



ARISTOTELIAN-THOMISTIC MENTAL REPRESENTATION OF REALITY:

INTENTIONALITY VERSUS INTUITION: REASON VERSUS WILL?

Mónica García-Salmones

1. Introduction

The subject of this paper, a comparison of the epistemology or theory of cognition of the realist Thomas Aquinas (1224-1274) and the nominalist William of Ockham (1280-1349) has facilitated a necessary limitation of the broad horizon of questions that one could discover around Aquinas. If we were not dealing with a realist, I would have said the 'infinite number of questions'^[27].

From a historical point of view there is no doubt that the philosophical quarrels between nominalist and realist, which took place more than six centuries ago, were accompanied by the political struggles of the times, such as the polemical tracts written by Ockham to defend the Emperor Lewis of Bavaria against his antagonist Pope John XXII (circa 1330)^[28].

Nevertheless, strictly speaking this is a philosophical inquiry. The intention of this paper is to ascertain whether there was *something* of the philosophical controversy directly related to the political struggle, and whether one can establish a direct link between a realist/nominalist epistemology and the evolution of the concept of law, of the conception of a sovereign, or of a theory of state. Arguably, around the corner from every philosophical position there seems to be a direct or indirect influence in every important question of 'real life', however difficult philosophers like Kant have found it to admit this point^[29]. This paper aims to understand the essential differences between nominalism and realism's theory of cognition and to identify the legal and political reality left behind, after a very abstract philosophical quarrel took place.

The study will begin with a description of the epistemologies of realism and nominalism. The emphasis, however, will be on aspects of the philosophy of Thomas Aquinas; thus various characteristics of his philosophy will be explained, and different aspects needed to make a contextual exposition of the question will be described from Aquinas's point of view. In short, he is the main focus of this paper. Finally, a brief exposition will follow, in which the consequences for law and for the formation of

political theories after the Middle Age's controversy of reason (realism) versus will (nominalism) shall be described.

2. Thomas and Aristotle: Same Souls, Different Spirit

The study and orderly exposition of the *Metaphysics* by Aristotle, which consists in the consideration of: causality, the Ideas, genera and species, the number and nature of those things, etc, presupposes a theory of cognition^[30]. This does not mean, however, that there exists a science of knowledge superior to metaphysics. Aristotle places metaphysics at the pinnacle of the hierarchy of all sciences; it is the science of first principles, and the absolute first principle is being^[31]. Thus the object of metaphysics is being without attributes^[32]. In his commentary about Aristotle's *Metaphysics*, Thomas Aquinas add nothing that deviates from Aristotle's basic doctrine that the first principles are known through immediate experience and every science uses them and treats them as established truths^[33].

Inciarte points out that Thomas Aquinas, unlike Aristotle, was never prepared to consider form alone, without matter as the first substance of material things, thus in his commentary on Book IV of Aristotle's *Metaphysics* there can be found differences on some questions regarding the theory of substance^[34]. However, the differences do not exist either in the interpretation of the first principles nor in the interconnection between the first principles and the theory of substance (οὐσία)^[35]. These questions form the core of Aristotle's philosophical thinking. They give his *Metaphysics* its structural unity, and might shed light upon the degree of harmony between Saint Thomas and *the Philosopher*, as he called Aristotle^[36]. Moreover, the interpretation of the Aristotelian first principles of knowledge, such as the principle of Non-Contradiction and the principle of Excluded Third, made by Saint Thomas, helps greatly to overcome difficulties created by modern interpretations of the two principles^[37]. With regard to the question of the theory of cognition, Aquinas presents the most coherent statement of the Aristotelian theory^[38].

Both philosophers, in their pursuit of the truth, proceed invariably from the sensible to the intelligible^[39], and this is what made them what we call realists. Realists consider the existence of the external world to be self-evident^[40].

According to Gilson, the realism of the Middle Ages is a true heir of the Greek realism. Nevertheless, the motives behind these two forms of realism were very different. Aristotle distrusted Platonic idealism, because he considered that the reign of the human being is in this world, and that consequently we need a science that belongs to the world in which we live. The Christians also increasingly distrusted Platonic idealism, because the reign of God is not of this world, but this world is the necessary point of support for those who want to elevate themselves to God^[41]. To dissolve this world in an inconsistent amount of appearances (towards which Platonic

idealism leads) meant the same as to deprive the human being of the safest way to know God. Then, thought the Christian of the Middle Ages, if the Creation is not intelligible, how can we ever know anything about the Creator?^[42]

The solemn warning of Augustine, *non est igitur expectanda sinceritas veritatis a sensibus*^[43], (we cannot expect, then, that the corporal sense renders the truth in its purity), formulated by him in order to avoid the uncertainty of the sceptical, was a precept mulled over by all the great philosophers of the 13th century^[44]. In the case of Aquinas, the conclusion of his meditations was that when we know something we know a thing and not merely its image or likeness^[45].

According to Rentto, Aquinas makes a great effort to show that the human intellect is somehow infallible^[46]. Aquinas's argument runs as follows: in regard to its proper object the powers of the soul cannot be deceived. Thus, for example, the sight cannot be mistaken when it sees a black figure: this is what it sees, and this is what there is in front of it. However, it might happen that the black figure is identified as a stone, but is in fact a bird; therefore, there are other ways in which the senses can be deceived. In a similar manner, 'the intellect cannot be deceived when it receives the quiddity of a thing, for it is the proper object of knowledge to know that by which a thing is what it is'^[47].

3. A Theological Controversy

At a certain point during the late Middle Ages a rejection of Aristotle started, in as much as he gave pre-eminence to intellect and relegated the will. A suspicion appears to the effect that knowledge is passive. Thomas Aquinas had said in the *Summa Contra Gentiles* that God was not only *Logos* (Word) but also Holy Spirit, this means Love. The fact that God was Love, Holy Spirit, says Aquinas, had never been suspected by anyone, but was rather an object of Revelation^[48]; thus not an object of knowledge. This implied that the will was not in itself imperfect, and was, according to Polo, a very important consideration for medieval theologians. Nevertheless, for some of those theologians Aristotelianism and whoever followed it, like Aquinas, were to be distrusted. Love, and therefore will, it was argued, cannot be subordinated to the intellect, because the eternal life consists in contemplation and this is *love*. The move away from Aristotle commenced in relation to the disjunctive question, 'what is first – love or reason?' Aquinas, however, does not follow this path. He continues with Aristotle, saying that the pre-eminence is in the understanding, because we love only what we know, and both knowing and love are active operations^[49]. It is clearly from theology that the nominalism-realism controversy first gained life. But how exactly do the nominalist and the realist describe the process of knowing?

4. Nominalism

Ockham is probably the most important author of voluntarist nominalism, but nominalism is a very substantial movement that dominated the following century^[50].

This movement, Nominalism, might be described as a kind of realism that determines the conditions under which one can speak about reality^[51]. The real being is, in nominalism, a *singular* being, and, it might be said, not much more. The nominalism of Ockham, according to Polo, leaves the two main transcendentals, truth and being^[52], in a quite disadvantaged position, since reality becomes in his philosophy a pure contingent 'singulum'; pure facticity posited by the absolute will

of God^[53]. Allegedly, the singular – that which is numerically and locally distinct – is for Ockham isolated. This isolation signifies that reality is composed of a quantity of singular facts. How can we possibly know this? If reality is composed of unconnected singulars, these singulars must consequently be equally disassociated from the knowledge of the individual person. Besides, if reality is composed only of disassociated singulars, there is nothing to know about each singular apart from its pure singularity^[54]. Thus, it would be impossible for the individual to recognize her surroundings, leading to a kind of continuous perplexity. Polo explains how Ockham overcomes this necessary result of a bewildered state of mind by replacing the traditional Aristotelian notion of knowledge with the intuition of the singular^[55]. I will first explain the concept of intentionality used by the realist theory of knowledge in order to describe the disconnection between reality and knowledge established by Ockhamian intuition.

5. The Concept of Intentionality and the Species Theory of Cognition

Nothing is in the understanding unless it has first been in the senses^[56]. This is the classical formula of Aristotle that Saint Thomas repeated: *‘Omnis nostra cognitio originaliter consistit in notitia primorum principiorum indemonstrabilium. Horum autem cognitio in nobis a sensu oritur’*^[57]. If human beings wish to learn anything, an impression upon the senses is needed. In order to think and reflect about something we already know, it is necessary to return to the sense-based images already possessed^[58]. For example, if I hear someone speak or see him move I know immediately that he is alive; I may therefore say that I see that he is alive^[59]. Aquinas also reflects upon what distinguishes the dream from a judgement made while awake: it is that the dream lacks the sensation, while the judgement is formed in the light of two opposite principles of intellect and sensation^[60].

The touchstone of realism, says Gilson, is its definition of the human being’s essence as a ‘rational animal’^[61], who has nothing in his or her understanding unless it has first been in the senses. Moreover the perfection of this rational animal is achieved through an intellectual ordering of the whole of the human being^[62].

On the other hand, the thing (*res*) *extra mentem* is real, but is not in itself known in actuality^[63].

In the realist theory of cognition we apprehend the world around us through a rich representation on the soul^[64]. Central in the theory is the concept of intentionality^[65]. For this theory there is an order of operations. The immanent operations of knowledge in which the *telos*, (the end, sense, *intentionality*, as the scholastics would say) is ‘present perfect’, and *not* something that has to be achieved^[66]. We consider here the peculiar teleology of the immanent operations. Aristotle gives the example of building a house and compares it with the act of knowing. When one builds a house, one engages in the process of building, but one does not yet have the built house. When one has finished the process of building, one has the built house, and one does not build anymore.

However, in a manner opposite to that which applies where physical movements are concerned, when one sees or knows in any other sense, one already has, or possesses, what one sees and yet one continues to see^[67]. When I see, I have seen already. Here is the explanation of a finality, a *telos* in present perfect. If I cease to see, the reason is not that I have seen already. Perhaps light becomes scarce or I have closed my eyes. In those and in other cases external motives frustrate my act of seeing, but not the fact that I have seen already. These immanent operations of knowledge are called by Aristotle *enérgeia* or *praxis* in its proper sense^[68].

Viewed from another angle, the concept of intentionality might help to identify the relation between the external world and the cognizer in realist philosophy. Accordingly, it can be said that the object of the *operation* of knowledge is intentional. It represents and refers, *has the intention to something in the reality*. The cognitive intentionality is, as the philosopher Polo suggests, while admitting the limitations of the example, like 'photography separated from the paper'. The act of knowing might be like the act of separating the photography from the paper, which physically cannot be done. Pure intentionality is not something to achieve, as it is in the case of building a house; on the contrary it is precisely what is already achieved and actually possessed^[69].

The 'photography', the pure intentionality, is a form that refers to a form in the reality. Realism is based upon the double fact that our knowledge truly attains reality because reality is the object of our knowledge. Moreover, our knowledge attains reality thanks to our sensibility^[70].

The form in the reality, as in the case of photography, goes before the operation of knowledge of forming the intentional form. The act of understanding gives form to the intentionality, not by doing anything, but rather by removing in order to concentrate on forming.

As formed, this act of forming is pure resembling^[71]. What is more interesting is that in a realistic theory of knowledge the object of knowledge is not a means or an instrument by which to possess reality.

The reasons for this are, first of all, because reality is not possessed *realiter*, but *intentionaliter*; and furthermore, because the object of knowledge is not a *medium* but a *telos*^[72].

The act of forming and the intentional form are the same, the objective intentionality. The object is not formed in order to be understood, since the act of understanding does not consist in contemplating objects that are *terminatively* formed^[73]. The object is formed in order to understand, or in as much as one understands. The classical formula is mentioned in this context by Polo, *Intellectus noster et formando intelligit et intelligendo format*^[74]. The cognitive intentionality is the reference under which we know, and this relates both to the act of knowing and to what is known. Both occur at the same time: *simul*^[75].

Before moving on to the concept of intuition, it can be said that such a theory of knowledge based on the concept of intentionality describes everything but an isolated reality or an individual isolated from reality. Reality and the individual seem to coexist in dynamic intercourse. Through the *active* operation of knowledge the mind is provided with the possibility of thinking and of understanding its surroundings.

6. The Nominalist Intuition

One drawback to Ockham's theory is that it gives no account of what the causal relation between objects in the external world and our mental representations of them look like^[76]. As mentioned before, the isolated real singular of Ockham had to be nonetheless knowable, in order to avoid a theory of perplexity. This is made possible by the intuition. The intuition is a psychological fact, thus real^[77]. As a fact it is also singular. Moreover, the singular intuition has to be attributed to what for Ockham is strictly real in the human being, which is the will.

Intuition is a fact of will. In this manner, there are no criteria for *knowing* whether there is a correspondence with reality^[78]. However, this does not seem necessary, for there is in this sense no knowable reality. The only thing that can be ascertained is the intuition, because it is singular^[79]. My 'knowledge' of singular reality also has to be singular. 'There is no adjustment or conformation in the intentional sense, but something similar to a "contingent repetition"^[80]. In comparison to the classical Aristotelian understanding of knowledge, this 'contingent repetition' degrades the concept of truth, for the *singular* intuition of singulars resembles the observation of a laboratory rather than apprehension of reality. As Polo says, when the will tries to 'work' as knowledge, it reduces knowledge to empiricism^[81]. Aristotle put it in those terms: '[i]f nothing exists apart from individual things, nothing will be intelligible; everything will be sensible, and there will be no knowledge of anything – unless it be maintained that sense-perception is knowledge^[82].

For Ockham, only the idea has sense. Reality has no sense, for the intuition blocks the way to any intentionality of the ideas to reality^[83]. The phenomena of sense, *telos*, is now allocated in logic. While logic is a game of possibilities, reality is real, but not possible^[84]. In one direction the idea has at most an antecedent in reality, which is the intuition, but it can be hardly said that it has more than this. In the other direction, however, the idea might eliminate every reference to reality and nothing happens to its status as idea^[85]. Knowledge is for nominalism the order of the possible^[86]. Hence many possible worlds might be conceived, because there is no unique and necessary logic^[87]. Reality and space are banished from the idea, or perhaps the other way round: the idea loses in its exaltation every foothold in reality.

7. Will of the Sovereign Versus Reason of Law

The weight given to the reason or to the will produced, arguably, two very different conceptions of law and sovereignty at the beginning of modernity^[88]. Ostensibly, it is essential to have the possibility of trusting the judgement of reason in order to make a judgement about the righteousness of a law, or in order to know whether the sovereign is or is not a tyrant. The followers of monarchical sovereignty in early

modernity seek the idea of a Rule of Law^[89], because the law is *'imperium rationis, mens no voluntas'*, the work of God through the human beings, and therefore it also binds the legislator^[90]. The sovereign was thus bound by law. However this happens only through a *vis directiva*, and not through a *vis coactiva*^[91], because there is no superior to the sovereign except God, and it is not possible to punish him. The sovereign has *culpa* but no *pena*.

Aquinas, who as has been said before accounts for a greater equilibrium between Reason and Will, was the great theoretician on this matter, followed later by a large tradition of publicists. He derived the content of the Law of Nature from the Reason that is immanent in the Being of God and is directly determined by that *Natura Rerum*, which is comprised in God Himself. It is important to remember here that, for Aquinas, the human law was law only to the extent that it was in accordance to Natural Law, and in other cases it was a perversion of it^[92].

'On the contrary, it belongs to the law to command and to forbid. But it belongs to reason to

command, as stated above (17, 1). Therefore law is something pertaining to reason. I **answer that,** Law is a rule and measure of acts, whereby man is induced to act or is restrained from acting: for "lex" [law] is derived from "ligare" [to bind], because it binds one to act. Now the rule and measure of human acts is the reason, which is the first principle of human acts, as is evident from what has been stated above (1, 1, ad 3); since it belongs to the reason to direct to the end, which is the first principle in all matters of action, according to the Philosopher (Phys. ii).'^[93]

At the same time, he traces the binding force of this law to God's will^[94]. The prevailing opinion of the future years among the Schoolmen who followed Aquinas's tradition was also of a mediating kind, though it inclined to the principle of realism^[95]. The essence of law is for them *'iudicium rationis quod quod sit aliquid iustum'*.

During the 16th and the beginning of 17th century the belief persisted that reason, and not the will of the lawgiver, was what created the law. However the opposing belief gained more and more ground as the absolutists' theories developed^[96]. The most abrupt formulation of the identification of law and command dependent on the sovereign's will and *not on the reason*, is to be found in Hobbes, for example in chapter 14 of *De Cive*.

'Now COUNSELL is a precept in which the reason of my obeying it, is taken from the thing it self which is advised; but COMMAND is a precept in which the cause of my obedience depends on the will of the Commander. For it is not properly said, Thus I will, and thus I Command, except the will stand for a Reason. Now when obedience is yielded to the Lawes, *not for the thing it self, but by reason of the advisers will*, the Law is not a Counsell, but a Command, and is defined thus, LAW is the command of that Person (whether Man, or Court) whose precept contains in it the reason of obedience; as the Precepts of God in regard of Men, of Magistrates in respect of their Subjects, and universally of all the powerfull in respect of them who cannot resist, may be termed their Lawes'^[97]

Evidently, the evolution of the realist and nominalist theory of cognition runs parallel with the evolution in law brought about by the advent of absolutism, in two different directions. One of these believes the essence of law to be the free creativity of the sovereign^[98] and considers the force of the command. The other places the essence of law in the adaptation of a rational natural law to the circumstance of time and place^[99], thus giving the greatest importance to its content.

Nevertheless, according to Gierke in the later Philosophy of Law, the derivation of all Law – both Natural and Positive law – from Will was nearly universal^[100], and this included the people's sovereign will, that was also placed above the positive law, as well as the constitution^[101]. Moreover, the justice that the reason should discover when making the law was replaced by usefulness as a measure of binding force for natural law^[102]. A study of the ramifications of the principle of the will/reason in modernity and late modernity, though not lacking in interest, exceeds however the scope of this paper.

8. Conclusion

One outcome of the controversy between the two philosophical traditions discussed in this paper was that different conceptions of law and justice – absolutism and monarchy under the rule of law – appeared at the beginning of modernity; the period of history from the sources of which we are still drinking. In Europe, at a certain point, the authority of reason and the authority of the will of the sovereign came into confrontation with each other as incompatible principles, and the consequence of this understanding was the absolutists' elevation of the sovereign above any reason.

The thought of the masters of the Middle Ages provides an endless field of interest, to which is often necessary to return, even in order to cast light upon current developments and controversies. Thomas Aquinas was a central figure among those philosophers. His name gave echo to the thoughts of Aristotle, with which he was fascinated^[103], bringing Aristotelianism into Christianity in the way we know it nowadays. Some have blamed Aquinas for the level of speculation inherent in his thinking, while others praise him for the same reason. While the intellect was for him as important as his love of God, theology was however the master; and philosophy the *ancillae theologiae*, (the maid of theology). Nonetheless, in Aquinas the philosophy had the role of the 'queen in the order of pure truth that springs from the natural power of reason'^[104]. It is difficult not to agree with Aquinas in the value he gives to the intellect; however, the reason for this, lies, no doubt, in reason itself.

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[27] Together with the well known extension of his works is the not so well known misinterpretation of his theories that has also engendered an immense body of literature. The famous critique made by Gilson of several Neothomists, that according to him corrupt Thomist realism by applying to it modern critical methodologies until it becomes another idealism, may be found in Etienne Gilson, *Thomist Realism & The Critique of Knowledge*, (Ignatius Press, San Francisco, 1983). See also, Etienne Gilson, *El realismo metódico*, (Rialp, Madrid, 1974).

[28] See Max A. Shepard, *William of Occam and the Higher Law*, *The American Political Science Review*, v. XXVI, Dec.1932, N 6 at 1007.

[29] As Gilson explains, in the *critique* made by Kant the only possible point of view 'is either to accept the content of knowledge as it is presented to us, as empirically given fact, in which case it will be impossible to judge it, or we must seek to judge it, in which case we will need to place ourselves outside of knowledge in order to attain a point of view from which such judgement is possible.' This position seems to be the opposite position from a realist theory of knowledge. See Gilson, *Thomist Realism*, at 161.

[30] See Gilson, *Thomist Realism*, at 65.

[31] See Gilson, *Thomist Realism*, at 112.

[32] See Juha-Pekka Rentto, *Match or Mismatch, A Study on Ontological Realism*, (Acta Societatis Fennicae Iuris Gentium C I, Helsinki, 1992), at 11.

[33] See Gilson, *Thomist Realism* 66-67.

[34] See Fernando Inciarte, *First Principles, Substance and Action. Estudios in Aristotle and Aristotelianism*. Edited by Lourdes Flamarique (Georg Olms Verlag, Hildelsheim-Zürich-New York, 2005), at 15.

[35] See Inciarte, *First Principles, Substance and Action*, at 15.

[36] So, for example in the *Summa Theologiae*.

[37] The principle of Non Contradiction states in the traditional interpretation extended from Aristotle to Aquinas that both members of a contradiction cannot be true, whereas the principle of excluded third states that both cannot be false (there is no middle or third between the contradictories. *In libros Metaphysicorum*, n. 720, Thomas Aquinas, quoted by Inciarte). Both principles are in this traditional interpretation complementary to each other. Inciarte, *First Principles, Substance and Action*, at 17.

[38] See Robert Pasnau, *Theories of Cognition in the later Middle Ages*, (Cambridge University Press, 1997), at vii.

[39] This is the reverse of the order that other philosophers had followed. See Gilson, *Thomist Realism*, at 71.

[40] See Gilson, *Thomist Realism* Gilson, at 100.

[41] In this manner, taking the world as the point of support, Thomas Aquinas develops his famous five ways in order to prove the existence of God: 1. It is certain, and evident to our senses, that in the world some things are in motion (...) Therefore it is necessary to arrive at a first mover, put in motion by no other; and this everyone understands to be God. 2. In the world of sense we find there is an order of efficient causes. There is no case known (neither is it, indeed, possible) in which a thing is found to be the efficient cause of itself. (...) Therefore it is necessary to admit a first efficient cause, to which everyone gives the name of God. 3. We find in nature things that are possible to be and not to be, since they are found to be generated, and to corrupt, and consequently, they are possible to be and not to be. (...) Therefore we cannot but postulate the existence of some being having of itself its own necessity, and not receiving it from another, but rather causing in others their necessity. This all men speak of as God. 4. The fourth way is taken from the gradation to be found in things. Among beings there are some more and some less good, true, noble and the like. (...) Therefore there must also be something which is to all beings the cause of their being, goodness, and every other perfection; and this we call God. 5. The fifth way is taken from the governance of the world. We see that things which lack intelligence, such as natural bodies, act for an end, and this is evident from their acting always, or nearly always, in the same way, so as to obtain the best result. Hence it is plain that not fortuitously, but designedly, do they achieve their end. Now whatever lacks intelligence cannot move towards an end, unless it be directed by some being endowed with knowledge and intelligence; as the arrow is shot to its mark by the archer. Therefore some intelligent being exists by whom all natural things are directed to their end; and this being we call God. See *Summa Theologiae*, I, 2.3.

[42] This explanation about the spirit of realism in the Middle Ages might be found in Etienne Gilson, *El espíritu de la Filosofía Medieval*, (Rialp, Madrid, 2004), at 242.

[43] San Agustín, *De div. Quaest.* 83, qu. 9; *Patr. lat.*, t. 40, col. 13, quoted by Gilson, *El espíritu de la Filosofía Medieval*, at 233.

[44] Gilson, *El espíritu de la Filosofía Medieval*, 232-233.

[45] The reasons given by Thomas Aquinas are: 'First because the things we understand are the objects of science; therefore if what we understand is merely the intelligible species in the soul, it would follow that every science would not be concerned with objects outside the soul, but only with the intelligible species within the soul because the things we understand are the objects of science; therefore if what we understand is merely the intelligible species in the soul, it would follow that every science would not be concerned with objects outside the soul, but only with the intelligible species within the soul. Secondly, [it is untrue,] because it would lead to the opinion of the ancients who maintained that "whatever seems, is true" [Aristotle, *Metaph.* iii. 5], and

that consequently contradictories are true simultaneously. For if the faculty knows its own impression only, it can judge of that only'. *Summa Theologiae* I 85, 2.

[46] Rentto, *Match or Missmariage*, at 77.

[47] Rentto, *Match or Missmariage*, at 77.

[48] Leonardo Polo, *Curso de teoría del conocimiento*, vol. I, at 33.

This might be found in <http://www.leonardopolo.net/>

[49] Polo, *Curso de teoría del conocimiento*, at 33. As Polo states in the same vein of Aquinas: 'The will in itself since it is akin to intellect must be more than a pure tendency, and its way of acting more than a simple desire. This is the immense topic of love. Loves is an immanent operation and in the last sense the act of being, if God is love. Aristotle discovered the immanent character of the spiritual intellect and generally the cognoscitive immateriality. However he did not discover the character strictly spiritual of love, its condition of act'. Polo, *Curso de teoría del conocimiento*, at 28.

[50] Leonardo Polo, *Nominalismo, Idealismo, Realismo*, at 5.

This might be found in <http://www.leonardopolo.net/>

[51] Polo, *Nominalismo, Idealismo, Realismo*, at 4.

[52] The three transcendentals are, being, truth and good. The hierarchy established among them determines in a great part the type of philosophy that will be produced. So Polo, *Nominalismo, Idealismo y realismo*, at 1.

[53] '*Mala quia prohibita, non prohibita quia mala*', (wrong because it is prohibited, not prohibited, because it is wrong), this thesis of nominalistic ethics is parallel to its ontology, so Polo, *Nominalismo, Idealismo, Realismo*, at 3.

[54] See Polo, *Nominalismo, Idealismo, Realismo*, at 6.

[55] See Polo, *Nominalismo, Idealismo, Realismo*, at 3.

[56] See Gilson, *Thomist Realism*, 183-184.

[57] Thomas Aquinas, *De Veritate* q. 10 a. 6, Praeterea, quoted by Gilson, *Thomist Realism*, at 184.

[58] See Thomas Aquinas, *De Anima* III, n. 791, quoted by Gilson, *Thomist Realism*, at 190.

[59] Thomas Aquinas, *De Anima* II, lect. 13, (Pirota ed.), n. 396., quoted by Gilson, *Thomist Realism*, at 192.

[60] Thomas Aquinas Quaest. disp. *De Veritate*, q. 12a.3, ad 2, quoted by Gilson, *Thomist Realism*, at 185.

[61] Gilson, *Thomist Realism*, at 204.

[62] The definition of the distinct nature of the man as an animal with intellectual possibilities is for Aquinas, who followed Aristotle's definition, a question pregnant with content and consequences. According to Rentto, Aquinas's concept of intellect is twofold, intellect as soul (soul in the sense of form of the human being, thus a generic concept), with all the various powers of the soul: the vegetative, the sensitive, the appetitive, the locomotive, and the rational powers. The specifically intellectual

capacity of man is his most perfect capacity, ontologically prior to the other specific capacities. The perfection of all the powers of the soul lies in their intellectualization, which means 'in their being ordained towards universal being and universal good'. Therefore, the perfection of man consists not in a 'cultivation of the specific intellect that looks down or neglects the other aspects of human nature', but 'an intellectual ordering of the whole of man'. This may be found in Rentto, *Match or Mismatch*, at 45.

[63] This thesis is according to Polo extremely Aristotelian and even more Thomist. See Polo, *Curso de teoría del conocimiento*, at 20.

[64] See, Henrik Lagerlund, *Vague Concepts and Singular Terms in a Buridanian Language of Thought Tradition*, Proceedings of the Society of Medieval Logic and Metaphysics, Vol. 4, 2004, 25-36, at 26.

[65] I am indebted to Leonardo Polo for his thorough explanation of the concept of intentionality in, Polo, *Teoría del Conocimiento*, especially 54-77.

[66] Polo, *Teoría del Conocimiento*, at 40.

[67] Polo praises the great merit of Aristotle who apparently realized this for the first time, because, according to him there is a great merit in realizing that which later seems to be evident. See, Polo, *Teoría del Conocimiento*, at 28.

[68] Polo, *Teoría del Conocimiento*, at 27.

[69] Polo, *Teoría del Conocimiento*, at 58.

[70] Gilson, *Thomist Realism*, at 203.

[71] Polo, *Teoría del conocimiento*, at 57.

[72] Polo, *Teoría del conocimiento*, at 60.

[73] Polo, *Teoría del conocimiento*, at 60.

[74] Polo, *Teoría del conocimiento*, at 38.

[75] Polo, *Teoría del conocimiento*, at 60.

[76] See Lagerlund, *Vague Concepts*, at 26.

[77] So Polo, *Nominalismo, Idealismo, Realismo Nominalismo*, at 3.

[78] See Lagerlund, *Vague Concepts*, at 26.

[79] Polo, *Nominalismo, Idealismo, Realismo*, at 3.

[80] Polo, *Nominalismo, Idealismo, Realismo*, at 3

[81] Polo, *Curso de teoría del conocimiento*, at 46.

[82] Aristotle, *Metaphysics III*, 999b 1, 2. (Ed. *Metafísica de Aristóteles*, Edición trilingüe por Valentín García Yebra, Gredos, Madrid, 1982).

[83] Polo, *Nominalismo, Idealismo, Realismo*, at 3(ii)

[84] Polo, *Nominalismo, Idealismo, Realismo*, at 4.

[85] Polo, *Nominalismo, Idealismo, Realismo*, at 3 (ii).

[86] Polo, *Nominalismo, Idealismo, Realismo*, at 3(ii).

[87] Polo, *Nominalismo, Idealismo, Realismo*, at 4.

[88] However the controversy, transferred from the philosophy, whether the essence of law was Will or Reason did not affect in the Middle Age the conviction that there was a

Law of Nature that flowed from a source superior to the human law giver. If, with Ockham, Gerson and d'Ailly, men saw in Natural Law a Command proceeding from the Will of God, which Command was therefore righteous and binding, or if the constitutive moment of the Law of Nature was placed in the Being of God, but discovered dictates of Eternal Reason declaring what was right (so Hugh de St. Victor, Gabriel Biel and Almain) in both cases the source of law was God. About the nominalistic/realistic different explanations of Natural Law, see Otto v. Gierke, *Political Theories of the Middle Age*, (Cambridge University Press, 1958, trans. Frederic William Maitland, [1900]), at 172. Thus, Ockham, though called upon to defend the Emperor with 'the pen, instead of the sword', no more envisaged an absolute and unlimited imperial power than a papal one. So Shepard, *William of Occam and the Higher Law*, at 1007, note 6. Shepard considers erroneous Gierke's interpretation that the nominalistic view traced the force and source of natural law on the Will of God and the realist more on the Being, and assures us that no really essential difference exists between Ockham and Aquinas on the source and force of natural law. Moreover he states that 'Gierke does not cite any supporting passage for his interpretation'. Shepard, *William of Occam and the Higher Law*, at 1009. In response to this, I would point out that Gierke invariably supports his views by reference to an incredible amount of sources.

^[89] Otto v. Gierke, *Johannes Althusius*, (Verlag von M.&H. Marcus, Breslau, 1913), at 283.

^[90] So Claudius de Carnin I c. 4 u. III c. I, quoted by Gierke. Also Suarez, Soto, A. Fachinaens, Covarruvias and Gregor v. Valencia. See Gierke, *Johannes Althusius*, at 280.

^[91] So Thomas Aquinas, quoted by Gierke, at 283.

^[92] Aquinas says: '**I answer that**, as Augustine says (De Lib. Arb. i, 5) "that which is not just seems to be no law at all": wherefore the force of a law depends on the extent of its justice. Now in human affairs a thing is said to be just, from being right, according to the rule of reason. But the first rule of reason is the law of nature, as is clear from what has been stated above (91, 2, ad 2). Consequently every human law has just so much of the nature of law, as it is derived from the law of nature. But if in any point it deflects from the law of nature, it is no longer a law but a perversion of law.' Aquinas *Summa Theologiae*, I-II q. 95. 2.

^[93] Thomas Aquinas, *Summa Theologiae*, I-II, q. 90. See generally q. 90-92.

^[94] Gierke, *Political Theories of the Middle Age*, at 172. See Aquinas *Summa Theologiae*, I-II q. 93. 3. 'But in so far as it [human law] deviates from reason, it is called an unjust law, and has the nature, not of law but of violence. Nevertheless even an unjust law, in so far as it retains some appearance of law, though being framed by one who is in power, is derived from the eternal law; since all power is from the Lord God, according to Rm. 13:1'. The same argument is used by Ockham to explain that all laws, jurisdictions and authorities come from God in the same sense in which the Apostle

Paul spoke when he said that 'there is no power except from God.' William of Ockham, *Opus Nonaginta Dierum*, ch. 88, p. 1146. Quoted by Shepard, *William of Occam and the Higher Law*, at 1008.

[95] So Soto, Caietanus, Suarez, Bolognetus, Gregorius de Valentia. See Gierke, *Political Theories of the Middle Age*, at 173.

[96] Gierke, *Johannes Althusius*, at 280.

[97] Thomas Hobbes, *De Cive*, chapter 14. (emphasis mine).

This may be found at <http://www.thomas-hobbes.com/works/>

[98] Samuel Pufendorf, following the same principle, states in his book *Elements of Universal Jurisprudence*: 'nam ut aliquid in Civitate effectus juris civilis habeat, in solo arbitrio summae potestatis situm est', quoted by Gierke, *Johannes Althusius*, at 280.

[99] See Gierke, *Johannes Althusius*, at 280.

[100] The only exception mentioned by Gierke is Leibniz, who opposed the importance of the idea of Compulsion in the concept of law: 'Das Recht ist nicht Recht weil Gott es gewollt hat, sondern weil Gott gerecht ist.', Leibniz *Opera*, quoted by Gierke, *Political Theories of the Middle Age*, at 174. See e.g. the definition of Right of Kant's *Metaphysics of Morals*: 'Right is therefore the sum of those conditions within which the will of one person can be reconciled with the will of another in accordance with a universal law of freedom', quoted by Ian Zuckermann, *Hannah Arendt's Critique of Sovereignty*. This paper may be found at http://www.columbia.edu/cu/polisci/pdf-files/apsa_zuckerman.pdf. Arendt

traces the origins of European absolutism to secularization, which she terms 'the most elementary predicament of all modern political bodies, their profound instability, the result of some elementary lack of authority'. Hannah Arendt, *On Revolution*, quoted by Zuckermann, at 11.

[101] That according to Gierke gave form to a law of revolution, Gierke, *Johannes Althusius*, at 289-315, on Rousseau's doctrine on this, Gierke, *Johannes Althusius*, at 91-93.

[102] Gierke, *Johannes Althusius*, at 301.

[103] See generally, e.g. G. K. Chesterton, *Saint Thomas Aquinas. 'The Dumb Ox'*. (Image Books Double Day, New York, London, 1956).

[104] So Christian Julis Branis, 'Übersicht des Entwicklungsganges der Philosophie in der alteren und mittleren Zeit', (Breslau, 1841), quoted by Etienne Gilson, *El espíritu de la Filosofía Medieval*, (Rialp, Madrid, 2004), at 408.