of

what is due to all individual and social persons as required by the nature of the common good. We find that this aspect of the common good is nothing other than subsidiarity manifested in the *ius* of social justice.

Thus, the apparent dilemma presented by the popes' understanding of social justice dissolves. Social justice has social persons as its proper subjects, understanding social persons to be social institutions with a unity of order. Because of the personhood of these social institutions, it is then proper to understand these societies to be the possessors of social virtues, with justice in the fore.

10.2 Implications

Let us now turn to briefly address some implications of the understanding of social justice put forward in this dissertation.

10.2a Subsidiarity and Justice

From its introduction by Pius XI, the concept of subsidiarity has been closely tied to justice. If one social group violates the freedom or function of another social group, then the latter group has not been given its *due*. However, with the understanding of subsidiarity as the *ius* of social justice, we see that the justice due to social groups is cast in a broader context. Previous to this conception, one could argue that what is due to social groups according to subsidiarity is some form of particular justice. While this may still be true, it has been argued that what is due to social groups is part of social justice, that is, it is part of what is due to the *common good*.

Thus, the principle of subsidiarity no longer simply concerns giving social groups their due for their own sake. In addition, the rendering of what is due to social groups

directly bears on the common good of the whole society. This gives a greater urgency to the protection of social groups for if they are treated unjustly, not only they, but the whole society will suffer. Put another way, if social groups are not permitted, through the exercise of social justice, to exercise their *munera*, then society will suffer the consequences of the lack of these gifts which social groups are intended to provide.

10.2b Social Justice and Lesser Common Goods

As has been argued, social justice ought to be understood as an extension of legal justice (which concerns the common good) to include social persons. However, we follow Newman in arguing that there are plurality of common goods at stake. The common good of political society as a whole (or perhaps even of global society) has a certain precedence. However, all societies (all social groups with a unity of order) have common goods and thus these common goods are also candidates for the object of social justice.

This results in an interesting situation. Any given social group could exercise social justice by working for the common good of political society as a whole. However, in addition, a social group could exercise social justice simply by pursuing its own common good. For if social justice concerns acts of social institutions for the common good (understood broadly), then a social group could exercise social justice in its natural common action for its own common good. Moreover, these latter acts of social justice are not simply acts of social justice metaphorically. On the contrary, the common goods of lesser societies are genuine common goods. Moreover, such common goods are necessary for the proper flourishing of all greater common goods, including the common

good of political society as a whole. Thus, social groups, in their common actions to achieve their common goods—their *munera*—exercise genuine acts of social justice.

This fact has implications for general attitudes toward social justice. A lesser social group may be tempted by an impoverished understanding of the common good to conclude that the only way it can practice social justice is to work immediately for the common good of society as a whole. While this could certainly be part of its end, it also exercises social justice by working for lesser common goods, including its own. And because of the nature of the common good of society as a whole, such acts are not only acts of social justice in their own right, but also acts of social justice in so far as the fulfillment of lesser common goods leads to the fulfillment of the common good of the political whole.

10.2c Social Justice and the Scope of Governmental Authority

The arguments above demonstrate the great variety of acts of social justice, exercisable by societies great and small and directed toward varied and multiform common goods. However, this does not prevent a legitimate hierarchy from existing among acts of social justice. Particularly, a hierarchy exists among acts of social justice delineated by *subject*.

In this dissertation, social persons (social groups with a unity of order) have been emphasized as the prime subjects of social justice. This is because it is this aspect of social justice that constitutes its legitimate development and extension of the older Thomistic legal justice. However, properly speaking, since social justice is an *extension* of legal justice, it can have as its subjects not only social persons, but individual persons. Now, in his discussion of legal justice, Aquinas writes that “[Legal justice] is in the

sovereign principally and by way of a mastercraft, while it is secondarily and administratively in his subjects.”³⁸⁷ The reason for this is that the governmental authority is charged with primary care of the common good of society. Thus, to the degree that the governmental authority has greater responsibility for the common good, to that degree it participates more fully in acts of legal justice. What implications does this have for our understanding of social justice?

By extending legal justice to include social institutions, the roles—the *munera*—of these institutions are seen to be crucial to the fulfillment of the greater common good of all of society. Thus, the governmental authority, in its protection of the common good, sees an increase in its duties. These new duties involve protecting the common good by protecting the rights and roles of social institutions. However, while formally the role of the government may expand, materially, the scope of governmental activity may shrink in so far as the functions of *other* social institutions must be protected.

Put another way, if legal justice is meant to include only individuals and their working for the common good, this would accord with a certain understanding of the nature of the common good. From this understanding would follow the government's policies in protecting that common good. However, by extending legal justice to include social institutions, the governmental authority must modify its understanding of the common good—as only fulfilled if both individuals *and* social institutions exercise their functions or *munera*. Thus, given a change in the understanding of the common good which it is charged to protect, the governmental authority must modify its practices. How

³⁸⁷Aquinas, *Summa Theologica*, II-II, Q. 58, a. 6, co.

must the practices be modified? The answer can be seen by looking at the *ius* of social justice: subsidiarity.

If social personhood is not acknowledged in a society, the tendency for the government would be to view the primary contributors to the common good as individual persons. These persons may be recognized to be parts of various groups, but without a mechanism to bring these groups *per se* into the realm of justice, these groups can only be understood to be collections of individual persons. Thus, their actions are merely the actions of individual persons.

In reality, the social groups *as such* have functions to play in society. However, if the government views only individual persons as having status in the moral community, then the social functions of these groups will be missed. The tendency will then be for the government to take on the roles proper to the social groups. For, while the government does not perceive the existence of social groups and their *per se* contributions to the common good, it does perceive the *need for* (or absence of) these contributions. Thus, the governmental authority will tend to usurp the roles proper to social groups and subsume them into its own role. It does not do this intentionally; rather, it is a consequence of seeing only *individual* persons as the only existent moral entity whose rights and roles must be respected. Simply put, if the governmental authority does not *see* social groups as persons with *per se* roles (and thus rights and immunities), then it will fail to recognize and thus to protect those roles and rights in its protection of the common good. The consequence is a violation of the *ius* of social justice, namely, subsidiarity.

Thus, we see the link between establishing the existence and moral status of social groups and the protection and promotion of the genuine common good of society.

Understanding social groups as social persons—and thus subjects of legal justice—can be an important way for the governmental authority to fulfill its duty to protect the common good.

10.3 Implications for Church-State Relations

To conclude, let us apply the preceding implications to the area of Church-State relations. Specifically, let us address the question of how the State can recognize religious communities' common goods and treat them accordingly.

As has been argued, the fulfillment of the common good of all society requires the fulfillment of all of the goods of its persons, both individual and social. Thus, the lesser common goods of social persons must be respected and accommodated by the governing authority. Otherwise, as has been argued in the previous section, all society will suffer and the likelihood of governmental over-reaching will increase. Furthermore, as was highlighted in our discussion of the common good, the fulfillment of the common good requires not only the preconditions for the good life of all individual and social persons, but the actual *instantiation* of that good life of the multitude.

These points raise an interesting problem, however. For it seems that if religious bodies are social persons (which it would seem that they are), and if the *fulfillment* of all social persons' goods are intrinsic to the fulfillment of the common good of society as a whole, then this presents the governing authority with a dilemma. First, in a heterogeneous society, one with multiple religious traditions, how would the government accommodate the fulfillment of a variety of seemingly contradictory religious bodies? It

would seem that the fulfillment of one religious body's common good could very well entail the *non-fulfillment* of another religious body's common good. How ought the government negotiate this situation? Second, and more fundamentally, ought the government be involved in such a process at all? That is, is it not a hallmark of modern democracies that the governing authority is no longer in the business of adjudicating between religious traditions?

These two questions are important because they pose a potential difficulty for the viability of our account of social justice as a virtue which is exercisable in modern, pluralistic democracies. How can these questions be answered? Let us begin with the first question.

In order to answer the question of which religious community's common good ought to be accommodated by the government, let us first distinguish between "exclusive" religious communities and "inclusive" ones. An "exclusive" religious community has as an element of its common good the acceptance of its understanding of salvation (understanding this term as broadly as is necessary) by everyone in the society (if not the whole world). Of course, an exclusive religious community does not have to believe that any means is permissible to instantiate this goal. It must only believe that *its* understanding of salvation (and, by extension, of the good life) is necessary for all human beings. And it is an element of an exclusive religious community's understanding of its common good that salvation be extended to all.

In contrast, an "inclusive" religious community does not have as an element of its common good the acceptance by all of its particular understanding of salvation. While members of inclusive religious communities may believe that their understanding is

correct, they only believe that it is correct “for them”. Thus, the acceptance by all of its own understanding of salvation is not an element of an inclusive religious community’s common good.

It can be readily seen that the problem addressed above rests on there existing in society multiple *exclusive* religious communities. If more than one exclusive religious community exists in a society, then the complete fulfillment of each community’s common good will be mutually exclusive. For the fulfillment of one community’s common good will entail the salvation of all in the society—but via an understanding of salvation which precludes other understandings of salvation. Thus, how can the governing authority within a society which contains multiple exclusive religious communities accommodate the fulfillment of these contradictory common goods?

The answer to this question hinges on the perspective from which one looks at the problem. From the State’s perspective, the justice due to various religious communities follows from their *munera*. That is, from the State’s perspective, what is due to the religious communities is not co-extensive with that which will bring salvation to all; i.e., it is not within the purview of the State to bring about the eschaton. Rather, what is due to religious communities is based upon what those communities’ *munera* require of the government. While it may be the case that a particular religious community’s common good includes the salvation of all, its *munus*—its function, role, or gift—is more limited. And it is the *munus* which, according to the argument of this dissertation, provides the due which subsidiarity—the *ius* of social justice—must respect. (Later in this section, more will be said about the nature of religious communities’ *munera*.) Thus, from the State’s perspective, the common goods of multiple religious communities can be

provided for—even if these communities’ common goods are mutually exclusive. This is possible because the State’s duty to these communities rests on their *munera*.³⁸⁸

Thus, it can be seen that, at its most fundamental level, the common good of a society requires the respecting of the *munera* of religious communities, not necessarily the fulfillment of every religious community’s common good (which would be impossible).

However, does this answer not raise an even more serious problem? Is it not simply an argument that, from the State’s perspective, all religious communities are *inclusive* ones? For if the State recognizes that a variety of religious communities can and ought to have their *munera* respected, does it not follow that contradictory religious traditions have functions and gifts to provide—functions that are, following a proper understanding of *munera*, rooted in the created order itself? Would it not follow from this that seemingly contradictory religious traditions all have something unique to offer, and to the degree that this is so, all offer some truth that the others do not? But if this is the case, how can any one tradition be thought of as complete and correct? By this argument, is it possible for an exclusive religious community to exist *and be right*? To answer these questions, let us turn to an analogous situation in the domain of individual persons.

According to our understanding of the common good, the good life of every individual person is contained in the fulfillment of a society’s common good. Moreover, the governing authority has a primary role to play in guarding and promoting the common good of a society. Thus, how can religious freedom be maintained in such an

³⁸⁸Of course, there is much more to say about the distinction between a religious community’s *munus* and its common good. This question would provide a further line for possible research.

arrangement? Let us look at the arguments which the Catholic Church has put forth for the protection of the human person's right to religious liberty.

As the Second Vatican Council document *Dignitatis Humanae* reads:

It is in accordance with their dignity as persons—that is, beings endowed with reason and free will and therefore privileged to bear personal responsibility—that all men should be at once impelled by nature and also bound by a moral obligation to seek the truth, especially religious truth. They are also bound to adhere to the truth, once it is known, and to order their whole lives in accord with the demands of truth. However, men cannot discharge these obligations in a manner in keeping with their own nature unless they enjoy immunity from external coercion as well as psychological freedom. Therefore the right to religious freedom has its foundation not in the subjective disposition of the person, but in his very nature.³⁸⁹

Thus, the duty which the governing authority has to promote the individual goods of all of society's members requires the protection of the individual's right to religious freedom. In fact, because of the centrality the exercise of this right plays in the eternal destiny of individual persons, the protection of this right is among the governing authority's highest duties. However, it does not follow from this fact that every exercise of this right is equally valid or efficacious in attaining the religious truth which is its goal.

This fact about individual persons' right to religious liberty has implications for the previous discussion about the common goods and *munera* of religious communities. Specifically, it can now be seen that when the governing authority recognizes the *munera* of a variety of exclusive religious communities, it is not participating in an exercise in religious relativism. On the contrary, by recognizing and protecting the *munera* of such religious communities, the State is providing for the exercise of one of the most

³⁸⁹Pope Paul VI, *Dignitatis Humanae* [official English translation] (Vatican City: Libreria Editrice Vaticana, 1965, accessed 30 June 2008); available from http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html; Internet, no. 2.

important duties that any community can have—the seeking of religious truth. And just as we understand individual persons to have a right to religious liberty (which entails immunity from coercion), so we can understand social persons to have a right to religious liberty (which would entail protection of their corresponding *munera*). Indeed, as the Council document continues:

Provided the just demands of public order are observed, religious communities rightfully claim freedom in order that they may govern themselves according to their own norms, honor the Supreme Being in public worship, assist their members in the practice of the religious life, strengthen them by instruction, and promote institutions in which they may join together for the purpose of ordering their own lives in accordance with their religious principles.³⁹⁰

Thus, religious communities (which can be considered as social persons) as well as individual persons must have their right to religious liberty respected by the governing authority. If the governing authority were to promote the full instantiation of any one religious community's common good, it would actually be *violating* the right of religious communities to freely pursue religious truth with their proper autonomy. Thus, by respecting their *munera*, the governing authority gives such communities their due.

Thus, we can see how relativism is avoided. The protection of the *munera* of religious communities consists in the protection of such communities' right to pursue religious truth freely—a necessary condition for the fulfillment of their common good and, incidentally, a crucial function and gift which such communities render to society as a whole. Thus, the governing authority can protect such *munera* without it being the case that all religious communities are equally true or viable. Rather, it is the case that the *striving* of all religious communities toward the Truth is valuable to society and must be carefully guarded.

³⁹⁰Ibid., no. 4.

Finally, it can be seen now how the second concern outlined at the beginning of this section can be addressed. By guarding the *munera* of religious communities, the governing authority does not—indeed *cannot*—take sides on the question of which religious community is the correct one. The *munera*—the functions, roles, or gifts—that religious communities have to give to society consist in these communities pursuing religious truth as they see fit. In the end, such communities may have more or less success in achieving the good which they seek. However, it is up to the State to vigorously guard their attempts—for without such attempts, all would be lost.

In conclusion, we now see that social persons have a right to religious liberty in an analogous way as individual persons. And as the governing authority's protection of individual persons' right to religious liberty is crucial to the fulfillment of the common good as extended to individual persons, so is the governing authority's protection of religious communities' right to religious liberty—expressed in their *munera*—crucial to the fulfillment of the common good as extended to include social persons. In neither case does the governing authority make judgments as to which religious tradition is the correct one. And in neither situation does the governing authority claim that the religious traditions are all of equal value (though they are treated with equal rights under the law). On the contrary, the governing authority's duty to protect both individual and social persons' rights to religious liberty is predicated on the notion that the successful exercise of these liberties is not only necessary to the general welfare of society, but to the eternal destinies of the individual human beings themselves.

BIBLIOGRAPHY

- Aquinas, Thomas. "Against Those Who Attack the Religious Profession." In *An Apology for the Religious Orders*, trans. John Procter. St. Louis: Herder, 1902.
- . *Commentary on Aristotle's De Anima*, trans. Kenelm Foster and Silvester Humphries. New Haven: Yale University Press, 1951.
- . *Commentary on Aristotle's Nicomachean Ethics*, trans. C.J. Litzinger. Notre Dame, IN: Dumb Ox Books, 1993.
- . "De Regimine Principum." In *Aquinas: Political Writings*, ed. R.W. Dyson. Cambridge: Cambridge University Press, 2002.
- . *On Being and Essence*, trans. Armand Maurer. Toronto: Garden City Press Co-Operative, 1949.
- . *On Evil*, trans. Jean T. Oesterle. Notre Dame, IN: University of Notre Dame Press, 1995.
- . *On the Power of God*, trans. English Dominican Fathers. Westminster, MD: Newman Press, 1952.
- . *Summa Contra Gentiles*, trans. English Dominican Fathers. New York: Benziger Brothers, 1929.
- . *Summa Theologica*, trans. English Dominican Fathers. New York: Benziger Brothers, 1948.
- Behr, Thomas. "Luigi Taparelli D'Azeleglio, S.J. and the Development of Scholastic Natural-Law Thought as a Science of Society and Politics." *Journal of Markets and Morality* 6, no. 1 (Spring 2003): 99-115.
- Beigel, Gerard. *Faith and Social Justice in the Teaching of Pope John Paul II*. New York: Peter Lang, 1997.
- Benedict XVI, Pope. *Deus Caritas Est* [official English translation]. Vatican City: Libreria Editrice Vaticana, 2005, accessed 4 June 2008; available from http://www.vatican.va/holy_father/benedict_xvi/encyclicals/documents/hf_ben-xvi_enc_20051225_deus-caritas-est_en.html; Internet.

- Bilgrien, Marie Vianney. *Solidarity: A Principle, an Attitude, a Duty? Or the Virtue for an Interdependent World?* New York: Peter Lang, 1999.
- Brennan, Patrick McKinley. "The Decreasing Ontological Density of the State in Catholic Social Doctrine." *Villanova Law Review, Scarpa Symposium* 52 (2007).
- Calvez, Jean Yves. *The Church and Social Justice*. Chicago: H. Regnery Co., 1961.
- Cox, John F. "A Thomistic Analysis of the Social Order." Ph.D. diss., The Catholic University of America, 1943.
- Cronin, John F. *Catholic Social Principles*. Milwaukee: Bruce Publishing Company, 1950.
- Crosby, John F. "The Incommunicability of Human Persons." *The Thomist* 57, no. 3 (July 1993): 403-442.
- Dennehy, Raymond. "Maritain's Theory of Subsistence: The Basis of His 'Existentialism'." *The Thomist* 39, no. 3 (July 1975): 542-574.
- Doran, Kevin P. *Solidarity: A Synthesis of Personalism and Communalism in the Thought of Karol Wojtyla / Pope John Paul II*. New York: Peter Lang, 1996.
- Durkheim, Emile. *The Rules of Sociological Method*. Chicago, IL: University of Chicago Press, 1938.
- Dworkin, Ronald. *Law's Empire*. Cambridge, MA: Belknap Press, 1986.
- Eberl, Jason T. "Aquinas on the Nature of Human Beings." *The Review of Metaphysics* 58, no. 2 (December 2004): 333-366.
- Elshtain, Jean Bethke. *Who Are We?: Critical Reflections and Hopeful Possibilities*. Grand Rapids, MI: W. B. Eerdmans Publishing Company, 2000.
- Ferree, William. *The Act of Social Justice*. Washington, D.C.: The Catholic University of America Press, 1942.
- Finnis, John. *Aquinas: Moral, Political, and Legal Theory*. Oxford: Oxford University Press, 1998.
- . *Natural Law and Natural Rights*. New York: Oxford University Press, 1980.
- . "Public Good: The Specifically Political Common Good in Aquinas." In *Natural Law & Moral Inquiry: Ethics, Metaphysics, and Politics in the Work of Germain Grisez*, ed. Robert P. George. Washington, D.C.: Georgetown University Press, 1998.

- Fortin, Ernest. *Classical Christianity and the Political Order: Reflections on the Theologico-Political Problem*, ed. J. Brian Benestad. Lanham, MD: Rowman & Littlefield, 1996.
- . *Human Rights, Virtue, and the Common Good: Untimely Meditations on Religion and Politics*, ed. J. Brian Benestad. Lanham, MD: Rowman & Littlefield, 1996.
- French, Peter. *Collective and Corporate Responsibility*. New York: Columbia University Press, 1984.
- Gierke, Otto Friedrich von. *The Development of Political Theory*. New York: W. W. Norton & Company, 1939.
- Gilson, Etienne. *The Christian Philosophy of St. Thomas Aquinas*. Notre Dame, IN: University of Notre Dame Press, 1956.
- Grabill, Stephen J., K.E. Schmiesing, and G.L. Zuniga. *Doing Justice to Justice*. Grand Rapids, MI: Center for Economic Personalism, 2002.
- Grasso, Kenneth L., Gerard V. Bradley, and Robert P. Hunt, eds. *Catholicism, Liberalism, and Communitarianism: The Catholic Intellectual Tradition and the Moral Foundations of Democracy*. Lanham, MD: Rowman & Littlefield, 1995.
- Hayek, Friedrich A. von. *The Mirage of Social Justice*. Chicago: University of Chicago Press, 1976.
- . *The Road to Serfdom*. Chicago: University of Chicago Press, 1944.
- Hayes, Mary Dolores. "Various Group Mind Theories Viewed in the Light of Thomistic Principles." Ph.D. diss., The Catholic University of America, 1942.
- Healy, Mary Edward. "Society and Social Change in the Writings of St. Thomas, Ward, Sumner, and Cooley." Ph.D. diss., The Catholic University of America, 1948.
- Hibbs, Thomas S. "MacIntyre's Postmodern Thomism: Reflections on Three Rival Versions of Moral Enquiry." *The Thomist* 57, no. 2 (1993): 277-297.
- Hittinger, Russell. *The First Grace: Rediscovering the Natural Law in a Post-Christian World*. Wilmington, DE: ISI Books, 2003.
- . "Social Roles and Ruling Virtues in Catholic Social Doctrine." *Annales Theologici* 16 (2002): 385-408.
- Hollenbach, David. *The Common Good and Christian Ethics*. Cambridge: Cambridge University Press, 2002.

- Jackson, Ben. "The Conceptual History of Social Justice." *Political Studies Review* 3, no. 3 (September 2005): 356-373.
- John XXIII, Pope. *Mater et Magistra* [official English translation]. Vatican City: Libreria Editrice Vaticana, 1961, accessed 4 June 2008; available from http://www.vatican.va/holy_father/john_xxiii/encyclicals/documents/hf_j-xxiii_enc_15051961_mater_en.html; Internet.
- John Paul II, Pope. *Centesimus Annus* [official English translation]. Vatican City: Libreria Editrice Vaticana, 1991, accessed 4 June 2008; available from http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_01051991_centesimus-annus_en.html; Internet.
- . *Laborem Exercens* [official English translation]. Vatican City: Libreria Editrice Vaticana, 1981, accessed 4 June 2008; available from http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_14091981_laborem-exercens_en.html; Internet.
- . *Sollicitudo Rei Socialis* [official English translation]. Vatican City: Libreria Editrice Vaticana, 1987, accessed 4 June 2008; available from http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_30121987_sollicitudo-rei-socialis_en.html; Internet.
- Kretzmann, Norman, and Eleonore Stump, eds. *The Cambridge Companion to Aquinas*. New York: Cambridge University Press, 1993.
- Leo XIII, Pope. *Rerum Novarum* [official English translation]. Vatican City: Libreria Editrice Vaticana, 1891, accessed 4 June 2008; available from http://www.vatican.va/holy_father/leo_xiii/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum_en.html; Internet.
- Lewis, Ewart. "Organic Tendencies in Medieval Political Thought." *The American Political Science Review* 32, no. 5 (October 1938): 849-876.
- MacIntyre, Alasdair. *Dependent Rational Animals: Why Human Beings Need the Virtues*. Chicago: Open Court, 1999.
- Maritain, Jacques. *Existence and the Existent*, trans. Lewis Galantiere and Gerald B. Phelan. New York: Pantheon Books, 1948.
- . *Man and the State*. Washington, D.C.: The Catholic University of America Press, 1998.
- . *On the Church of Christ*. Notre Dame, IN: University of Notre Dame Press, 1973.

- . *The Person and the Common Good*. Notre Dame, IN: University of Notre Dame Press, 1966.
- May, Larry. *The Morality of Groups: Collective Responsibility, Group-Based Harm, and Corporate Rights*. Notre Dame, IN: University of Notre Dame Press, 1987.
- McInerny, Ralph. *Aquinas and Analogy*. Washington, D.C.: The Catholic University of America Press, 1996.
- Mill, John Stuart. *Utilitarianism*, ed. Samuel Gorovitz. New York: Bobbs-Merrill Company, 1971.
- Murray, John Courtney. *We Hold These Truths: Catholic Reflections on the American Proposition*. New York: Sheed and Ward, 1960.
- Nell-Breuning, Oswald von. *Reorganization of Social Economy: The Social Encyclical Developed and Explained*, trans. Bernard W. Dempsey. New York: Bruce Publishing Company, 1936.
- Newman, Jeremiah. *Foundations of Justice: A Historico-Critical Study in Thomism*. Cork: Cork University Press, 1954.
- Niemeyer, Mary Fredericus. "The One and the Many in the Social Order According to Saint Thomas Aquinas." Ph.D. diss., The Catholic University of America, 1951.
- Novak, Michael. *The Catholic Ethic and the Spirit of Capitalism*. New York: Free Press, 1993.
- . "Defining Social Justice." *First Things* 108 (December 2000): 11-13.
- . *Free Persons and the Common Good*. Lanham, MD: Madison Books, 1989.
- O'Brien, David J., and Thomas A. Shannon, eds. *Catholic Social Thought: The Documentary Heritage*. Maryknoll, N.Y.: Orbis Books, 1992.
- Paul VI, Pope. *Dignitatis Humanae* [official English translation]. Vatican City: Libreria Editrice Vaticana, 1965, accessed 30 June 2008; available from http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html; Internet.
- . *Populorum Progressio* [official English translation]. Vatican City: Libreria Editrice Vaticana, 1967, accessed 4 June 2008; available from http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_26031967_populorum_en.html; Internet.

- Paulhus, Normand J. "Uses and Misuses of the Term 'Social Justice' in the Roman Catholic Tradition." *The Journal of Religious Ethics* 15, no. 2 (Fall 1987): 261-282.
- Phelan, Gerald. *Saint Thomas and Analogy*. Milwaukee: Marquette University Press, 1941.
- Pieper, Josef. *Justice*, trans. Lawrence E. Lynch. New York: Pantheon Books, 1955.
- Pius XI, Pope. *Divini Redemptoris* [official English translation]. Vatican City: Libreria Editrice Vaticana, 1937, accessed 4 June 2008; available from http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_19031937_divini-redemptoris_en.html; Internet.
- Pius XI, Pope. *Quadragesimo Anno* [official English translation]. Vatican City: Libreria Editrice Vaticana, 1931, accessed 4 June 2008; available from http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_19310515_quadragesimo-anno_en.html; Internet.
- Rawls, John. *Collected Papers*, ed. Samuel Freeman. Cambridge, MA: Harvard University Press, 1999.
- . *Political Liberalism*. New York: Columbia University Press, 2005.
- Reichmann, James B. "Aquinas, Scotus, and the Christological Mystery: Why Christ is Not a Human Person." *The Thomist* 71, no. 3 (July 2007): 451-474.
- Sandel, Michael. *Democracy's Discontent: America in Search of a Public Philosophy*. Cambridge, MA: Belknap Press, 1996.
- Seidl, Horst. "The Concept of Person in St. Thomas Aquinas: A Contribution to Recent Discussion." *The Thomist* 51 (1987): 435-460.
- Shields, Leo W. "The History and Meaning of the Term Social Justice." Ph.D. diss., University of Notre Dame, 1941.
- Simon, Yves. *A General Theory of Authority*. Notre Dame, IN: University of Notre Dame Press, 1980.
- . *Philosophy of Democratic Government*. Notre Dame, IN: University of Notre Dame Press, 1951.
- Stark, Werner. *The Fundamental Forms of Social Thought*. New York: Fordham University Press, 1963.
- Stump, Eleonore. *Aquinas*. New York: Routledge, 2003.

- Taylor, Charles. *Philosophy and the Human Sciences*. New York: Cambridge University Press, 1985.
- Torchia, Joseph. *Exploring Personhood: An Introduction to the Philosophy of Human Nature*. Lanham: Rowman & Littlefield Publishers, 2008.
- Weigel, George, and Robert Royal, eds. *A Century of Catholic Social Thought: Essays on Rerum Novarum and Nine Other Key Documents*. Washington, D.C.: Ethics and Public Policy Center, 1991.
- Witte, John, Jr., and Frank S. Alexander, eds. *The Teachings of Modern Roman Catholicism on Law, Politics, and Human Nature*. New York: Columbia University Press, 2007.