

**THE CONCEPT OF THE COMMON GOOD IN THE
IBERIAN RENAISSANCE**

Isabel de Assis Ribeiro de Oliveira*

Working Paper #376 – February 2011

Isabel de Assis Ribeiro de Oliveira, associate fellow of the Centro de Estudos de Desigualdade e Desenvolvimento (Research Center on Inequalities and Development, or CEDE), received her PhD in political philosophy at the University of Madison, Wisconsin. She is a full professor (retired) of Political Theory at the Universidade Federal do Rio de Janeiro (Federal University of Rio de Janeiro, or UFRJ). Her research interests include the language of rights, republicanism, and public policy and she has published extensively on those subjects.

* I thank the Kellogg Institute for International Studies at the University of Notre Dame for giving me the opportunity to write and conduct research during my time there as a Guest Scholar in fall 2009. R. Fishman, V. Polega, C. Domingo, E. Rankin, P. Oliveira, and M. V. Penna deserve mentioning for their support. I am also thankful for the criticism of the anonymous referees. This paper is part of a larger project, “The Iberian Legacy and the Rule of Law,” financed by CNPq.

ABSTRACT

The Iberian legacy in political thought has been mischaracterized as a source of authoritarianism, with scant attention to the theme of legitimacy. For Golden Age writers, however, care for the common good constitutes the main reference for distinguishing legitimate from tyrannical rule, although nowhere in their writings can we find a coherent and sustained discussion of this central political concept. Its description constitutes the object of this paper. The common good takes into consideration both natural sociability and freedom as its major assumptions, finding its due place in a representation of society as a hierarchical association of equally free and unique persons who cannot live well without each other, since no one has all the abilities required to preserve his life and fulfill his own nature. What is at stake, thus, is not an authoritarian legacy but a tradition that—acknowledging asymmetries, differences, and inequalities among men and a beautiful order in the universe—tries to deduce from the latter a logic for preserving human society.

RESUMO

O legado ibérico tem sido tomado, indevidamente, como uma das fontes do pensamento político autoritário. No entanto, os estudiosos do Século de Ouro distinguiam o bem comum como a principal referencia para diferenciar regimes legítimos da tirania. Apesar da sua centralidade, em seus textos não se encontra uma discussão coerente e sistemática desse conceito, que leva em conta tanto a sociabilidade natural quanto a liberdade. O conceito de bem comum implica uma representação da sociedade como associação hierárquica de pessoas igualmente livres e únicas que não podem viver bem sem estarem conectadas umas às outras, posto que nenhuma tem, por si mesma, as habilidades requeridas para se auto-preservar e realizar-se em plenitude. O que está em pauta, portanto, não é um legado autoritário e sim uma tradição que reconhecendo assimetrias, diferenças e desigualdades entre os homens e bela harmonia no universo, busca derivar desta uma lógica para preservar a sociedade.

The Iberian legacy in political thought has long been mischaracterized as a source of authoritarianism.¹ While this view has recently been challenged, scant attention has been given to the theme of legitimacy, as developed by Golden Age (latter half of the sixteenth to the first half of the seventeenth centuries) writers. My research focuses on the treatment of legitimate rule by Spanish and Portuguese humanists such as Afonso de Castrillo, Dominicans and Jesuits such as Francisco de Vitoria, Juan de Mariana, and Francisco Suárez, and jurists such as Vázquez de Menchaca.

Highly influential in their time in establishing normative criteria for policy-making and policy evaluation, these Iberian Renaissance² political philosophers brought new conceptions into political philosophy that deserve consideration. If I had to condense their normative principle into one phrase, I would say that, differences among them notwithstanding, they all agree that the right kind of power exercised in a rightly constituted society requires and justifies obedience, as long as it promotes the common good.

For the theorists of the Iberian Golden Age, care for the common good thus constitutes the main reference for distinguishing legitimate from arbitrary, tyrannical rule, as well as for establishing major civic virtues. Despite its crucial position in their argument, nowhere in their writings can we find a coherent and sustained discussion of this central political concept (Höpfl 2006: 123). As we study other notions clearly connected to it, however, a consensus among them begins to emerge as to the meaning of the common good, which I hope to explain in this paper.

This effort was stimulated by Skinner's praise for an 'archeology' that brings "buried intellectual treasure back to the surface, dusting it down and enabling reconsideration of what we think of it" (1996: 112). Contemporary interest in Iberian political thought, following his seminal studies, is growing steadily, but a thorough elucidation of the common good is still to be attempted. Höpfl's (2004) broad and careful presentation of Jesuit political thought in the Iberian Golden Age comes the closest so far, but he fails to account for the richness and complexity of the concept; his strategy, as developed in the seventh chapter of his book, was to identify whatever characteristics each Jesuit proposed as being the end of the state and add them all together. The result is

an aggregation of policies supposed to express the common good which, taken as a whole, probably would not get the consent of any of the authors in question.

The concept finds its due place in a representation of society as a hierarchical association of equally free and unique persons who cannot survive, much less live well and happily, without each other, since none has all the abilities required to preserve his life and fulfill his own nature. To substantiate this argument I will focus on core notions that are intrinsic to the concept. In the first section I deal with hierarchy ('sacred order'), to my knowledge the most important and the least elaborated notion. The next section is devoted to freedom, one of the foundations of subjective right, which, by contrast, has captured most of the scholarly attention given to this moment of political thought. The following sections deal with the means devised to reach the main goal of a good political association of free men: in section three I present the institutional power arrangement recommended for the attendance of the common good, the final section being devoted to the theme of virtues and civic education.

THE CONCEPT OF HIERARCHY

An elucidation of the Iberian Renaissance writers' underlying assumptions about hierarchy is crucial for furthering our understanding of their idea of a common good. They seldom use the term itself and the concept is not a subject of their discourse, since a hierarchical view of the world is their 'natural way of thinking,' that is to say, it is not subjected to reflection and theoretical elaboration. Nonetheless, I claim that it is surreptitiously but pervasively present in their vision of politics, more precisely, in their depiction of the 'perfect society.' In other words, my hypothesis is that taking hierarchy into consideration brings further intelligibility to the concept of the common good, since the latter encompasses both social stratification and freedom.³ The simplistic image of hierarchy as a "pyramidal structure, regular in shape and completely dominated by an apex towering above the whole" (Fasolt 1991: 183) is far from adequate, although both notions of a whole and of an ordering principle are intrinsic to a hierarchical view of political society. Yet they do not exhaust its main features, which also include participation of the lower levels in the upper and complementarity of rank.

Let us start with the notion of a whole, as found in the medieval tradition. Kempshall (1999) distinguishes three types. The first type is the universal whole, “predicated equally of all its parts in that it is present in its essence and entirety” in each of them, although it does not require the collective presence of all of its parts to exist as such. By contrast, the second type, the integral whole, “depends on its parts being arranged together, as a house, which requires, at least, walls, roofs and foundations to be recognized as such.” The third is the potential whole, “which is present in each of its parts in its essence but which is present in its entirety only in one pre-eminent part” (Kempshall 1999: 11).⁴

Participation of the lower levels in the upper and complementarity of rank seem to be implied in Dionysius the Aeropagite’s concept of hierarchy, which presumes unity in diversity. Here the emphasis is upon the revelation and communication effected among all beings, rather than the separation and domination of parts. Kempshall explains how, in the pseudo-Dionysian concept of hierarchy, “the notions of unity, being, and goodness were all subject to the same principles of diffusion and participation”—emanation of the many from the one (*proodos* or *exitus*) and reduction of the many to the one (*epistrophe* or *reditus*) (1999: 4).

Diffusion or emanation is the process through which a hierarchical structure is produced; reduction points to the reverse direction of movement, somehow closing the loop. However, it is not clear if we are confronting just one kind of movement in two opposed directions (from the one to the many and from the many to the one) or if reversion involves a dynamic distinct from emanation. Such a question, as Kempshall proposes, can be formulated in those terms because late medieval political thought, he argues, deals with two different notions of nature. In the Latin sense, nature meant “a thing’s due position, stage or status in the ordered scheme.” In the Greek sense it “signified rather the immanent purpose springing from within a thing and reaching out to its highest proper goal” (1999: 5, n. 11). As Kempshall puts it: “Simply stated, this amounts to asking whether each grade in the hierarchical order of the universe represents, for the grade immediately below it, the only possible route to attaining its ultimate goal of union with God, or whether the higher grades can, in fact, be bypassed in the ascent of each individual in Creation towards God” (1999: 4–5).

Moreover, one might speculate whether emanation necessarily implies degradation, a lessening of strength (or a deterioration) with each step further from the source; or is it, rather, a reproduction of copies on a gradually diminishing scale, as in fractals in which each preserves the initial structure? If this second hypothesis provides a better account of what is involved in a dynamical hierarchical order, it is possible to suggest that the *aeropagita* formulation, encompassing both “emanation” and “reduction,” contains an egalitarian premise, proper to participation. Equality is preserved in the sense that all persons are equally able to share the same good, as the minimal fractal image still keeps the whole core design. Equality is further assumed in the same possibility for a direct ascent of each individual towards the good.

The notion of an order that implies both subordination and equality is far from obvious, since it suggests plain contradiction: if there is equality among elements, how can they be placed in a ranking order? However, the contradiction dissolves if the complexity of the elements and the nature of this order are taken into consideration. Fasolt’s (1991) investigation of the argument presented by Durand, a thirteenth-century conciliarist, sheds light on this issue.

According to Durand, in a hierarchical order, which implies differentiation and gradation of ranks, the instrument for public union is concord, encompassing love and reverence. Concord implies differentiation, as Fasolt remarks, since if there were no differences, monotony rather than “true concord” would obtain, and the whole world would not hold.⁵ As Fasolt puts it, love and reverence can “transgress the boundaries that are established by different degrees of power” (1991: 182). It is from the following statement by Gregory I, quoted by Durand, that Fasolt extracts his premise:

the purpose for which divine providence has distinguished between different ranks and orders is that the minor ones may exhibit their reverence to the powerful and the more powerful bestow their love upon the minor ones, so that true concord may come about, diversity may be turned into connection, and each office may be rightly administered. For if this great order of difference did not conserve the whole, it could not subsist on any other ground. (1991: 178)

Such a conception contrasts with the commonsense characterization of hierarchy, in which rules and sanctions take care of cohesion; instead of force, it is an exchange of feeling that binds the whole together. Clearly structured on accepted grades of power to which correspond distinct functions, exchange rather than command and obedience takes place, notwithstanding the asymmetry of feelings.

The less powerful are not supposed to love their superiors but to display, with reverence, recognition of their due position; the superiors, however, can and must love and empathize with their inferiors, as noted by Fasolt's reading of Durand. This injunction follows from the assumption that it is up to the higher levels to take care of all, which requires from superiors a systematic grasp of the social order as a whole. Within this order of difference, however, an intrinsic equality among all members is postulated, which becomes quite clear when, presenting his case for council, Durand brings into play a far from negligible factor for discord. Fasolt establishes, in Durand's thought, a disjunction between law and truth. As long as (civil) law is connected to natural and divine law, they are closely linked. Law, however, might be wrong when associated with custom, which is not necessarily based on *ratio*/truth. Now: "If the truth was neither identical with law nor the sole prerogative of superiors, then inferiors who knew the truth could stand up against their superiors. Regardless of their hierarchical position, they had a right not only to express their views but also to have their views considered seriously" (1991: 224). 'Inferiors' can know the truth, because God's (natural) law can be apprehended by anyone. Emanation and reduction are thus at work in this situation, in which reverence, following acknowledgement of superiority, is far from being passive obedience, since participation in the common good through reason can bring about contestation and disruption.

A further clarification of the concept of hierarchy can be obtained from Aquinas, who posits two major principles ordering the relationship of the individual to the whole. The first states that all individuals participate in the goodness of the universe; the second, that all good is communicative (Kempshall 1999: 100).⁶ The first principle defines the meaning to be granted to equality, keeping in mind that hierarchy cannot be reduced to plainly linear subordination. If all elements participate in the common good, each element has the power to express/contest visions of the good, as noted above in Durand's analysis,

notwithstanding the practical possibility of efficaciously doing so. In so far as this distribution of power is accepted, and taking into consideration individual freedom, the inequality, which is also present in hierarchy, is legitimated. The hierarchical system as proper to the concept of the common good involves, thus, a specific meaning of equality, strictly related to reason and freedom, which is the same in every human being.

Aquinas' second principle—communication—can be grasped by Maclean's discussion of the human mind, as conceived by Renaissance Aristotelians. As he points out, the mind is configured in such a way that "there is an interface between sensibles and intelligibles, and a communication within and between minds." Inscribed in Augustine's doctrine of the mind, communication is motivated by love, in the sense that the heart can "speak" in "pre-linguistic and pre-semiotic terms" (Maclean 1999: 299, 305).

The holistic compound of hierarchy is explicitly brought to the fore by Vitoria, in his argument against atomistic materialism. According to him, atomists are unable to account for the complexity, beauty, and order in the universe; they cannot acknowledge that all aspire to the same good, *felicitas* and/or *beatitudo*, as expressed below:

Working with these materialist premises, they [atomists] could not give a proper explanation of the smallest thing, let alone comprehend with their philosophy the fabric and mechanism of larger and more complex structures. What answer could they give, if I were to ask how the variety of forms which matter takes in the beautiful structure of the Earth...are bonded together on every side by the mutual attraction of parts and clothed with flowers and greenery and trees? ...How to explain the wonderful structure of the human body, the separation, order, commodity, and beauty of its separate parts and limbs all made from a single material? (Vitoria 1991: 5)

In this image one can see how Vitoria is attentive to the "fabric and mechanism" of this complex structure, which pervades the cosmos, the earth and all there is in it. What reason could be given to suggest that each of those unities results from an aimless combination of "atoms that clash into each other in the infinite void?" He makes it quite clear that not only is this structure perceptible but it is also possible to discern, through

reason, its dynamic driving forces. One of those forces, however, has no predetermined cause, being freedom, a faculty that accounts for unanticipated action. Order will thus be preserved only as long as reason is in charge, so that agency will not trespass proper limits.

The image of the body, under the command of the head, is still usual to represent such a structure, expressing what is common in the polity. Juan de Mariana, however, stressed that it is the heart that sustains life (Lewy 1960: 51), bringing about the issue of concord, as the Christian virtue of charity uniting different individuals in a same whole.

As freedom becomes more and more important, it shatters the body's structure, from the perspective of Domingo de Soto. He dislikes the image's organic tone, pointing to the fact that man, unlike a part or body organ, is master of himself. Criticizing the recurrent use of the metaphor of the body whose head would be sovereign, Soto insists that, unlike a member of the body, which in fact does not exist independently and has no will of its own, people do have independent existence, apart from community, and can thus be harmed by sovereign action. Besides, the sovereign has no rights over personal property, a further distinction from the mind, owner of its own body. As a member of society, the individual must act according to public right; as an individual, he can exercise his own control over himself—being *sui iuris*, he has dominium over himself and his freedom (see Brett 1997: 159; Oliveira 2003: 191).

FREEDOM AND THE COMMON GOOD

Vitoria stresses the fact that human free choice includes the power to choose evil. An error, he says, implies the possibility of doing right, which is no more than to act according to natural (and divine) law. This idea of free will (*libre arbitrio*) is explored and expanded by Molina, who argues that it is opposed to necessity, rather than to coercion. A free act follows a rational judgment, which recommends doing something in such or such a way or not doing it. This idea is crucial for establishing the merit of a person or, alternatively, his or her guilt, since reason can distinguish good from bad (Fernandez 1986: 302). By his turn and in the same vein, liberty will be defined by Suárez as “a certain power of acting with *dominium*, or the ability to suspend an act, even

when all things necessary for the act are in place...in the way that free-will is said to be a faculty of both will and reason” (Vieira 2008: 277). In this sense, human interrelationships and political power depend on acts of the will, that is, actions that are not caused by external or internal compulsion but are conscious acts directed to the fulfillment of a chosen goal. Moreover, Suárez asserts that men are born equal, so that none has political jurisdiction or dominion over others. As for political power, it was given by God to the whole society, not to a particular person.

Freedom implies limits on government, as claimed by Soto, who argues that “public power must extend only so far as each individual plays a necessary part in the survival of the whole community... Beyond that, man must not only have his own rights as an individual, but he must also have their exercise within his own control: in other words, he must be *sui iuris*, have *dominium* of himself or his liberty” (Brett 1997: 159). Menchaca will also argue that political power cannot override the freedom of citizens. As Brett points out, Menchaca ignores Cicero’s proposition, closely related to Menchaca’s notion of freedom, that society implies a feeling of mutual obligation among citizens. In Cicero’s understanding, *Libertas* is responsible freedom; as such it is completely at odds with unbridled license (Brett 1997: 179). In fact, Menchaca’s conception depends on the opposition between nature, *potentia*, and politics, *potestas*; the latter designates a power established in order to obtain a specific goal, while the former is an “undirected might,” a “quality possessed in different degrees by the “free individuals,” who naturally use that freedom and that power to oppress whomsoever they can” (Brett 1997: 173–74). It is precisely because everyone acknowledges his or her own *potentia* that all need a government to administer justice. Thus, the prince’s power must be submitted to the realm of right by which its action is restricted, in order not to invade the mind and the will of the individuals.

Menchaca’s concept of the subject is clearly distinguished from Vitoria’s, since he recognizes both (natural) reason and a domination instinct that can lead men, unlike animals, to “prey on their own species” (Brett 1997: 183). The contrast with the Aristotelian approach to the goal of political association could not be more vivid, as the following quotation from Menchaca shows:

Under the laws of the city, it is presumed that each individual citizen entered the political environment in order to further his proper utility: “that each individual entered into that society entirely for the sake of his own convenience, both appears to be the case from the interpretation of the law, and accords with natural reason and right, since well-ordered charity should begin with oneself.” (Brett 1997: 201)

It is within this context that subjective right gets its place in the concept of the common good, implying not only required consent for the exercise of political power but also limits beyond which it cannot go.⁷ Defined by Vitoria as the right to belong to a political community, subjective right encompasses freedom of thought, of trade, of going in and out of the city (*ius perigrinandi*). As outlined by Maravall (1955: 260), the sacred character of home, the inviolacy of correspondence, respect for property, and listening to both parties before any sentence (fair trial) compose a sphere of privacy that cannot be trespassed by governmental power and that was respected even in the Baroque century. Those rights are due to those who can exercise dominion over themselves, their goods and words; thus, to every free person.

Freedom, however, does not imply the denial of natural law, since subjective right is oriented to the fulfillment of its (natural law’s) postulated ends. Assuming that natural law emerges from nature itself, as laughter is natural to man or burning to fire, Vitoria emphasizes an intrinsic necessity to the effects of a cause: accessible to all, natural law establishes the required connection between a cause and its effects (or between a being and its attributes); through instinct or “interior grace,” it can be grasped by everyone (Brett 1997: 142). No one can ignore its commands (Hamilton 1963: 14–15); thus, everyone can attain the good, through right interpretation of nature,⁸ a position also held by Soto. Sources of error in grasping natural law are identified by Luis de Molina: human passions; the intricate character of whatever we want to comprehend; laziness; ignorance. To put it briefly, those deficiencies of the subject of knowledge might compromise full understanding of what natural law commands or forbids, by itself (Hamilton 1963: 18–19).

Suárez establishes another kind of relationship between natural law and human understanding. He argues that the Thomist conception is too broad, in the sense that unification of laws (divine, natural, human) misses the distinction between commands and counsel. His own view grants a major weight to will, pure expression of freedom, thus conferring more latitude to the law. As Courtine points out, Suárez is not denying that God's reason governs the whole universe; what is being challenged is the possibility of grasping a common reason that encompasses divine providence as much as positive legislation. As a consequence of this interpretation, law does not express the objective good: it is the law as such that constitutes the good (Courtine 1999: 93, 95, 96).⁹

The goodness is supposed to be the natural object of the intellect and the will, so that it would be seem 'unnatural' if someone were not acting towards it. Medieval terminology used to evaluate alternatives involved not only the 'good' but also terms like 'benefit' or 'utility' (*utilitas*), keeping in mind that benefit could accommodate both usefulness and good. Terms like 'convenient,' 'advantageous,' and 'congruent' were also available (Kempshall 1999: 9, 10). Language was thus rich enough to accommodate a huge diversity of meanings somehow attributed to the universal good.¹⁰

The classical distinction between a life of virtue and a less ambitious but more stable, secure *civitas* was thus well established for further elaboration by Renaissance political thinkers, who connect the good to human sociability. From his understanding of human nature, Vitoria identifies two major factors that keep us naturally together: our defenseless bodies and our thirst for knowledge. Following Cicero, he states that, unlike other animals, we do not have "horns and claws" to safeguard ourselves against aggression; it is society that can give us protection, through adequate political institutions. However, now quoting Ovid, Vitoria notes also that man's upright stance is so made in order to be able to "look to the skies": our search for knowledge, however, can only be successful through training and experience, both impossible in isolation (Vitoria 1991: 5, 7, and 171).

Those two factors do not exhaust the reasons for our sociability, since it was ordained, likewise, by the precept of love to fellow man, expression of God's love. Political life is, thus, to be oriented for *felicitas* and *beatitudo*. The former is to be taken care of by positive law, being a function of the state to attend to economic or material

needs. The latter is the main concern of the Church, which must provide moral education, that is to say, attend to symbolic needs, a Thomasian argument that Vitoria reiterates in *On Dietary Laws or Self-Restraint* (1991: 220).

Although a clear distinction between those two goods, *beatitudo* and *felicitas*, will only be provided by Suárez, Domingo de Soto, Vitoria's disciple, referring exclusively to worldly goods, classifies them into three types: life, honor/reputation, and temporal goods, the latter being those goods that have a price (Schüßler 2006: 159). In Soto's analysis of sociability, community aims for the "good life of man in its fullest sense." As Brett remarks, Soto is very insistent that "the commonwealth should not to be seen as just for physical safety... Men living in cities are governed by laws, which are all to be instituted for the good of the soul, in which our felicity consists... The city's laws are there to inculcate moral virtue, which...alone perfects the good man" (Brett 1999: 158), a topic to be dealt with further on.

Suárez mentions *felicitas* many times, but he seldom unravels what he means by it. Here and there, he says that philosophy takes care of happiness in this life, "or rather with a certain state conducive to passing it in peace and in justice" (1944: 43). Courtine (1999) quotes Suárez's *De Legibus* (III, 11, 7) in which it is clearly stated that the end of the perfect community (that is, the common good) is natural happiness, which means peace, justice, and enough goods for the preservation and comfort of corporal life, together with adherence to the social mores required to live in harmony with one's fellows. The contrast with Vitoria's conception follows from radical secularization, in the sense that the Suarezian perfect community is not oriented towards the salvation of the souls (*beatitudo*) but to the fulfillment of social needs (Wilenius 1966: 17, 24, 25; Vieira 2008: 292). This diversion from the scholastic tradition derives from the distinction Suárez establishes between science and religion, which leads him to define the common good as a material good, clearly separating the ecclesiastical and the political domains.¹¹

Social division of labor is crucial in Suárez's proposal for a healthy social life: "Although man is naturally sociable, and by an imperative of preservation driven into the first social unit, he cannot find in it the means for living a fully satisfying life: the family does not yet form a self-sufficient society." Moreover, there is "need of aid and service of

other men; need of offices and arts necessary for human life...not contained in the family” (Suárez 1944: 365).

It is worth mentioning another interpretation of the good, as given by Vásquez de Menchaca, which, properly speaking, would be better named the avoidance of evil. The “natural appetite for sociability” follows from his argument that society is valuable for those “whether because of youth, or senility, or bodily or mental illness, or sex, or weakness, cannot protect themselves against the more powerful” (Brett 1997: 172). With reference to Cicero, Menchaca stresses the natural inequalities rather than, *pace* Vitoria, the equal vulnerability of all. Menchaca emphasizes discord among men, attributing to the human tendency for disagreement a major reason for constituting civil power.

Juan de Mariana agrees with Menchaca’s interpretation of Cicero concerning the inherent conflict in sociability. Mariana argues that human malignancy and unbridled desire for the accumulation of riches led men to private appropriation of a land given by God to all in common (Lewy 1960: 106). Such a reading of the human condition contrasts with Vitoria’s assumption that there is no conflict between consensual representations of rational minds (1991: xiv). Vitoria presumes that the common good can be brought about because natural law, being accessible to all, leads everyone to orient himself to the same good. Such a belief will persuade Vitoria to read dissent as heresy, irrationality (“invincible ignorance”), or bad faith.

Summing up, *beatitudo*, *felicitas*, peace and justice, security, wellbeing, glory, honor/reputation, material benefit, material property, material goods, preservation and commodity of corporal life are terms that give more precise boundaries to the good. Some meanings make more sense if connected to individuals (like *beatitudo*, glory, reputation, and the preservation of corporal life) while others imply, at least, a ‘potential whole.’ Attainment of the good, however, depends on human freedom.

POLITICAL INSTITUTIONS AND THE COMMON GOOD

As I suggested at the beginning of this paper, these Iberian Golden Age theorists were quite convinced that it was possible, for a rightly constituted society, to promote the

common good through politics. This section is devoted to explicating the main traits of such a ‘good’ society, as designed by them.

The first issue concerns the relationship between the common good and land property. It was well established, by then, that communal ownership was no longer possible and desirable. Violent destruction of communal ownership, argues Alonso de Castrillo, irreversibly disrupted the egalitarian state of nature, thus creating the need for a political order. Castrillo asserts that political authority “is rooted in sin” (Fernández-Santamaria 1977: 24, 30); however, he admits that, confronted with such a sinful circumstance, the *ciudad* becomes the “noblest and highest” of human assemblages. Such a civil society is to be ruled, according to him, by those who are neither corrupted by too many possessions nor destitute. His analysis focuses on three main social categories, the noble, the merchant, and the artisan,¹² sustaining that neither merchants (*mercaderes*), who are moved by greed, nor artisans (*oficiales*), who toil with their hands, can attain the excellence required for citizenship. Fernández-Santamaria notes that Castrillo is particularly harsh with the former, arguing that men who are slaves of their own possessions cannot be full members of a city, “defined as the company of free men” (Fernández-Santamaria 1977: 27). They are to be considered, at best, *ciudadanos imperfectos*. Castrillo is not denying the contribution made by those social categories to the commonwealth; he is just establishing what is to be expected: “The nobles look after the republic’s welfare through the sacrifice of their own interests on the altar of the common weal. The merchants identify the commonwealth’s welfare with their own, while the artisans seek the common good by, first and foremost, attending to their own needs” (quoted by Fernández-Santamaria 1977: 28). Thus, preservation of the common good would be the nobles’ responsibility, as long as they are not corrupted by living at the court. When this is the case, the last hope will be fixed on the virtuous prince.

It is worth noticing, in Castrillo’s analysis, the hierarchical traits of differentiation, complementarity, participation, and freedom, ordered by a governing principle, through which power is to be with those groups or persons able to place the common good above their own.

Soto is also very insistent on the fact that although everything was originally given to everybody in common, nature is no longer what it used to be. He argues, however, that

the “communist delirium” must be abandoned, considering how convenient private property is to a corrupted nature.¹³ Men love what is theirs and do not care for what is common to all. Moreover, many servants, as required for administering common enterprises, lead to less productivity, since everyone waits for others to take care of whatever hard work is to be done. Therefore, although many things are to remain in common, such as the “city itself, roads, water, fish, birds, etc.,” private property is better for promoting the common good, granted that in times of need all things can, again, become common.¹⁴ Soto explores the relationship between human interdependency and welfare, also depicting three social categories: workers, guardians (military and nobility), and jurists. The difference from Castrillo’s analysis deserves attention, owing to Soto’s recognition of law—expressed in the mention of jurists—as crucial for political order. Putting the military and the nobility in a same category is his way of emphasizing their political function as guardians of the city, opening up a major role for a professional administration of justice.

Suárez reasserts that property was not given by God to anyone but to all in common (Tierney 2002: 400; Wilenius 1966: 87), private property being a purely human institution, not a derivation from nature. However, if nothing hinders legal distribution of whatever is common to particular individuals, such a possibility does not affect priority of collective appropriation over private property, as a principle for judgment (Tierney 2006: 190; Vieira 2008: 279ff.). So, in certain circumstances, such priority can be activated, since the common good is twofold. “One phase of this good is itself and primarily common... Examples are...magistracies, common pastures and meadows... The other form is common only in a secondary sense and because it redounds [to the general welfare], so to speak. Yet it is also said to be a common good, either because the state has a certain right over private goods, so that it can use them whenever it is necessary, be it because the individual good is beneficial to the community, for the sole reason that the individual is a part of the community” (Suárez 1944: 94). Suárez is very close to Soto’s argument that community of goods is intolerable, except among religious orders (see Fernandez 1986: 262). However, instead of blaming men’s wickedness as the source of private ownership, he acknowledges private ownership’s specific contribution to the wellbeing of all, thus reaffirming main hierarchical premises. In other words, although

common property is superior to private property in the sense that the whole is ‘above’ its constituent parts, a constituent part can bring to the whole a benefit that it does not possess, in itself. Such a recognition does not blind him to the difficulty involved, since the “good of a private individual...forms a part of the common good, when the former is not of a nature to exclude the latter good” (1944: 91).¹⁵ In a chapter dedicated to charity, he argues that the superfluous material goods of the rich naturally belong to the needy, since the rich are not the owners of what is superfluous, just its *dispensatores*; they become robbers and predators if they do not voluntarily distribute it to the needy (Wilenius 1966: 90).

Mariana likewise condemns the “savagery and greed” of those who took for themselves what was common to all, disturbing the capacity of nature to attend to collective necessities.¹⁶ Assuming natural equality, he asserts that only by (bad) luck or tyranny from the powerful do some find themselves destitute of everything (Lewy 1960: 106). He attributes to the state the responsibility for avoiding extreme economic inequality, through formulation of policies aimed to coerce those who have much to share with those who have nothing. His conception of justice emphasizes both equity and the artificial ordering of equal natural beings through merit: “Unless distinctions of orders and dignities exist, if everything is in a state of confusion and mixed up, nothing will be more inequitable than this equality” (*De Rege*, see Lewy 1960: 105).¹⁷ Qualifications for higher public offices are supposed to be based on competence, equality before the law being the major tenet (Lewy 1960: 103, 104).

From what was said above I conclude that the classic hierarchical view of the common good gradually loses its sacred emphasis on diffusion and emanation, except for reiterations that reason and freedom are ingrained in all. Order is no longer sustained by participation and communication, depending, rather, on the force of the law to control free men who are more prone to look to their own utilities than to the common good. Self-love is now seen as closer to selfishness rather than as a requisite for empathy; thus, it no longer threads the whole together. Inequality and individualism come to the fore, requiring political/juridical administration of conflict. Social inequality due to natural attributes, roles, differences in wisdom, among other causes, is accepted for legitimating an asymmetry of power (for example, by Soto). There is natural dominium of those who

are more ingenious over those who are more rude, which may lead to legal dominium (as Soto argues), although the rights of the dominated are not thereby nullified (see Fernandez 1986: 277). Inequality supplants complementarity of differences, leading to a preference for monarchy, the second major issue to be considered.

Political society is constituted by common agreement. As stated by Suárez, the “perfect community” is “gathered together...through one bond of fellowship for the purpose of aiding one another in the attainment of a single political aim” (1944: 86, 373). Before considering the three conditions that, according to him, must obtain in order to constitute a “perfect community,” it is worth noting that his definition follows Loyola’s dictum that “no multitude whatever can preserve itself as one body, unless it is united” (Höpfl 2004: 28). Preservation is the key term in that, although the constitution of a community requires human will, it is natural to humankind to form community in order to maintain itself. I also want to point out that the very mentioning of a multitude implies recognition of the aggregation of multiple individual wills. Suárez establishes an analytical distinction between multitude and people. The former,

can exist as some kind of aggregation, “without any order, or any physical or moral union,” and in that case no powers of jurisdiction lie in it... Nor are the members of inchoate multitudes “the authors and bestowers of the powers which are established over communities,” for “such a capacity can scarcely be said to exist in them as individuals, or even in what we might call the rough collection or aggregate of men.” (Vieira 2008: 279)

Thus, a people is a unified corporate body, “a moral if not a physical unity.”

Acknowledging the social nature of men, the first requirement for the constitution of the “perfect community” is the consent of those who will aggregate in it. Moreover, consensus is not arbitrary since there are intrinsically good and bad actions per se, which should be recognized by all. Within those limits, legislation will be enacted using enlightened reason, but also taking into consideration the subjects, so that they will be prone to obey it (Suárez 1944: 54–65). The second requirement is, thus, the postulation of a rational end, the *commune bonum*, established as the object of the law—a common, just

and stable precept—that imposes itself in a coercive way over the whole community.¹⁸ The third requirement is the establishment of a “head” (one or many persons) to which the “body” of the community will submit. Once all these requirements are met, society can be politically governed, becoming a self-sufficient state, that is, one able to attend to the material needs of its members.

Monarchy is consensually considered to be the best form of government. Vitoria begins its defense by appealing to the equal freedom of all and to the fact that everyone can make judgments—free acts of the intellect—according to natural law. There is no “reason why in a particular civil gathering or assembly anyone should claim power for himself over others.” Nonetheless, Vitoria considers monarchy the best institutional arrangement, since public affairs cannot be administered by a multitude.¹⁹

Mariana and Soto share a similar vision of the best government. The contractual basis of monarchy is important, according to Mariana, since it legitimates the choice and demise of the person in charge (Lewy 1960: 45). Mariana is concerned with the perverse consequences that might follow from a democratic procedure for establishing distributive policies according to the consent of a majority of citizens gathered in a public place. Power should be with the aristocracy (Lewy 1960: 53), so that a few groups or individuals are in a position to restrain each others’ unwanted behaviors.²⁰ While it is the monarch’s prerogatives to declare war, administer justice and appoint magistrates, he cannot raise taxes, as Mariana asserts in *De monetae mutatione*, or change laws, especially those concerned with succession, if it goes against the will of the multitude. As explicitly stated in *De Rege*, the king must submit “whenever the commonwealth as a whole, or men of the first rank who have been selected out of all the orders and who are carrying on the public functions, gather into one place and come to a common decision” (Lewy 1960: 57). Soto pays attention to details involved in the process of legislation, stressing that choice of adequate means towards the chosen goal must obey practical understanding, which involves careful analysis of means, as well as prudence, which he equates to “imperium,” that is, the final decision of doing or not doing something (cf. Fernandez 1986: 240, 242).

It should be clear, thus, that although natural law is decisive in the definition of the common good itself, the ways to make it actual, practically existent, require wisdom

and the will to move things around (Suárez 1944: 67). Suárez states clearly that all men are born free and no power of one man is greater than that of another man, so that power to legislate resides in the whole body of mankind (1944: 372–73). According to him, only those norms that are established by the majority of the people should be considered valid (Wilenius 1966: 18).

Secularization of political life leads both Suárez and Vásquez de Menchaca to turn their attention to customs. Menchaca argues that political power “belongs only to the realm of human relations, and, as such, derives its legitimacy not from nature but exclusively from custom.” From this argument flows a disposition to acknowledge changes, a view of government as administration, and the assumption that civil law is no more than “a set of rules arrived at by agreement among men for their mutual benefit” (Padgen 1995: 58, 59). Suárez is concerned with the degree to which legal norms are followed by the community by which they were created.²¹ Custom expresses a kind of legal power that the people retain, even in a monarchy: “What difference does it make whether the people declare their will by a vote or by facts and deeds?” (Wilenius 1966: 49). In posing this question, Wilenius suggests that Suárez is arguing for the extinction of a law if a custom, contrary to it, is being cherished by all. Notwithstanding his apparent endorsement of this peculiar procedure for political participation, Suárez concludes that ignorance, laziness, and so on might affect the adequate perception of natural law in framing one’s vision of the common good. Therefore, besides fear of oppression of the rich by the poor, there is reason enough to prefer a monarchy (1944: 385).

The third major issue has to do with policies oriented to developing, among citizens, those qualities that are prone to produce and/or preserve the ‘good society,’ which deserves a new section.

VIRTUES AND CIVIC EDUCATION

As long as the common good is considered in its transcendent meaning, as *beatitudo*, the cardinal virtues of faith, hope, and charity come clearly to the fore, orienting man towards his goal. Those are the virtues directly connected to justice, the “name of the

common good,” as proposed by Soto in his introduction to *De Iustitia et iure libri decem* (Fernandez 1986: 235).

It is hard to connect classic civic practices oriented to the achievement of honor and glory to the major Christian virtues of faith, hope and charity. At a first glance, it seems that Iberian Renaissance political thought presents, at this point, a complete reversal of a medieval outlook. However, charity is an other-oriented virtue, encompassing self-love as much as care for others. Self-love is recommended since preservation and care of our selves is not only a basic subjective right but also the best reference we can have for taking care of others. As modes of the same principle of self-preservation, self-love and selfishness must be distinguished in order to connect the former with the public interest, selfishness being highly destructive of sociability.

As a virtue oriented to others, charity has an affinity with friendship. In his *Idea de um príncipe político-cristiano representada en cien empresas*,²² Saavedro Fajardo asserts that in republics friendship is more important than justice, because when all are friends there is no need for laws or judges (Miller 1994: 38). However, the relationship between civism and friendship is not straightforward, since if it is true that the latter involves loyalty, the polis will not necessarily be the object protected by this bond. As Miller points out, friendship could be subversive of community, as it is proper to the private space; as such, friendship is directed inwards, not towards the *patria*, expressing a passage from a strong sense of community to one in which the public world stands at a remove (1994: 38). Moreover, and specifically among neo-scholastic thinkers, charity is devoid of the affection due to affinity, since its strongest component is compassion, which introduces an asymmetrical link impossible among friends. As such, it recognizes differentiation of social functions, so that Suárez recommends charity in order to minimize the pain of those in inferior positions, a resonance with the classical medieval concept of concord.

The path to *felicitas* is not so straightforward, requiring, most of all, the virtues of wisdom and obedience, as Castrillo asserts. Given that the citizen is a person who has the power to participate in and make judgments about public affairs, he is supposed to be prudent, just, honest, and prone to treating to his fellow citizens equally; moreover, he should have the ability to command and to obey (Fernández-Santamaria 1977: 27). There

is no question that the right to participate in the constitution of the perfect community is granted to all; once that is accomplished, however, only in the case of tyranny will judgment and action be demanded from the population. Besides that restriction, and as noted above, Castrillo grants full citizenship only to nobles, naming those belonging to other social categories as “imperfect citizens.” The ability to command is proper to the prudent and wise, obedience being the primary duty of citizens. Before taking into consideration this pair of virtues, tyranny must be considered since it constitutes a major civic vice: the betrayal of the common good by the prince himself. Moreover, criticism of tyranny is expressive of the non-authoritarianism mood, proper to this current of political thought.

Vitoria argues that “utility and respect are better served by obedience to a tyrant’s laws than disobedience to all law” (1991: 42), since the risk of anarchy is to be avoided at all costs. Mariana and Suárez, however, both defend even tyrannicide. Characterizing tyranny as illegal action and licentiousness, that is, lack of reverence towards customs and institutions, Mariana (*De Rege*) recommends the impeachment of the monarch and, in exceptional circumstances, punishment by death. A decision to depose a tyrant requires, whenever possible, a public meeting to deliberate in a climate of harmony and to come to a conclusion expressing the common feeling (Lewy 1960: 72). However, since under a tyrannical regime it is quite hard to find an opportunity for public deliberation, Mariana suggests that an alternative could be the consent of “wise and serious men,” something like a substitute for the Cortes.

In *Defenso Fidei* Suárez delineates the two classical types of tyranny, the first being characterized by undue occupation of the post of command, in which case it is licit for anyone, even a foreigner (if the people cannot do it), to kill the tyrant. The second type concerns negligence with the common good, when the tyrant oppress the people through perverse means. In such a case, proper action must be decided by the people, in “public and common council.” In his words:

Under such circumstances, it will assuredly be permissible to resist the prince, even by slaying him if defense cannot be achieved in any other fashion. One argument in favor of this assertion is as follows: if such action is licit in order to

protect one's own life, far more certainly will it be licit for the sake of the common good...so that any citizen whatsoever, acting as a member of that commonwealth, and impelled whether expressly or tacitly by it, may therefore defend the said commonwealth, in the course of that conflict, in whatsoever way is possible to him. (Wilenius 1966: 84)

This revolutionary act, however, is justified only in the extreme, perverse situation of tyranny. In normal times administration of the common good is to be taken care by the wise. As both Molina and Soto stress, nature does not always teach us well what is naturally right; we can err in deducing conclusions from its principles.²³ Thus, wisdom is the main source for legitimating obedience, the most cherished virtue in Vitoria's eyes (1991: 170), a conviction that led him to criticize the claim for popular political participation as stupid and ignorant.²⁴

Obedience, the central virtue in the Society of Jesus, is due to whomever stands "in the place of Christ." Thus, it is due to a person not as such but in virtue of his office (Höpfl 2004: 28). To obey is not just to do as the superior wishes but to wish as the superior wishes, involving complete identification between ruler and ruled, following Loyola's criticism of pride and arrogance, those "disordered passions" that might lead men into self-assurance (Höpfl 2004: 28, 29, 31). Since obedience requires humility, it affects the very definition of freedom, which, instead of aiming at the humanistic goal of realization of the self, implies its willed dissolution. Freedom, however, is not abolished because obeying, as a virtue, requires the free disposition to do so. Required for *beatitudo*, obedience is also crucial to peace and justice, security and preservation of life. Once well developed among citizens, it demands as its complement the major virtue of governors: prudence. Prudence is not a science, since its certitude is not uncontestable. As Höpfl puts it, prudence is a matter of intellect and yet is conversant with individual things, which are inherently uncertain and indemonstrable (2004: 164, 169). Linked to competence in handling political matters, it is a kind of knowledge obtainable only through experience.

After establishing the main civic virtues, that is, wisdom and prudence, obedience and charity, the question arises about the possibility of stimulating the practice of them

through education and/or legislation. Durand, whose views on the good order have already been discussed, was quite convinced that “ignorance, not will, was the mother of all vices” (Fasolt 1991: 193), an assumption held as well by Valdés, the Christian humanist friend of Erasmus (see Fernández-Santamaria 1977: 41). Considerable value is thus placed on teaching, since knowledge of law—which gives an objective reference for distinguishing good from evil—is a secure way of keeping order in good shape, of “holding together the universe.”²⁵ Castrillo, like Valdés, develops the idea that, civic education being a prince’s responsibility, he “will teach their peoples that only through the individual efforts of every human being will the ultimate *summum bonum*, concord, be brought about” (Fernández-Santamaria 1977: 55). In order for this pedagogic role to be performed successfully, both prince and citizens must be literate and know the true teachings of Christ.

Now, if there is a *deficit* of virtue, that is, if citizens’ time is all devoted to managing their own business so that they are not concerned with their own education and do not engage in collective matters, is it still possible for the government to preserve the common good? Can laws be enacted in order to change citizens’ attitudes? Vitoria considers Aquinas’ answer to the question and submits it to contemporary criticism before presenting his own view (1991: 165ff.). The first critique holds that the law is concerned only with technical expertise, not moral excellence, since what brings men together in society is not a quest for a moral but for a natural good (the satisfaction of needs). Besides, being this the second critique, law is incapable of changing human behavior: “men are quarrel-makers, money-grabbers, or common thieves...the common good cannot flourish because it is made up of individual acts of goodness. You cannot make a good house out of bad parts” (Vitoria 1991: 165, 166). Such a criticism is quite close to Menchaca’s presumption that law is needed precisely because “men are greedy and cowards.”

Vitoria insists, however, that if the republic has the authority to lead men in the direction of useful and pleasurable goods, which are lesser goods, it should be able to orient them towards virtue.²⁶ He takes into consideration the fact that freedom of choice must be respected so that force should not be used, civic education being based only on reason and proofs (1991: 229). In a similar vein, Soto maintains that laws help “to

inculcate the habits of the virtues in the citizens, so that they learn the art of moral choice and are therefore able to do good works. He also thinks that individual citizens have a major role to play in helping each other to learn justice” (Brett 1999: 159). From this one can assume that, according to Soto, it is only for “evil doers,” those who, by human caprice, introduce “new ways for cheating, in order to satisfy their ambition against what is just and permitted” (Fernandez 1986: 236),²⁷ that laws constitute a fence; for good men, they are a means for realizing human potential. Finally, Suárez holds that though civil laws must abstain from governing the private morals of individuals, they must regulate their public moral life *qua* city members:

Stopping short of making good men, they should endeavor to make good citizen-subjects. A limited type of civic virtue, the probity of habits which conforms best to the limited ends attended by the city, is therefore to be promoted by the civil legislator... With the city’s utility in mind, he can operate significant changes in the moral sphere, by converting previously indifferent actions into a matter of virtue or vice and their (non-) performance into a sin. (Vieira 2008: 293)

CONCLUSION

Given the exploratory nature of the research done so far, a straightforward conclusion is not to be expected. I am confident, however, that the conceptual description I have provided constitutes an advancement of our understanding of a seminal composition of a political rationality that takes into consideration both natural sociability and freedom as its major assumptions. The harmony obtained through this arrangement of elements, which somehow indicates what the concept of the common good is about, produces dissonant accords, if the melody is forced into undue models. It will not do to try to understand the concept if hierarchy is taken as just a synonym of inequality, since it encompasses both natural equality (fair distribution, among humankind, of reason and freedom) and social inequality.

Dissonant notes will also be heard if the reader does not acknowledge the kind of holism that is being postulated. In Fasolt’s words, the common good is an abstract entity,

“a public understanding that there is a common good in which all citizens have an equal stake and for the sake of which they are united, but which exists apart from them” (1991: 219). The last premise—“which exists apart from them”—can be considered under three different meanings given to the whole, as offered by Kempshall (1999): universal, integral, and potential wholes, each establishing a specific articulation of the constitutive elements. The potential whole is the one that better accounts for the usual relationship among individuals, as proposed by Iberian Renaissance political thinkers, rather than the integral one, proper to corporatist reading of society. It is in a tense relationship between individual freedom and social life that different dimensions of the same good—*felicitas*—will be brought about. Such an interpretation of unavoidable conflict and of the intellectual effort required to resolve it brings to the fore the role to be performed by an elite, whose wisdom and prudence are supposed to enhance an adequate policy-making process.

Rule by elites, which does not necessarily imply authoritarian politics, is to be preferred, once natural and social inequalities as well as complementarity of functions are acknowledged. Such a rule is constrained by law, legitimate limits on freedom being suspended only in extreme situations. While this conception comes quite close to the “innocent freedom” proposed by Hobbes, the sphere of individual political action is much larger than Hobbes allows. Whenever tyranny is in place, except for Vitoria, the Golden Century thinkers agree that it is up to the people to contest undue domination and impeach the ruler. In normal times, however, obedience is the most valued and cherished virtue of the citizen, just as prudence is the qualifying virtue for policy-making. This pair of virtues might account for ‘passivity,’ which is supposed to characterize the political cultures that developed under this tradition.

What is at stake, thus, is not an authoritarian legacy but a tradition that, acknowledging asymmetries, differences, and inequalities among men and a beautiful order in the universe, tries to deduce from the latter a logic for preserving human society.

ENDNOTES

¹ My interest in this theme was aroused by the Brazilian literature, where “legado ibérico,” “iberismo,” and “tradição ibérica” are usually (and loosely) used to refer to the Iberian cultural impact on Brazilian politics without distinguishing Portugal from Spain.

² Scholars have not yet agreed on an appropriate name for this moment in political thought, although it is well established that the former designation of ‘neo-scholastic’ is inaccurate and misleading (Brett 1999: 146ff., and 2006: 132). Following Höpfl (2006: 114) and Maravall (1960: 16ff.) I call it the Iberian Renaissance.

³ This, I take it is the point of Miller’s *Defining the Common Good* (1994).

⁴ There is something else that I take from Kempshall’s reading of Albertus Magnus that might be useful to explain the emergent property of the ‘integral whole’ as much as the meaning granted to the ‘potential whole.’ Albertus refers to the victory of an army and to the noise produced by a falling bushel of millet, where the result cannot be obtained by any one of the soldiers or the grains on its own. “Each individual part only possesses a potential to produce the action of the whole” (Kempshall 1999: 38).

⁵ According to Durand, the “differences between the creatures protect the existence and secure the purpose of the universe” (Fasolt 1991: 183).

⁶ As Albertus Magnus puts it, “good communicates its good just as the sun extends its light to all things” (Kempshall 1999: 49).

⁷ For the birth, meaning, and history of the concept of subjective right, see Brett 1997, 1999, 2006; Oliveira 1999, 2003; Skinner 1996; Tuck 1979; Villey 1964, 1983.

⁸ Such an argument is crucial for the recognition of indigenous natural rights, that is, the full recognition of indigenous people as human beings, even if, as Vitoria states, in an “infantile stage of development” (Oliveira 1999).

⁹ Such a procedure does not deny intellectual natural light, since this light might be the source for the choice that will be made, in which case conscience can be substituted for natural law: law indicates what should be done as a norm; conscience applies the norm to the particular case.

¹⁰ Albertus acknowledges different shades of meaning in both common and individual good: happiness, but also security and material property. Those goods are submitted to a nonlinear order of relevance: “the common good of happiness may be superior to the individual good of virtue but the individual good of virtue is superior to the common good of material security” (Kempshall 1999: 54). In such an assertion, it is worth noting the way common and individual goods are ranked, depending on the character of the good, as happiness, virtue, or material good.

Symbolic good is superior to material, and common good superior to individual; however, individual virtue is superior to common material good. Such kinds of ordering are typical of hierarchy. Detailing the many uses of those terms and possible relationships between individuals and wholes, Kempshall concludes that if “the medieval conception of the common good is to be described as ‘totalitarian,’ then it is only in a very literal sense of the word” (1999: 13).

¹¹ Brett sees in this distinction between *felicitas* and *beatitudo* an affinity with the Hobbesian approach (1999: 166), but it could also be claimed that Suárez is just restating Albertus Magnus’s definition of the common good, in which case there is revival, rather than rupture.

¹² He relates those three categories to the distribution of riches, arguing that those who are on the middle level are the ones who should take care of the commonwealth. It is important to note, however, that this “in the middle” does not refer, as we would think, today, to a position on the income scale, but to ownership, related to morality (corruption).

¹³ “Dejando ya a un lado semejante delirio comunista, volvemos a la demostración de lo conveniente que es a la naturaleza corrompida la división de la propiedad” (Fernandez 1986: 283).

¹⁴ Common property is, thus, not devoid of problems, except for small (religious) communities. Such problems are duly considered by Molina, who mentions the *penuria y indigencia* that result from conflicts concerning use and consumption of temporal things, the stronger oppressing the weak; each considering himself equal to others, and choosing the more advantageous and honorable offices, avoiding the more troublesome and difficult (see Fernandez 1986: 284, 285, 290, 361, 362). Like Soto, Molina asserts that if property had remained common, no one would have taken care of the vile humble work that society needs, pointing to laziness and indisposition to work due to “disordered” affections.

¹⁵ Suárez argues that “men as individuals have difficulty in ascertaining what is expedient for the common good and, moreover, rarely strive for that good as a primary object; so that, in consequence, there was a necessity for human laws that would have regard for the common good by pointing out what should be done for its sake and by compelling the performance of such acts” (1944: 49).

¹⁶ Excessive wealth is presumed to threaten not only contemplative life but also even active life, since it excites pride and vanity and, generally, is obtained through illicit means. In addition to concern about the corruption of the rich, Mariana points out that the despair of those who find themselves in a precarious situation can be a source of social disturbance. To avoid this kind of perverse inequality Mariana recommends a fair taxation policy as well as the granting of public

positions to the rich at their own cost—since they are eager to maintain appearances they will be led to spend a fair amount of their money for the public good! (Lewy 1960: 106–107). Debate over the social benefits or disadvantages of usury also enters into the argument.

¹⁷ Menchaca makes a similar proposal that ranking should be based on honor—services given to the commonwealth—power, and riches (Brett 1997: 168ff.).

¹⁸ Suárez gives no credence to universal civil laws that could cover the whole world, binding together all men, since laws are peculiar to one city-state or one nation (1944: 387). Jurisdiction, as interpretation of natural law that might be proper to each situation, becomes thus, as with Soto, crucial.

¹⁹ Although the people are sovereign, power must be exercised by those with the best grasp of the appropriate laws and techniques; moreover, unity of command is more efficient in guaranteeing security (internal and external). Authority is thus to be established by the commonwealth, following majority rule (Vitoria 1991: 11, 14, 30).

²⁰ When Mariana sustains in *De Rege* that it is harder “to corrupt several by gifts, bribery and friendship; just as it is more difficult to befoul a great quantity of water than a little” (Lewy 1960: 52), we hear an echo of Machiavelli’s defense of the republic. The same echo resonates when Mariana acknowledges that in any group there is a majority of dishonest persons, so that the best arrangement is the one where the prince—of certified prudence and honesty—concentrates power in his hands, governing with the consent of his subjects expressed in an assembly elected to represent them (Lewy 1960: 55; Maravall 1955: 133).

²¹ He defines custom as the frequency of free actions for a long period of time, which can be taken as unwritten law produced by the people. Custom is related to tradition, in the sense that the latter is taken as a body of doctrine that informs conduct, custom being the fulfillment of the original tradition. “Custom is a second nature; and therefore, that which is repugnant to custom is held to be decidedly repugnant to nature and, consequently, almost morally impossible. This condition, however, should be understood as referring to custom that is righteous and advantageous to the state,” since custom contrary to the law of nature is a corruption (1944: 119, 445, 446, 464, 468).

²² Published in 1642.

²³ See Molina (Fernandez 1986: 335) and Soto: “no todos pueden comprender todo que la naturaleza enseña, sino solamente aquellos que gozan de una razón serena y libre de toda sombra” (Fernandez 1986: 254).

²⁴ Vitoria had in mind the Castilian revolt of 1520.

²⁵ It is worth noting that even after the recrudescence of the Inquisition in the middle of the sixteenth century, to which Erasmianism was a threat, Furió Ceriol insisted, without success, on translating the Bible into the vernacular, arguing that the truths of Christianity “are plain and evident enough to be grasped by all” (see Fernández-Santamaria 1977: 275).

²⁶ An argument that will also be put forward by Soto (in *De La Templanza*; see Fernandez 1986: 146). Fernández-Santamaria, however, claims that Vitoria does not give a clear answer to this questions (1977: 72).

²⁷ Free translation: “nuevas maneras de engaño para que cada uno pueda satisfacer su insaciable ambición contra lo que es justo e permitido.”

BIBLIOGRAPHY

- Aquinas, T. 1953. *The Political Ideas of St. Thomas Aquinas*, ed. Dino Bigongiari. New York: Hafner Press.
- Blackwell, C., and S. Kusukawa, eds. 1999. *Philosophy in the Sixteenth and Seventeenth Centuries*. Aldershot: Ashgate.
- Brett, A. S. 1997. *Liberty, Right and Nature*. Cambridge: Cambridge University Press.
- _____. 1999. "Individual and Community in the 'Second Scholastic': Subjective Rights in Domingo de Soto and Francisco Suárez." In Blackwell and Kusukawa.
- _____. 2006. "Politics, Right(s) and Human Freedom in Marsilius of Padua." In Mäkinen & Korkman.
- Courtine, J. F. 1999. *Nature et empire de la loi*. Paris: Vrin.
- Fasolt, C. 1991. *Council and Hierarchy*. Cambridge: Cambridge University Press.
- Fernandez, C. 1986. *Los Filósofos Escolásticos de los Siglos XVI y XVII*. Madrid: Biblioteca de Autores Cristianos.
- _____. 1990. *Los Filósofos del Renacimiento*. Madrid: Biblioteca de Autores Cristianos.
- Fernández-Santamaria, J. A. 1977. *The State, War and Peace: Spanish Political Thought in the Renaissance 1516–1559*. Cambridge: Cambridge University Press.
- Hamilton, B. 1963. *Political Thought in XVI-Century Spain*, Oxford: Oxford University Press.
- Höpfel, H. 2004. *Jesuit Political Thought: The Society of Jesus and the State, c. 1540–1630*. Cambridge: Cambridge University Press.
- _____. 2006. "Scholasticism in the Foundations." In A. Brett and J. Tully, eds., *Rethinking the Foundations of Modern Political Thought*. Cambridge: Cambridge University Press.
- Kempshall, M. S. 1999. *The Common Good in Late Medieval Political Thought*. Oxford: Clarendon Press.
- Lewy, G. 1960. *A Study of the Political Philosophy of Juan de Mariana, S.J.* Geneva: Librarie E. Droz.

- Maclean, I. 1999. "Language in the Mind: Reflexive Thinking in the Late Renaissance." In Blackwell & Kusukawa.
- Mäkinen, V., and P. Korkman, eds. 2006. *Transformations in Medieval and Early-Modern Rights Discourse*. Netherlands: Springer.
- Maravall, J. A. 1955. *La philosophie politique espagnole au XVII^e siècle*. Paris: Vrin.
- _____. 1960. *Carlos V y el pensamiento político del Renacimiento*. Madrid : Instituto de Estudios Políticos.
- _____. 1997. *A Cultura do Barroco*. São Paulo: Edusp.
- Miller, P. 1994. *Defining the Common Good*. Cambridge: Cambridge University Press.
- Oliveira, I. A. R. 1999. "Direito Subjetivo—Base Escolástica dos Direitos Humanos." *Revista Brasileira de Ciências Sociais* vol. 41, n. 41 (October): 31–43.
- _____. 2003. "Direito Subjetivo e Sociabilidade Natural: Uma revisão do legado ibérico." *Novos Estudos Cebrap* n. 65 (April): 183–95.
- Pagden, A. 1995. *Lords of All the World: Ideologies of Empire in Spain, Britain and France c. 1500–c. 1800*. New Haven: Yale University Press.
- Schüßler, R. 2006. "Moral Self-Ownership and *Ius Possessionis* in Late Scholastics." In Mäkinen and Korkman.
- Skinner, Q. 1996. *Liberty before Liberalism*. Cambridge: Cambridge University Press.
- Suárez, F. 1944. *Selections from Three Works of Francisco Suárez, S.J.: De legibus, ac De legislatore, 1612; Defensio fidei catholicae et apostolicae adversus Anglicanae sectae errores, 1613; De triplici virtute theologica, fide, spe, et charitate, 1621*. Oxford: Clarendon Press, vol. 2.
- Tierney, B. 1987. "Hierarchy, Consent, and the 'Western Tradition'." *Political Theory* vol. 15, n. 4 (November): 646–52.
- _____. 2002. "Natural Law and Natural Rights: Old Problems and Recent Approaches." *Review of Politics* vol. 64 (3): 389–406.
- _____. 2006. "Dominion of Self and Natural Rights before Locke and After." In Mäkinen and Korkman.
- Tuck, R. 1979. *Natural Rights Theories*. Cambridge: Cambridge University Press.

- Vieira, M. B. 2008. "Francisco Suárez and the *Principatus Politicus*." *History of Political Thought* vol. 29 (2): 273–94.
- Villey, M. 1964. "La genèse du droit subjectif chez Guillaume d'Occam." *Archives de Philosophie du Droit*, n.9.
- _____. 1983. *Le droit et les droits de l'homme*. Paris: PUF.
- Vitoria, F. 1991. *Political Writings*. Cambridge: Cambridge University Press.
- Wilenius, R. 1966. "The Social and Political Theory of Francisco Suárez." *Acta Philosophica Fennica* 'fasc.' XV, 5–128, Helsinki: Societas Philosophica Fennica.