

When Evil Actions Become Good

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AQUINAS STATES that an action evil in itself can never become good under any circumstances, for example, the act of adultery is always evil; and even if it should bring about some good, such as saving someone's life, nevertheless it should not be done.¹ Good actions, on the other hand, can become evil through some circumstance, as almsgiving can be evil when done for vainglory. Why this asymmetry? Because, says Aquinas, evil arises from any essential defect, while the good is integral, requiring that everything essential to a thing's completion be present. Actions such as adultery already lack some essential elements, and so they can never become good.

A text of the *Quodlibetal Questions*, therefore, is rather disturbing, for in it Aquinas divides actions not into the familiar threefold distinction—actions good in species, evil in species, and indifferent—but adds a fourth category of actions, those that are disordered in themselves but which may become good through some additional circumstances. The question that St. Thomas is addressing concerns a priest receiving the income from several parishes, but Aquinas's example of an evil action that becomes good is the act of killing a man. He says,

Certain actions considered absolutely imply a deformity or disorder, but when some circumstances are added then they are made good. For example, in itself to kill or strike a human being implies a certain deformity, but if one adds that one is killing an evil doer for the sake of justice, or that one is striking a criminal for the sake of correction, then it will not be a sin but virtuous. It seems that a priest having more than one

¹ See, for example, *De virtutibus*, q. 3, a. 1; *Summa theologiae* I–II, q. 88, a. 6, ad 3; q. 20, a. 2, s.c. and c.; *ST* II–II, q. 64, a. 2, obj. 3; q. 110, a. 3; *De Malo*, q. 2, a. 4, ad 2; *II Sentences*, 36, 1, 5, ad 2.

living should be counted amongst this type of action, for it contains some disorders, but with additional circumstances it may become a virtuous action, and the previously mentioned disorders may be entirely removed, for example, if it is necessary to serve many churches, and one priest may better serve the church absent than another present.²

How can this account be reconciled with Aquinas's oft-repeated statement that an action evil in itself can never be made good? If killing a man is in itself disordered, then why should it become good in the instance of capital punishment?

For those who wish to interpret Aquinas in a proportionalist light, this text appears not troubling but rather a welcome explicit statement of Aquinas's latent view. Louis Janssens, for instance, uses this text in an attempt to show that Aquinas really was, at heart, a proportionalist.³ On this reading, when Aquinas speaks of the moral species of an action, he refers to a description of the action that builds moral good or evil into it. The moral species of adultery, for instance, might be "having sexual relations with a married woman with whom one should not." So that saying adultery is morally evil is a tautology, and precisely for this reason no circumstance can ever make it to be good. In *Quodlibetum* 9, then, when Aquinas speaks of actions evil in themselves that may become good, he is not referring to moral evil but rather to what the proportionalists call premoral evil. He is claiming that the act of killing a man has some ontic evil associated with it, such as the death of the man killed, but that its moral evil has not yet been determined, and for this reason the action can become good. According to Janssens, this text makes perfect sense on proportionalist assumptions and on no other.⁴

² *Quodlibetum*, 9, q. 7, a. 2: "sunt vero quaedam actiones quae absolute consideratae, deformitatem vel inordinationem quamdam important, quae tamen aliquibus circumstantiis advenientibus bonae efficiuntur; sicut occidere hominem vel percutere, in se deformitatem quamdam importat, sed si addatur, occidere malefactorem propter iustitiam, vel percutere delinquentem causa disciplinae, non erit peccatum, sed virtuosum. in numero harum actionum videtur esse habere plures praebendas. quamvis enim aliquas inordinationes contineat; tamen aliae circumstantiae possunt supervenire ita honestantes actum, quod praedictae inordinationes totaliter evacuantur; utputa si sit necessitas in pluribus ecclesiis eius obsequio, et possit plus servire ecclesiae vel tantumdem absens quam alius praesens, et si qua alia sunt huiusmodi."

³ Louis Janssens, "Norms and Priorities in a Love Ethic," *Louvain Studies* 6 (1977): 207–38; "St. Thomas and the Question of Proportionality," *Louvain Studies* 9 (1982): 26–46; "A Moral Understanding of Some Arguments of St. Thomas," *Ephemerides Theologicae Lovanienses* 63 (1987): 354–60.

⁴ Similarly, although James F. Ross ("Justice Is Reasonableness: Aquinas on Human Law and Morality," *The Monist* 58 [1974]: 86–103) does not directly address this

Mark Johnson, however, has shown that this reading of the text is untenable.⁵ The disorders of which St. Thomas speaks cannot be premoral evil, but must be full-fledged moral evil. After all, according to the proportionalist account, ontic evil remains as part of a good moral action, for example, the ontic evil of killing an unborn baby remains in an act of abortion, even when on proportionalist reasoning the act is morally good through its proportion to the saving of the mother's life. In contrast, the deformities that Aquinas discusses are, as he says, "entirely removed." We may conclude, then, that proportionalism cannot successfully appropriate this text for its purposes.

For those inclined to the moral philosophy of John Finnis and Germain Grisez, this *quodlibetal* passage exposes precisely what is wrong with Aquinas's teaching on capital punishment.⁶ Aquinas recognizes that it is wrong to kill a man, that this action is inherently disordered, and yet he allows it in the instance of capital punishment. Were he consistent, then he would treat the act of killing a man like any other action evil in itself, holding that its evil cannot be removed even in the instance of capital punishment.

If you are inclined to neither of these readings of St. Thomas, then you might wish to avoid this text, perhaps treating it as a rare instance of Aquinas speaking without precision, or as an early foray into moral theory that Aquinas later abandoned. Unfortunately, this passage cannot be discounted so readily, for a smattering of other texts resonate with it.

Perhaps the closest parallel comes from a passage of the *prima pars* in which Thomas says:

Some thing may be good or evil in its first consideration, insofar as it is considered absolutely, but if in a consequent consideration something additional is accounted, then it may become the opposite. For example, considered absolutely, it is good for a man to live and evil for him to be killed, but if we add concerning some man that he is a murderer or that his continued life is a danger to the community, then it is good to kill him and evil for him to live.⁷

text, his account of exceptions to moral rules implies that moral principles are just "policies" (91). Calling something evil in itself, then, could only mean that it is for the most part evil. General rules, he says, are a balancing or compromise of conflicting natural law policies (99), much as proportionalist reasoning involves a balancing of premoral goods and evils.

⁵ "Proportionalism and a Text of the Young Aquinas: *Quodlibetum* IX, Q. 7, A. 2," *Theological Studies* 53 (1992): 683–99.

⁶ See, for example, Germain Grisez, "Toward a Consistent Natural Law Ethics of Killing," *American Journal of Jurisprudence* 15 (1970): 64–96.

⁷ ST I, q. 19, a. 6, ad 1: "aliquid autem potest esse in prima sui consideratione, secundum quod absolute consideratur, bonum vel malum, quod tamen, prout cum

This passage is concerned with different ways that we can will something, antecedently or consequently. It is no surprise, then, that elsewhere while discussing different senses of willing, Thomas once again raises our topic. We find an explicit reference by returning to the *quodlibeta*, this time to a late *quodlibetum*, probably as late as 1271. He says that,

Something might be good considered in the universal, which turns out to be evil on account of some particular circumstances, for example, generating a child is good, but generating a child with someone who is not one's wife is evil. Similarly, something considered in universal can be evil, which nevertheless becomes good given some particular circumstances, for example, *of itself* killing is evil, but killing a man harmful to the community is good.⁸

Finally, in the *secunda secundae* while discussing whether women can adorn themselves apart from mortal sin, St. Thomas makes an offhand reference to actions that are evil in themselves but sometimes are morally acceptable.⁹ The third objector claims that it is a sin for women to wear men's clothing. Aquinas does not doubt the supposition, but replies:

Exterior clothing should correspond to the state of the person in accordance with common custom, so it is of itself sinful for women to wear men's clothing and vice versa, especially since this can cause lustful desires; therefore, it is specifically prohibited in the law, since the Gentiles used to exchange clothes for the purposes of idolatrous superstition. Nevertheless, this action can be done without sin because of some necessity, either for the purpose of hiding from the enemy, or because there is no other clothing available, or for other reasons of this sort.¹⁰

aliquo adiuncto consideratur, quae est consequens consideratio eius, e contrario se habet. sicut hominem vivere est bonum, et hominem occidi est malum, secundum absolutam considerationem, sed si addatur circa aliquem hominem, quod sit homicida, vel vivens in periculum multitudinis, sic bonum est eum occidi, et malum est eum vivere.”

⁸ *Quodlibetum* 5, q. 5, a. 3: “contingit autem aliquid in universali consideratum esse bonum, quod tamen secundum aliquas particulares circumstantias redditur malum; sicut generare filios est bonum, sed generare filios ex non sua uxore est malum, et similiter contingit, aliquid in universali consideratum esse malum, quod tamen secundum aliquas particulares circumstantias fit bonum; sicut occidere, secundum se est malum, sed occidere hominem perniciosum multitudini, est bonum.”

⁹ Aquinas uses the Latin word *vitiosus* rather than *malum*, a difference that appears of little import, although it may more forcefully exclude the proportionalist interpretation. *De virtutibus*, q. 3, a. 1, also speaks about what is *vitiosus* in itself, but here he says that such actions may never become good.

¹⁰ *ST I-II*, q. 169, a. 2, ad 3: “ad tertium dicendum quod, sicut dictum est, cultus exterior debet competere conditioni personae secundum communem consuetudinem.

This short selection of texts reveals that Aquinas did not abandon the idea that some actions can be evil considered in themselves but can become good with the addition of some circumstance. While he did not find this manner of speaking the most expedient, neither did he consider it inconsistent with his overall ethical theory.

We are left with the following perplexity. Aquinas granted, as late as the *secunda secundae*, that some actions are wrong in themselves, but that they can become good.¹¹ He did not mean that they are evil in species, because he clearly indicates that what is evil in species can in no way become good. Neither was he referring to a proportionalist premoral evil. What, then, did he mean? Was he merely struggling with an inconsistency in his moral views? Or is there some way to reconcile these troubling texts with the rest of Aquinas's moral theory?

I wish to sketch just such a reconciliation. We have two difficulties to face. First, we must explain how an action in itself disordered can have its disorder removed. Second, we must explain how these actions are different from actions such as adultery, which are evil in species and can never have their disorder removed.

et ideo de se vitiosum est quod mulier utatur veste virili aut e converso, et praecipue quia hoc potest esse causa lasciviae. et specialiter prohibetur in lege, quia gentiles tali mutatione habitus utebantur ad idololatriae superstitionem. potest tamen quandoque hoc fieri sine peccato propter aliquam necessitatem, vel causa occultandi ab hostibus, vel propter defectum alterius vestimenti, vel propter aliquid aliud huiusmodi.”

¹¹ Someone might wish to connect our difficulty with the question of dispensations from the Decalogue. (See, for example, *In I Sent.*, d. 47, q. 1, a. 4; *In III Sent.*, d. 37, a. 4; *In IV Sent.*, d. 33, q. 1, a. 2; I–II, 100, 8; *De Malo*, 3, 1, ad 17). Our topic of evil actions that become good is certainly in some manner related to the question of dispensations from the Decalogue, but we should not suppose that the two are identical. Proportionalists have attempted to use the dispensations to show that all moral rules—unless they contain a moral judgment in them—have exceptions (See John F. Dedek, “Intrinsically Evil Acts: an Historical Study of the Mind of St. Thomas,” *The Thomist* 43 [1979], 385–413; Franz Scholz, “Problems on Norms Raised by Ethical Borderline Situations: Beginnings of a Solution in Thomas Aquinas and Bonaventure,” in *Readings in Moral Theology: No. 1* [edited by Charles E. Curran and Richard A. McCormick, New York: Paulist Press, 1977], 158–83). For the most parts, Aquinas's treatment of dispensations from the Decalogue differs from our topic for two reasons. First, because the dispensations involve something supernatural, beyond the order of nature; second, because most of the dispensations do not involve an evil action becoming good, but rather an action that changes its nature, as we will see with theft further on.

Abstract and Concrete

Our problem is not merely a matter of consistency with Aquinas's teaching on actions evil in species; the difficulty appears to be logical. The act of killing has a feature considered in itself, namely, its evil, that it loses in some concrete situations. It is perplexing how something could have an attribute in itself and yet lack that attribute in the concrete. Additional considerations, it seems, can add an attribute but not remove it.

In this respect, however, moral evil is not alone. Other attributes also disappear in the concrete. For example, actions done in fear are against the will when considered in themselves, but they become voluntary with some consequent considerations. The action of throwing cargo into the sea, for instance, is in itself contrary to the will of the captain. Yet during a violent storm this action is also an act of throwing a life-threatening weight into the sea, and considered precisely as such it is voluntary.¹² One and the same action is both according to the captain's will and against his will. Of course, in the concrete instance it is only according to his will and not at all against his will, for in the concrete, the will does not tend to the action as jettisoning cargo but as disposing of a dangerous weight.

Throwing the cargo overboard is both voluntary and contrary to the will because these attributes, when applied to the exterior action, are relative terms; they involve a relation between the action and the person's will. A voluntary act relates to the will as originating from it; an action against the will is related as opposed to the inclination of the will. Relations vary depending upon the term to which they are directed. The Earth, for instance, is larger when compared to the moon, but smaller when compared to the sun. Similarly, a single exterior action might be voluntary in comparison to one will and against the will in relation to another. Of course, in the case of the cargo there are not three things, such as the Earth, the sun, and the moon, but only two, the captain's will and the one action of jettisoning cargo. How, then, do we generate more than a single relation? By considering the single action in different respects.

¹² The second objection of *ST* I-II, q. 6, a. 6, although it concerns involuntary actions rather than disordered actions, expresses well our perplexity: "praeterea, quod est secundum se tale, quolibet addito remanet tale, sicut quod secundum se est calidum, cuicumque coniungatur, nihilominus est calidum, ipso manente. sed illud quod per metum agitur, secundum se est involuntarium. ergo etiam adveniente metu est involuntarium." Similarly, we might argue that if killing a man is evil of itself, then it must remain so, no matter what is added to it. How can something of itself apply to the universal, and yet disappear in the concrete instance? If killing a man is not always disordered, then why describe it as disordered in itself? Why not simply say that it is sometimes disordered and sometimes not?

The single action of jettisoning cargo is also, in the concrete, an action of jettisoning weight; it is both eliminating a good and eliminating an evil. These two aspects of the single action relate to the will in opposite manners. Of course, the concrete action cannot have opposite relations to a single will, for in the concrete the will moves either toward or away from this action. But Aquinas says that the will, since it is a rational appetite, can relate to something considered absolutely or in the abstract,¹³ that is, the captain can consider simply the act of throwing cargo overboard, without considering what else it might be, such as an action of jettisoning a dangerous weight; and his will can respond to it as such. The will, then, can relate to the same action in two different ways; it can move away from the action considered in itself, yet tend toward the action in the concrete. It follows that the action considered in itself may relate to the will differently than the action in the concrete.¹⁴

The evil of killing a man, as well, can be present while considered absolutely but absent in the concrete. This disappearance of evil follows the pattern of the disappearance of being against one's will. After all, two of the four instances in which Aquinas mentions the removal of evil are within the context of discussions of willing something absolutely and concretely. Furthermore, just as the cargo has two aspects—it is both valuable and dangerous—so we find that in Aquinas's treatment of capital punishment, the individual has two aspects.

A man may be considered in two ways, either in himself or in comparison to something else. It is in no way permissible to kill a man considered

¹³ In *III Ethicorum*, lect. 5, 444. See Stephen L. Brock, *Action and Conduct: Thomas Aquinas and the Theory of Action* (Edinburgh: T&T Clark, 1998), 151.

¹⁴ We will now try to make sense of *ST* II-II, q. 6, a. 6, ad 2, which reads as follows, “ad secundum dicendum quod ea quae absolute dicuntur, quolibet addito remanent talia, sicut calidum et album, sed ea quae relative dicuntur, variantur secundum comparisonem ad diversa; quod enim est magnum comparatum huic, est parvum comparatum alteri. voluntarium autem dicitur aliquid non solum propter seipsum, quasi absolute, sed etiam propter aliud, quasi relative. et ideo nihil prohibet aliquid quod non esset voluntarium alteri comparatum fieri voluntarium per comparisonem ad aliud.” It is difficult to determine exactly what Aquinas means, but his last sentence seems to imply that when we say throwing the cargo overboard, in general, is involuntary, we do not mean it in a quasi-absolute sense, for it is in comparison to one thing; therefore, when it is compared to another, it might be voluntary. We could say, perhaps, that the act of jettisoning is involuntary when compared to cargo, but voluntary when compared to a dangerous weight. Aquinas does speak of things that are voluntary *propter seipsum*, quasi-absolute, but he never grants that what is done in fear is ever involuntary in this manner. In other words, the only part of the reply that really addresses the issue at hand may be the very last sentence.

in himself, because in anyone, even in a sinner, we ought to love his nature, which God made, and which is destroyed through killing. But as was said above, killing a sinner is made licit through comparison to the common good, which is corrupted through sin. Since the life of just men preserves and promotes the common good, because they are the primary part of the multitude, it is in no manner licit to kill the innocent.¹⁵

Just as the action of jettisoning cargo is both an act of eliminating something good and an act of eliminating something evil, so the act of killing a man is both an action of bringing about the evil of that particular individual, and an action of bringing about the common good. If we consider the action simply in relation to the individual, then it is an act of bringing about evil, and as such it is disordered, but if we consider the action in relation to this man who is a threat to the common good, then it is an act of bringing about good, and as such it is well ordered. In the concrete instance, of course, the act of killing a man cannot be both disordered and ordered, but must be only one or the other. What applies in the universal does not apply in every concrete instance.

A troubling perplexity remains unresolved in this article, and it seems to be the very perplexity that we seek to solve. If it is wrong to kill an individual simply as an individual, then how can it ever be acceptable to kill someone? If it is wrong to kill an individual considered in himself, then is it not always wrong to kill an individual, since he retains, even when a sinner, that which makes it objectionable to kill him? How can the additional consideration, relating the individual to the common good, remove what is already objectionable about the action?

Germain Grisez will inform us that Aquinas is being inconsistent, for the disorder of killing an individual can never be removed.¹⁶ Louis Janssens, on the other hand, will inform us that there is no need to remove the evil of killing an individual, for this evil is only premoral.¹⁷ Aquinas, however, takes neither approach. He thinks that the disorder of killing an individual is indeed a moral disorder, but it is removed in the

¹⁵ *ST* II–II, q. 64, a. 6 “respondeo dicendum quod aliquis homo dupliciter considerari potest, uno modo, secundum se; alio modo, per comparisonem ad aliud. secundum se quidem considerando hominem, nullum occidere licet, quia in quolibet, etiam peccatore, debemus amare naturam, quam deus fecit, quae per occisionem corrumpitur. sed sicut supra dictum est, occisio peccatoris fit licita per comparisonem ad bonum commune, quod per peccatum corrumpitur. vita autem iustorum est conservativa et promotiva boni communis, quia ipsi sunt principalior pars multitudinis. et ideo nullo modo licet occidere innocentem.

¹⁶ See note 6 above.

¹⁷ See note 3 above.

instance of capital punishment. Unfortunately, he does not explain how it is removed.

If our suggestion is correct, then the evil of the action, like being voluntary, must be a relational term. Furthermore, it must involve some term, like the will, that can relate to something when considered in itself. Only a rational power could meet this requirement. As we will now see, it is precisely a relation to reason that determines the moral good or evil of actions.

Moral Species of Actions

Let us begin by examining what Aquinas says of actions receiving their species from their objects.

When it is compared to one active principle, an act will be specified according to some formality of an object, but when it is compared to another active principle it will not be specified by that same formality. For . . . to know white and to know black differ in species if they are referred to sight but not if they are referred to taste. One may conclude that the act of any potency is specified according to that which *per se* pertains to that potency, not by that which pertains to it *per accidens*.¹⁸

The actions of sensing a white rose and sensing a red rose may or may not be distinct in species, depending upon what sense you are talking about. Seeing white and seeing red are two different kinds of seeing, but smelling a white rose is no different from smelling a red rose. One active principle, the sense of sight, gives rise to distinct species, while another, the sense of smell, does not, for it refers not to the formality of colors but to odors.

Aquinas goes on to say that the principle of human actions is reason, and therefore, human actions take their species from the object insofar as it relates *per se* to reason. He then draws out the consequences.

If we consider objects of human actions that differ in something pertaining *per se* to reason, then the acts will differ in species insofar as they are acts of reason, but they might not differ in species insofar as they are acts

¹⁸ *De Malo*, 2, 4: "Ad cuius evidentiam considerandum est, quod cum actus recipiat speciem ab obiecto, secundum aliquam rationem obiecti specificabitur actus comparatus ad unum activum principium, secundum quam rationem non specificabitur comparatus ad aliud. . . . Et similiter sentire album et nigrum differt specie si referatur ad visum, non si referatur ad gustum; ex quo potest accipi quod actus cuiuslibet potentiae specificatur secundum id quod *per se* pertinet ad illam potentiam, non autem secundum id quod pertinet ad eam solum *per accidens*." Also see *ST* I-II, q. 18, a. 5; and *ST* I, q. 77, a. 3.

of some other power. For example, to know one's wife and to know one who is not one's wife are two actions whose objects differ in something pertaining to reason, for to know one's own and to know what is not one's own are determined by the measure of reason. This same difference, however, is related *per accidens* in comparison either to the power of generation or to the sexual desire. Therefore, to know one's own and to know what is not one's own differ in species insofar as they are acts of reason but not insofar as they are acts of the generative power or of the sexual desire. An act is human, however, insofar as it is an act of reason. Clearly, then, the two differ in species insofar as they are human actions.¹⁹

Just as the color of a rose refers per se to the power of sight but not to the power of smell, so the object of an act of sexual intercourse may have some formality that refers per se to reason but not to the power of generation. To the power of generation, the object is just a woman; to reason it is "one's wife" or "not one's wife." To the power of generation the action is specified merely as sexual intercourse; to reason it is specified as adultery or conjugal relations.

We have, it seems, our relational term. Just as being according to or against one's will depends on how an action relates to the will, so being morally good or evil depends on how an action relates to reason. By better understanding this relation we may be able to solve our difficulty.

Unfit Material

The material must refer per se to reason—not speculative reason which simply aims to understand the truth, but practical reason which directs our activities to achieve some end. But under what formality does the material refer to practical reason? Colors refer per se to sight, and odors refer per se to the power of smell, but what refers per se to practical reason?

The answer, it seems, depends on the potential of the material to realize the activity of the active principle. Color is precisely that aspect of an

¹⁹ *De Malo*, 2, 4: "si ergo obiecta humanorum actuum considerentur quae habeant differentias secundum aliquid per se ad rationem pertinentes, erunt actus specie differentes, secundum quod sunt actus rationis, licet non sint species differentes, secundum quod sunt actus alicuius alterius potentiae; sicut cognoscere mulierem suam et cognoscere mulierem non suam, sunt actus habentes obiecta differentia secundum aliquid ad rationem pertinens; nam suum et non suum determinantur secundum regulam rationis; quae tamen differentiae per accidens se habent si comparentur ad vim generativam, vel etiam ad vim concupiscibilem. et ideo cognoscere suam et cognoscere non suam, specie differunt secundum quod sunt actus rationis, non autem secundum quod sunt actus generativae aut concupiscibilis. in tantum autem sunt actus humani in quantum sunt actus rationis. sic ergo patet quod differunt specie in quantum sunt actus humani."

object by which it can be seen, and odor is that aspect of an object by which it can be smelled. Similarly, the material must relate to reason insofar as it is able to be acted upon by reason. Since practical reason seeks to order to the end, the material will refer per se to practical reason precisely insofar as it can be ordered to the good.²⁰ Sexual activity, for instance, receives its moral species insofar as the object is ordered to the good of procreation. A man having sexual relations with an animal or with another man is acting upon material that is not ordered to the end, and so the action is evil. On the other hand, if the object is a woman, then the action is ordered at least to begetting a child. The color of the woman's hair or the shape of her body are irrelevant to the moral species; what matters is whether the material can be ordered to the end of the action. For any moral species, then, we must first know to what end an action is directed. If we did not know that sexual activity is directed to the end of procreation, then neither would we know what objects are appropriate for the activity. Given the end of an activity, we then look to the material to see whether it can be directed to this end. As Aquinas says:

Moral actions, as was said, receive their species from the object insofar as it is compared to reason; therefore it is commonly said that actions are good or evil in species, and that an act good in species bears upon appropriate material, as feeding the hungry, while actions evil in species are those that bear upon unfitting material, as taking what belongs to another.²¹

The actions that are evil considered in themselves fit this pattern. They all have material unfit for the end to which they are directed. Consider the act of wearing clothing, which Aquinas says is directed to the end of signifying one's state in life. Obviously, this activity has other purposes as well, such as protection from the environment; but if we consider simply the end of signifying one's state in society and we consider that it is a man who is wearing clothing, then clearly the material of "women's clothing" is not directed to the end of the activity, and so the action is disordered.

In the instance of killing a man, the activity is bringing about death. The material, on the other hand, is an individual human being, someone

²⁰ See *ST* I, q. 77, a. 3. In *De anima*, bk. II, cap. 9, nos. 165–78, indicates that the material gives species insofar as it is in potential for the end or form. See also Brock, *Action and Conduct*, 89.

²¹ *De Malo*, 2, 4, ad 5: "actus autem moralis, sicut dictum est, recipit speciem ab obiecto secundum quod comparatur ad rationem; et ideo dicitur communiter, quod actus quidam sunt boni vel mali ex genere; et quod actus bonus ex genere, est actus cadens supra debitam materiam, sicut pascere esurientem; actus autem malus ex genere est qui cadit supra indebitam materiam, sicut subtrahere aliena; materia enim actus, dicitur obiectum ipsius."

with a nature capable of sharing in the human good. Unlike a car or a computer, things directed to the good of being used, human beings are meant themselves to be subjects of the good and are fit material for the activity of sharing the good, not for the activity of bringing about evil. The act of killing a man, therefore, is disordered, for it brings about the evil of death in material that is meant to be the subject of good.

For the sake of time I will pass over the more difficult case of the priest taking more than one benefice, although we may assume that it too bears upon inappropriate material.²²

These actions, then, have unfitting material and so they are disordered. How, then, is the disorder removed?

Multiple Orders to the Human Good

Recall that the single action of bringing about death can be both an action of bringing about the evil of the individual and an action of bringing about justice for the common good. Death relates in two different ways to the human good, so that while it involves one natural form it can be diverse kinds of good or evil. The action of killing a man in capital punishment, then, insofar as it is ordered to the human good, is ambiguous. As the active principle of moral actions, then, reason can relate in diverse ways to the act of killing a man; it can order the action to evil or to good.

Now the material of an action relates per se to reason insofar as it is compared to the order of the action. Just as the material of wax relates to the activity of heating insofar as it is able to take on the form of heat, so the material of the human action relates to reason insofar as it is able to take on the good or evil introduced by reason. In the activity of killing, a single natural form is introduced, namely, death, and the person who is killed is certainly able to take on this natural form; he is not immortal. The moral question, however, is whether he is able to take on the form of good

²² The case of the priest taking more than one benefice is more difficult to analyze, but I think it is best viewed as an instance of a passive activity, as the priest accepting or consenting to being acted upon by the benefactor. The benefactor, then, is directing the priest to care for the parish, and by accepting the benefice, the priest consents to be the material of the action. The priest's action is morally good if he in fact is material properly disposed to receive the action of the benefactor, that is, if he indeed is present in the parish and caring for its members. Taking a second benefice, then, for a church from which he will be absent, is inherently disordered, the priest is not properly disposed to receive the direction given by the benefactor, namely, to care for the parishioners. Aquinas also sees other disorders associated with the taking of a second benefice, but I need not delve into these.

or evil introduced. But here is the difficulty. We cannot say, just by considering the natural form of death, what good or evil is introduced; it might be the evil of the individual or it might be the common good.

Is the material acted upon, then, able to take on the moral form that reason introduces? No single answer can be given. If the form introduced is the evil of the individual, then the material is not fit and the action itself is evil. If the form introduced is the common good, then sometimes, when the individual is a criminal and a danger, it is able to bear the form; as such, the action is good. The act of bringing about death has no inherent order to which the material can respond. We cannot say simply that the material of a human being is capable or not of being ordered to the end of death. That depends in what way death is being ordered. Is it being ordered to the individual, in which case it is an evil, or is it being ordered to the common good, in which case it can be a good? The material of a human being is not usually fit material for an act of killing directed to the good, but if the individual is a criminal whose actions have directed himself against the common good, then he may be fit material for the act of killing.

A similar ambiguity is found in the act of wearing clothing. This single action is ordered to many human goods, such as revealing one's state in society, protecting oneself from the environment, and so on. We cannot say, then, whether a material is fitting or not fitting for this action, unless we know what order is found within the action. No material relates *per se* to the action simply as such. The single natural form of donning clothing has many diverse orders attached to it. Before some material can relate *per se* to an action, that action must have a definite order to some human good or evil. Then the material can be seen as capable of bearing that good or not, as fitting or unfitting for this good.

Disordered in Itself

Perhaps we have made our case too strong. We have distanced the act of killing a man from any moral species, but in so doing have we not also entirely eliminated its disorder? We wish to say, after all, that the act of killing a man, absolutely considered, is disordered. But if it is disordered, then must it not have unfitting material, as we have argued previously? But how can it have unfitting material if it is ambiguous in its order to the end? We cannot have our cake and eat it too. Either it is disordered in itself, in which case it has unfitting material, or it is ambiguous in its order to the end, in which case we cannot identify, just in itself, whether the material is fitting or unfitting.

Fortunately, this is precisely a situation in which we can have our cake and eat it too. When we consider the act of killing a man, in itself, we are considering it as bearing upon an individual human being, without considering that he is also a part of the common good. Such a consideration, however, removes the ambiguity with regard to the human good, for death is unequivocally the evil of the individual man. Such material, then, when considered abstractly, is indeed unfitting for the act of bringing about death. Similarly, when we describe clothing as “women’s,” we are considering it precisely insofar as it is ordered to the end of signifying the state of being a woman. We are abstracting from the possibility that the material could be capable of bearing some other order. We are considering the action, then, precisely insofar as it is meant to reveal one’s state in life; and the ambiguity concerning orders to the end is removed.

As long as we consider these actions abstractly, we consider them as involving a single order to a good or evil. Similarly, when we consider the act of throwing cargo into the sea, in itself, we consider it simply as destroying a good, abstracting from the possibility that it might also be an act of destroying something dangerous. The will reacts adversely toward destroying a good, and so the action, considered absolutely, is involuntary. In the concrete instance, however, the will might very well be ordered to this action in other ways. Similarly, although the act of killing a man, considered precisely as an act of killing an individual human being, is disordered, since it is bringing about the evil of that individual, nevertheless, in the concrete instance the action might be ordered to the man as a part of the common good.

We began by noting that being against the will or according to the will involves a relation between an action and the will. We concluded that an action being disordered or well ordered must also involve the relation between an action and some other term, which we identified as reason ordering to the end. Just as the will might relate to the act of throwing cargo overboard in diverse ways, so reason might order the act of killing a man to diverse ends. If we consider the act of jettisoning cargo in itself, on the other hand, then the will relates to it only as moving away from it; similarly, if we consider the act of killing a man in itself, then reason has but one order for the act, namely, the order to that individual’s evil. The act is disordered in itself, but that disorder may disappear in the concrete, where reason finds diverse orders for the action.

Evil from Any Single Defect

We must turn to our second difficulty: if some actions can have their moral evil removed, then how is it that other actions cannot, such as theft

and adultery? Even if we have succeeded in explaining how something can be disordered in itself and yet well ordered in the concrete instance, we still have a formidable task ahead. We have yet to explain why adultery is different. Why can the disorder associated with killing a man be removed, while the disorder of adultery must always remain? The problem is especially acute for an action such as theft, which St. Thomas says is evil in its species and can never be made good; yet Aquinas allows that sometimes we can take what we need, as a starving person might take a loaf of bread. He does not explain this apparent exception, however, in the manner that he has explained the exception to killing a man, by saying the deformity can be removed. Rather, he says that in necessity all things are held in common, so this act of taking in need is not in fact an act of theft.²³ Why would Aquinas choose this seemingly casuistic approach when he had another alternative available? Why did he not say, simply, that taking what belongs to another, considered absolutely, is wrong, but it can become good with the additional circumstance of necessity?²⁴ Is it, as the proportionalists claim, that theft simply means ‘the wrongful taking of what belongs to others’? Does it include moral evil within its definition, so that Aquinas could in no way say that it becomes good?

Let us see how the activity of theft derives its species. The act of taking some object is directed in the broadest sense to using that object. Whatever the thief plans to do, even if he simply intends to destroy the object, he is inevitably using it. Possession or ownership, however, designates to whose use an object is directed. To say that this car belongs to me is to say that it is directed to my use.²⁵ If I take what belongs to someone else, then, I am taking what, by definition, is not directed to my use, and so my action is disordered. A form is being introduced by reason, namely, the use of the object. If by ‘using the object’ we mean merely the physical activity, then the material is certainly able to bear the form; the thief

²³ *ST* II–II, q. 66, a. 7.

²⁴ Some thinkers classify taking in need together with returning deposits, supposing either that both are exceptionless norms or both are norms with exceptions. See, for instance, R. A. Armstrong, *Primary and Secondary Precepts in Thomistic Natural Law Teaching*. The Hague: Martinus Nijhoff. 1966, at 164, who ultimately supposes that both are exceptionless. John Boler, however, (“Aquinas on Exceptions in Natural Law,” in Scott McDonald [editor] *Aquinas’s Moral Theory: Essays in Honor of Norman Kretzman*. Cornell University Press: Ithaca, New York, 1998, 161–204, at 185–87) provides a good division of exceptions, in which the case of theft, and others like it, are not truly exceptions but cases in which the nature of the action itself changes, while returning deposits is truly a norm that has exceptions.

²⁵ Or rather, the procurement for my use (*ST* II–II, q. 66, a. 2). The argument is simplified greatly, however, by eliminating the middle term of procurement.

is able to use the car he steals. But if by 'using the object' we are referring not merely to physical activity but to a human good introduced by reason, then the material is able or not able to bear the form depending upon possession. If the person owns the object, then the material is well proportioned to the human good of using it. If he does not own it, then it is unfit material.

Apprehending the evil of theft, then, need not introduce some tautological moral judgment. Theft is not 'wrongful taking;' it is taking what is not ordered to one's use. The judgment that one should not take it follows immediately, but it is not built into the definition. In this regard, theft is no different from the act of killing a man or the act of a man wearing women's clothing. These actions, as well, bear upon unfitting material, at least when considered in themselves. In what way, then, is theft different from these actions? Why is it always evil?

The reason, it seems, is that the order to the end is irremovably connected with the act of theft. The order toward revealing one's state is associated with wearing clothing but not necessarily connected to it. The order to the good of the individual is not of necessity joined to our actions toward others, for some acts of the state can be directed to the common good, apart from the good of the individual. In contrast, the order to the good of using something is unavoidably connected to the act of theft; to take something is to use it in some manner. Similarly, the order toward procreation is necessarily associated with sexual activity, so actions such as adultery or fornication must always be disordered.²⁶

Strictly speaking, for the act of killing, the material of a human being does not relate per se to reason. There is no necessarily identifiable end associated with the action. It follows that one cannot say whether the material is able to bear that end or not; further information must be provided. Likewise, for the act of a man wearing clothing, the material of 'women's clothing' does not relate per se to reason. There is no necessary end associated with the act of wearing clothing, or at least the end of revealing one's state is not necessary, so that one cannot say whether the material can bear the end or not. In contrast, the act of taking something is necessarily directed to the good of using it, whatever other ends it might also be directed toward. Therefore, if the material cannot bear this good,

²⁶ Possibly, this point might be put in term of the distinction (made only in the *Sentences*) between the primary and secondary ends of an action. While sexual activity can be for the sake of the good of the spouses, its primary end, of procreation, must always remain. See Williams Sweet, "Persons, Precepts, and Maritain's Account of the Universality of Natural Law," *Maritain Studies* 14 (1998), 141–65, at 149–52; Armstrong, *Primary and Secondary Precepts*, 58–75.

because it belongs to someone else, then the action must always be wrong. Likewise, the act of sexual activity is necessarily directed to the good of procreation, whatever other ends it might also have. Therefore, if the material cannot bear this good, then the action must always be wrong.

But then why should we say that actions such as killing a man are evil when considered in themselves? If further information must be provided before we have a definite order to an end, then how can these actions be evil? Because in the abstract we consider the action precisely under the formality of a certain order. "Wearing clothing" is ambiguous with regard to the order of reason, but when we consider "wearing women's clothing" we are focusing precisely upon the end of revealing one's state, just as if we consider "wearing warm clothing" we are considering the act of wearing clothing precisely insofar as it protects us from the environment. The very description "women's clothing" is a description of clothing insofar as it reveals a certain state. Therefore, a man wearing women's clothing, considered in itself, is directed to the end of revealing one's state, but it bears upon unfitting material. Similarly, while the act of killing is ambiguous with regard to the end, when we consider the act of killing a human being, just in itself, we are considering the action insofar as it bears upon this individual. As such, it should be directed to the good of the individual but is not.

In these instances, the order to the end arises because we consider the action precisely insofar as it has this order. Further considerations might reveal that this order need not be present in the concrete circumstances. In contrast, for the act of theft the order to the end arises not simply because the action is considered under the formality of this order but because the order to using the object is unavoidably connected to the act of taking. In no way, then, can this order be removed; consequently, the material must always be inappropriate.

In capital punishment, we do not merely supply an additional order, as if covering up or outweighing the original disorder. Rather, a determination is made between two orders that the action might have; the ambiguity associated with death is resolved. We do not have, then, a disorder that is patched over, but a disorder that is never realized in the concrete.²⁷ The disorders of theft and of fornication, on the other hand, must always be realized in the concrete, because the action has no ambiguity in its order to the end. Since any single defect makes for evil, it follows that

²⁷ Sweet ("Persons, Precepts and Maritain's Account," 152) goes so far as to say that when a precept is not reasonable in a concrete situation then it ceases to be a precept. It is better, perhaps, simply to say that the precept does not apply, although it remains a precept, since precepts concern actions in themselves.

theft and fornication will always be evil. Killing a man in the instance of capital punishment is good not because it has a defect trumped by good, but because it has no defect, given the particular order that is realized in the action. **N·V**