

## Background and Motivation

Alasdair MacIntyre: “[T]he truth is plain: there are no [natural or human] rights, and belief in them is one with belief in unicorns and witches.” (1)



Alasdair MacIntyre

## Individual Rights

Although Aquinas does not clearly use individual rights language, he does talk of ‘the right’ (*ius*), meaning ‘that which is just’, as a feature of social relations. One can define individual rights in terms of this concept.

Essentially: ‘A has a right to X from B’ means that B is obligated (by the natural or positive law) to give X to A; i.e. that B’s giving X to A is that which is right.

## Aquinas on Property

Aquinas distinguishes between the **ownership** of property – “the power to procure and dispose of external things” – and its **use**. (8)

Aquinas holds that the division of property is a feature of *constitutions*; thus, property regimes may differ in their specifics, depending on law and custom: “[T]he division of possessions is not according to natural right, but, rather, according to human agreement, which belongs to positive right ...”

Nevertheless, Aquinas thinks that any reasonable constitution will have to include some sort of private ownership, for three reasons:

1. To effectively avoid many “tragedy of the commons” situations;
2. Private ownership is often the best solution to inevitable coordination problems (“there would be confusion if everyone were responsible for everything in general”);
3. Private ownership prevents a large class of disputes from arising (thus, in many cases, it vastly reduces decision-making costs).

## Scholastic Liberals vs. Anti-Scholastic Monarchists

Robert Filmer: “Since the time that school divinity began to flourish, there hath been a common opinion maintained ... which affirms: ‘Mankind is naturally endowed and born with freedom from all subjection, and at liberty to choose what form of government it please ...’” (2)

Francisco Suarez: “[I]n the nature of things all men are born free; so that, consequently, no person has political jurisdiction over another person, even as no person has dominion over another; nor is there any reason why such power should, simply in the nature of things, be attributed to certain persons over certain other persons, rather than vice versa.” (3) [Cp. Locke (4)]



Robert Filmer



Francisco Suarez

## The Common Good

**The Common Good:** A set of conditions that tends to enable the members of a community to attain overall human well-being (including moral well-being). (5)

Hayek: “If man is not to do more harm than good in his efforts to improve the social order, he ... will have to use what knowledge he can achieve, not to shape the results as the craftsman shapes his handiwork, *but rather to cultivate a growth by providing the appropriate environment, in the manner in which the gardener does this for his plants.*” (6)



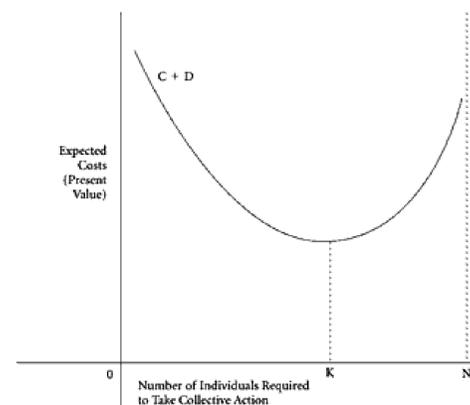
Thomas Aquinas



F.A. Hayek

## Theory of Constitutions

Since the ‘common good’ is not a well-defined end-state, laws must be general, stable, clear, practicable, and public. (7) Furthermore, because of the open-ended nature of the common good, many political constitutions will be acceptable, though pressing prudential considerations (e.g., culture, customs, history, geography, etc.) will often constrain rational choice for a given group.



## ‘Specifying’ the Natural Law

We might imagine everyone in our community, each aiming at *eudaimonia*, coming together to set up general rules for society. What might they all agree to, assuming each had perfect prudential judgment? (Cf. Buchanan and Tullock, *Calculus of Consent*)

## Comparisons with Locke

- Both agree: By divine law, all resources are in the first instance “common” to all, and no one inherently has any claim to any resource over anyone else.
- Both agree that in cases of extreme necessity (e.g., if one is starving), one is entitled to the surplus of others. (9)
- Aquinas considers property ownership to be a matter of positive law; Locke considers it a matter of natural law, with property ownership resulting from “mixing one’s labor” with resources in the commons.
- Nevertheless, Aquinas thinks any just society must allow *some* private ownership; and Locke thinks that once one exits the state of nature, one gives up one’s property to be regulated by the community (albeit within limits).

## Introduction

**Problem:** Apparent tension between early modern thought (as found in, e.g. Locke) and Aristotelian ethical and political theory (as found, for example, in Aquinas). Specifically, the liberal emphasis on liberty and individual natural rights is in tension with the Aristotelian view that the state ought to promote the common good of the community, which includes *moral* well-being.

**Thesis:** Medieval political theory and Lockean political theory share some important similarities, and medieval political thought lays the groundwork for some aspects of early liberal thought.

**Argument:** Aquinas’ views on property rights, for example, can be helpfully analyzed in terms of contemporary economic models of institutional choice. In light of this analysis, it can be seen that Aquinas’ and Locke’s theories of property share important assumptions and lead to similar conclusions.

Other Comparisons	Aquinas	Locke
Views on the Human Good	Aristotelian theory of human good as <i>eudaimonia</i>	Hedonistic view of the good as pleasure
Natural Law and Obligation	Natural law knowable by human reason; obligation to obey grounded in the nature of human reason	Natural law knowable by human reason; obligation to obey grounded in part in threat of divine punishment
End of Government	Promotion of <i>the good</i> , albeit with some limits on scope	Government has “no other end” but preserving property
Form of Government	Absolute monarchy best in principle; “mixed” polity often best in practice	Absolute monarchy in principle wrong; favors constitutional representative democracy

## Conclusions

The case of Aquinas on property shows that, while there are important differences, Locke’s thought develops – in some cases, directly appropriates – arguments and concepts that are basic to medieval Aristotelian thought.

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## References

1. Alasdair MacIntyre, *After Virtue. A Study in Moral Theory*, 3<sup>rd</sup> ed. (Notre Dame, 2007), 69.
2. Robert Filmer, *Patriarcha and Other Writings*, J.P. Sommerville, ed. (Cambridge, 1991), 2.
3. Francisco Suarez, *Selections from Three Works*, Thomas Pink, ed. (Liberty Fund, 2015), 430-31.
4. John Locke, *Two Treatises of Government*, Peter Laslett, ed. (Cambridge, 1988), 269-72. [esp. II.4 - II.7]
5. Cf. Thomas Aquinas, *Summa Theologiae*, II-II q.90. See also John Finnis, *Natural Law and Natural Rights*, 2<sup>nd</sup> ed. (Oxford, 2011), 155.
6. F. A. Hayek, “The Pretence of Knowledge.” Nobel Prize Lecture (1974). Emphasis added.
7. Cf. *Summa Theologiae* II-II q.90a.4; q.95a.3; q.96a.1. See John Finnis, *Aquinas* (Oxford, 1998), 257 II-II q.66a.2.
8. II-II q.66a.2.
9. For Aquinas, see II-II q.66a.7: “In cases of necessity all things are common property.” For Locke, see *First Treatise*, sec. 42.