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AQUINAS'S ACCOUNT
OF
THE INELIMINABLE SOCIAL CHARACTER OF PRIVATE PROPERTY

T.A. CAVANAUGH

In this paper, I present what, for the moment, I will call Aquinas's account of private property. I hesitate so to name his account, for, it will become evident that Aquinas offers a conception of private property that differs significantly from current usage. For example, Thomas maintains that a needy person has a claim **in justice** to the abundance others possess. He holds that a needy person who takes from the abundance of another in order to satisfy his own urgent, manifest, unmet need does not steal, for he takes what belongs to him insofar as the goods of the earth are ordained to satisfying human need generally (S.t. IIaIIae, q.66, a. 7 and IIaIIae, q. 64, a.1). Thus, Thomas understands private property to have an ineradicable social dimension. In what follows, we will, first, briefly survey the standard contemporary account and its justificatory difficulty. Second, present Aquinas's account, and finally, conclude with a number of practical reflections.

THE STANDARD CONTEMPORARY ACCOUNT

In a recent survey of private property's conceptual topography, Jeremy Waldron notes:

The person to whom a given object is assigned by the principles of private property ... has control over the object: it is for her to decide what should

be done with it. In exercising this authority, she is not understood to be acting as an agent or official of the society. Instead, we say that the resource is *her property*; it *belongs* to her; she is its *owner*; it is as much *hers* as her arms and legs, kidneys and corneas. ... [H]er right to decide as she pleases applies whether or not others are affected by her decision (Waldron, p. 6, original emphasis, in A Companion to Philosophy of Law and Legal Theory, 1996, ed. by Dennis Patterson, Cambridge:Blackwell Publishers)

Further analyzing the standard conceptualization of private property, Waldron states:

[A]n individual's right to make decisions about the use of a thing has two elements. First, ... it implies the absence of any obligation to use or refrain from using the object in any particular way. The owner may decide as she pleases and she is at liberty to put her decision into effect by occupying, using, modifying, perhaps even consuming or destroying the object.

Second, private property implies that other people do not have this liberty; they *do* have an obligation -- an obligation to the owner -- to refrain from occupying, using, modifying, consuming, or destroying the object

(Waldron, p. 7, original emphasis).

Waldron finds private property conceived as an obligation-less exclusion of others from the enjoyment of what is one's own that incorporates others' obligations to leave alone one's own things -- which are taken to be comparable to one's organs.

THE PROBLEM OF JUSTIFICATION

This account, however, faces a significant normative, justificatory difficulty. Indeed, those who propose the conception Waldron outlines are acutely aware of the difficulty of justifying private property so conceived. Waldron articulates the problem:

[W]e look for a justification of private property, because it deprives the community of control over resources which may be important to the well-being of its members, and because it characteristically requires us to throw social force behind the exclusion of many members of our society from each and every use of the resources they need in order to live. ...

[R]esources may gradually come to be distributed in a way that leaves a few with a lot, a lot with a very little, and a considerable number with nothing at all. Private property involves a pledge by society that it will continue to use its moral and physical authority to uphold the rights of owners, even against those who have no employment, no food to eat, no home to go to, no land to stand on from which they are not at any time liable to be evicted (Waldron, p. 9)

Clearly, if one has an abundance of life's necessities and others are in dire need of them, one's exclusion of them from what they need in order to survive requires significant justification. Yet, in terms of what standard could one justify such a social institution? If one were to attempt to justify private property so conceived in terms of the greater good of the greater number, one would -- at least on the face of things -- fall short of facing the specific problem noted by Waldron. For the point of that problem is that massive quantities of property -- and its most significant manifestation, capital -- tend to be concentrated in the hands of a very small minority.

[FOOTNOTE 1: As Waldron notes, John Locke, who faced this difficulty, thought that the convention of money both allowed some to accumulate significantly more than others and justified their accumulation, for he understood money to express a society's agreement to some having much more than others.] One might resort to claims of efficiency, that this concentration of property in the hands of a few actually increases the welfare of all. Yet, such a claim fails to meet the demand on two counts. First, it is asserted that some lack what they need in order to survive (and, certainly, some do lack these basic resources while many more lack what they need in order to flourish). How is private property of benefit to them? Second, there is no reason to think that efficiency could not be just as readily served by amassing great quantities of property in the hands of a few non-owning managers, as do publicly traded corporations and large pension and mutual funds. Trying another tack, one might justify excluding those in dire need from the use of what others possess in abundance by asserting that those who do not have what they need in order to survive are no worse off simply because others have more than what they need in order to survive and flourish. [FOOTNOTE 2: What economists classically refer to as a Pareto improvement.] Yet, this response also misses the justificatory demand, for the problem is why ought those who do not have what they need in order to survive refrain from taking the abundance of others? The most realistic answer asserts what is no doubt usually true: those who do not have what they direly need are in no position to threaten the superabundance of others. This response, however, asserts might; it does not make might right.

THE ROOT OF THE PROBLEM: CONCEPTUAL DUALISM

Conceived as the exclusion of some from what they need in order to survive, private property is not readily justified if those in dire need are excluded from what others possess in

abundance, after their own basic needs have been met. Indeed, one suspects that in facing this justificatory problem what one in fact faces is the more deep-seated problem of conceptual dualism that plagues much of contemporary Anglophone philosophy. To see this, we can merely recount the path to the problem of justification. First, others were **conceptually** excluded from the enjoyment of things they need and, under threat of coercion, required to honor their own exclusion; second, a justification for this coerced exclusion was sought; yet, none was forthcoming. The final resolution of this problem will be to find private property a contingent, yet ineliminable fact of our existence, or the only viable way of handling property, or the way that most recently won out. These responses, however, manifest the hallmark of most problems generated by conceptual dichotomies: they leave the intellect dissatisfied by asserting that the way things are just is, inexplicably, the way things are. Take, for example, the dichotomy of conceptual dichotomies, the mind-body problem. To generate the mind-body problem, define the mind and body as utterly distinct and independent of one another; second, note that the mind and body have a close, intimate, inimitable association with one another, to the point that the mind exerts occult causal influences on the body and vice-versa. Third, note that this salient association of mind and body is conceptually inexplicable, leading one, perhaps, to deny the existence of mind or to assert that this relationship is just the way things, serendipitously, are. Or, for a derivative and less celebrated instance of a conceptual dichotomy, taking billiard balls and other efficient causes as the only type of causality, and noting that reasons certainly do seem to be causes for human action, which is in turn defined as a spatio-temporal movement of body parts, it is asked how a reason, a mental entity, can cause a local motion? Not being a billiard ball or even billiard ball-like, a reason cannot be a billiard-ball-like cause of an action. [FOOTNOTE

3:For an account in which reasons are serendipitous causes of actions, see Davidson; **Actions, Reasons, Causes** in Essays on Actions and Events, Oxford:Clarendon Press, 1980.] Therefore, reasons cannot be causes though every sane man treat them as if they were. The point, hopefully not lost in these examples, is that insoluble philosophical problems often depend on faulty conceptions that divide what obviously belong together -- soul and body, motive and action, bread and the satisfaction of human hunger.

The specific point with respect to the exclusionary conception of private property is that such a conception, by needlessly introducing a dichotomy between what one possesses and others' claims to that which they urgently need, generates the unmeetable demand for justifying some having a tremendous amount of the goods of this earth while others lack what they need in order to survive. How could one justify sustaining one man's possession of a full granary in the face of a starving human being or village? One cannot. Any justification would either have to deny the problem or show itself to be morally bankrupt.

AQUINAS'S ACCOUNT

Setting aside the exclusionary conception of private property, let us investigate that conception proposed by Aquinas; namely, the conception of property as being possessed privately, yet at root always ordered towards common use, or the private possession/common use account of property. At the outset, let us note that Aquinas follows and develops Aristotle's account and the positions of, amongst others, Ambrose and Basil. Moreover, Catholic Social teaching as found in documents such as Leo XIII's **Rerum Novarum** (111-113), Pius XI's **Quadregesimo Anno** (191), John XXIII's **Mater et Magistra** (428-429), Paul VI's

Populorum Progressio (22-24) and John Paul II's **Centesimus Annus** (Ch. IV) consistently employ this private possession/common use (or universal destination) account of property.

Following Aristotle (e.g., Politics, II. 5, 1263 a 40) Thomas distinguishes the possession of property from the use of property. He offers three allied reasons for the social institution of private individuals possessing and controlling property (S.t II-IIAE, q. 66, a.2) That is, for their acquiring, holding and distributing things. First, he notes what has come to be called the "Tragedy of the Commons" argument: that where people hold things commonly, the common lot suffers. On the other hand, where each has his own, individuals are more solicitous for the care of what they can call "mine". [FOOTNOTE 4: For this same argument, see, e.g., Waldron, p. 11] Thomas asks us to imagine a house with many servants in which the common work goes undone (perhaps a memory of his boyhood at Rocca Secca), or we might reflect on the "family" garden going unweeded, or envision the myriad papers scattered in the entrances of non-owner occupied triplexes. Second, Thomas notes that, regardless of the narrowness of fallen human self-interest, where things are not assigned to individuals, there arises a practically inefficient disorder and confusion concerning precisely who should care for exactly what. Finally, he offers what one might call the "good fences make good neighbors" argument; he says that private property makes for a more pacific republic in which each can be contented with what he can with clarity call his own.

In short, Thomas understands private property to be a natural and practically intelligent way of holding things. He does not -- as many thinkers do -- pre-occupy himself with the criterion of initial distribution, how property is first assigned to the possession of individuals, for example, by discovery, occupation, or work. This is not to say that he or the tradition of which he

is a part is indifferent to the issue of how we determine who gets what. This issue, however, is relatively moot in Aquinas' account, for regardless of how we decide to assign property to the possession of private individuals, the issue of the use and point of property is ineradicably rooted in natures, and this brings us to the heart of Thomas's account: the goal-oriented character of things and of our possession of things.

THE ENDS OF THINGS

With respect to the use, consumption, or enjoyment of property, Thomas holds that while property ought to be held individually, it is always by its very nature primarily ordered towards a common use, namely, to meeting the needs of human nature, regardless of who possesses it.

Thomas offers reasons taken from sacred theology as well as secular philosophy. Let us attend to the philosophical grounds. In answering the question whether it is licit for men to possess things (S.t., II-II-AE, q. 66, a. 1.), Thomas refers to an earlier question concerning the killing of plants and animals (S.t., II-II-AE, q. 64, a.1). In that earlier question he argues that because we are higher beings than plants and animals, we may kill and eat plants and animals. Moreover, because animals are higher beings than plants, we may kill plants and feed them to animals.

Thomas understands humans to have the abilities to domesticate, dominate, kill and eat plants and animals **because** our nature is higher than those of plants and animals and plants and animals are ordered towards sustaining human life. Thus, to be counted amongst its excellences is a plant's or an animal's edibility by humans. There are, of course, innumerable other ends of edible things, for example, to sustain themselves in being, to pollinate flowers, to make soil, to fly, to swim, or to display beauty (as Gerard Manley Hopkins says: "Kingfishers catch fire, dragonflies draw flame... each mortal thing does one thing and the same: selves goes itself,

myself it speaks and spells, saying what I do is me, for this I came”). Even as food living things serve ends other than the mere sustenance of human life. For example, food serves the ends of human flourishing, conviviality and sociability. In Aquinas’s account of property possession, the basic end of human survival and the higher ends of human flourishing are connected. For now, however, let us focus on the basic end of human survival as it indicates, most radically, the point and justification of consuming things, one of the more profound instances of the use of a thing.

Can one argue that plants and animals are ordered towards sustaining human life and not merely capable of sustaining human life? Most of us unreflectively eat what is put before us; we do not bother to justify our eating and indirectly killing peas and carrots or chickens and pigs. If we were to offer a justification for our eating these other living beings, we might rely solely on our ability to do so. In accordance with such a justification, being “higher” on the food chain would simply mean being able to kill and eat other beings that are, lacking such a power over humans, “lower” on the food chain. Yet, given such a justification, what would be wrong with an animal’s killing and eating a human being? why ought we not feed animals human flesh? Or why ought we not kill and eat other humans?

Taking the issue of cannibalism, it is, fortunately, normally not necessary and it would usually be a great inconvenience to kill and eat other human beings. Moreover, being human beings we might generally oppose the killing and eating of humans, at the very least out of enlightened self-interest. Such responses, however, would have us hold that killing and eating other humans is **merely** ill-advised, inconvenient, disagreeable, or generally unnecessary. It is not, however, for such reasons that we **ought** not to kill and eat other human beings. We ought not to do so because they are beings of reason and will, who apprehend and direct themselves

towards the enjoyment of what is good. It is for this very reason that we may kill and eat animals and plants, because while we do, they do not apprehend the good nor direct themselves towards it. We humans are higher, more perfect, better beings than plants and animals. Thus, when we kill and eat plants and animals, plants and animals achieve a better level of existence by serving higher, human ends. The carrot and the rabbit fuel thought and thereby participate in a level of existence far surpassing that of a root or a rodent. The crushed grape serves human sociability and thereby rises above its own limits. When lower things serve our needs, they become more perfect and realize a level of being far above that of their entire species. On the other hand, if a human were eaten by, for example, a Bengal tiger, this order would be reversed. For, even if Bengal tigers were to become extinct if one tiger did not happen to eat a human being, nevertheless, human flesh that supports thought and will would thereby be reduced to sensation and perception, at best. The more perfect would have been subordinated to the less perfect and this ought not to be. Thus, Thomas justifies the **most profound** use of things, consumption, in terms of the hierarchical relationship between the natures of things and human nature. To the extent to which a justification for eating plants and animals rises above the superficial claim that it is okay to eat them because we can, that justification tends towards the hierarchy-of-natures account that Thomas offers. In terms of such an account one can indeed argue that plants and animals are ordered towards sustaining human life.

At the outset of this paper, hoping to capture your attention, I noted that Thomas holds that were a man's basic needs to go unmet in a manifest way, such that others who had an abundance of the earth's goods did not voluntarily give to him what he needed, he could take what he needed in order to survive from their abundance, for this belonged to him. This position

follows from Thomas's justification of the most profound and total form of use, eating. By justifying the consumption of things in terms of the hierarchical relation between human and non-human natures, Aquinas grounds his claim that urgent, unmet, manifest need makes things common. For possession, insofar as it is a means to use does not eradicate this order of natures upon which use is based. Moreover, possession itself clearly is a means to use. It is perverse to have simply to have and we recognize this by wanting to have for the sake of something better than having, namely, for the sake of using. Thus, insofar as use is grounded in human nature's need, and possession is ordered towards use, human need always "trumps" possession, or the just limits of one man's abundance are to be defined by his neighbor's needs.

Of course, just as food is not solely for nutrition, so also, possession is not solely for meeting basic needs, it also enables us to flourish, and this brings us to a consideration of the role of virtue and its relation to the use of possessions in Thomas's account. Earlier we spoke of things serving basic human needs and ends, and of things serving higher human ends, or more generally, of things serving human flourishing. In Aquinas's account, virtues transform one man's basic human need into another man's opportunity to achieve perfection, or to flourish through the exercise of virtues such as justice and generosity.

The virtues of distributive justice and generosity at once depend upon things being possessed privately and serve as the stimuli by which deeds make use common. For Thomas, following Aristotle, understands man to control property, in part, in order to have something to share and to give to others. Were property not under the control of private individuals, the purview of the virtues of generosity and distributive justice would be unduly constrained, for few avenues would be open to the private individual to exercise these human perfections and, thereby

to flourish as a human being. Moreover, for Aquinas's account of common use to bear fruit in the relief of those not possessing property, the human perfections of generosity, magnanimity, and justice must be realized in the actions of those who possess an abundance of property.

Aristotle himself alludes to this when he says:

[I]t is better for possessions to be privately owned, but to make them common property in use; and to train the citizens to this is the special task of the legislator (Politics, 1263a40).

While avoiding the justificatory difficulty facing the exclusionary accounts of private property, this private possession/common use account faces the difficulty of making men good, and depends upon a society dedicated to producing citizens who, possessing abundance, understand themselves to be perfected by their speedy and voluntary distribution to those in need. Indeed, one further reason Thomas offers for the individual's possession of things is so that he may speedily and easily (**facile**) communicate them to others in need (S.t., II-II-AE, q. 66, a.2).

Let us conclude on what may be called a practical-theoretical note, or on the practicality of theory. What needs to be done in order to realize something like the private-possession/common use account of property? It is tempting to think in terms of institutions, tax schemes, social welfare programs, or tithing. Such temptations ought to be avoided, however, at least as initial answers. For what we need most is re-conceptualization, not programs or processes. For these inevitably follow from an understanding of what we as human beings are and what it means for us to be better human beings. We must re-apprehend ourselves as the highest natured beings in a world of natured beings. With respect to other human beings we must come to know and think of ourselves as genetically social beings, naturally from, with,

and for others. Beings who think of themselves as, of course, watching out for others. Beings who think of themselves as, of course, having wide and deep social goals. No tax scheme can do this for us. Nor could any institution realize Aquinas's account while hampered, as present institutions are, with an adversarial, autonomous-man account of what a human is, an account that claims that human togetherness and society is an artifice whereby we rise above a nature that is "red in tooth and claw in ravine." The task is two-fold: first, to clean our contemporary conceptual stables of the detritus that has come to litter them; second, to present an account of man's nature that keeps together what must be kept together, the one and the many and the strong and the weak.