

QUESTION 108

Retribution

Next we have to consider retribution (*vindicatio*). And on this topic there are four questions: (1) Is retribution licit? (2) Is retribution a specific virtue? (3) How is retribution carried out? (4) Against whom is retribution to be exercised?

Article 1

Is retribution licit?

It seems that retribution (*vindicatio*) is not licit:

Objection 1: If anyone usurps for himself what belongs to God, he commits a sin. But vengeance (*vindicta*) belongs to God, since Deuteronomy 33:35 says (according to one translation), “Vengeance is mine (*mihi vindictam*), and I will repay them.” Therefore, every act of retribution (*omnis vindicatio*) is illicit.

Objection 2: An individual on whom vengeance (*vindicta*) is taken is not being tolerated. But bad individuals are to be tolerated, since a Gloss on Cantic of Canticles 2:2 (“As a lily among thorns ...”) says, “He who was unable to tolerate bad men was not good.” Therefore, vengeance (*vindicta*) is not be taken on bad men.

Objection 3: Vengeance (*vindicta*) is carried out through punishments that cause servile fear. But as Augustine points out in *Contra Adamantum*, the New Law is a law of love and not a law of fear. Therefore, at least in the New Testament, vengeance (*vindicta*) ought not to be carried out.

Objection 4: One is said to take retribution for himself if he avenges his own injuries (*ille dicitur se vindicare qui iniurias ulciscitur*). But, it seems, even a judge is not permitted to punish delinquents, given that in *Super Matthaem* Chrysostom says, “Let us learn from the example of Christ to bear wrongs against ourselves with magnanimity, but not to tolerate wrongs against God, even to the point of listening to them.” Therefore, retribution (*vindicatio*) seems to be illicit.

Objection 5: The sin of many is more harmful than the sin of just a single individual; for Ecclesiasticus 26:5-6 says, “Of three things my heart has been afraid ... being slandered by the city, and the gathering together of the people, and false accusation.” But vengeance (*vindicta*) is not to be taken against the sin of a multitude; for a Gloss on Matthew 13:29-30 (“Let both of them grow together, lest the wheat be destroyed”) says, “Neither the multitude nor the ruler should be excommunicated.” Therefore, neither is any other sort of retribution (*vindicatio*) licit.

But contrary to this: Nothing is to be expected from God except what is good and licit. But vengeance (*vindicta*) is to be expected from God on His enemies; for Luke 18:7 says, “Will not God avenge His elect who cry out to Him day and night?”

I respond: Retribution (*vindication*) is carried out through an evil of punishment inflicted on the sinner (*per aliquod poenale malum inflictum peccanti*). Therefore, in a case of retribution the mindset of the one who exacts retribution must be taken into consideration (*in vindicatione considerandus vindicantis animus*).

For if his intention is directed mainly toward what is bad for the one on whom he is taking vengeance (*vindicta*) and it rests there, then this is altogether illicit, since delighting in what is bad for someone involves hatred, which is incompatible with the charity by which we are obligated to love all men. Nor is one excused if he intends evil for someone who has unjustly inflicted evil on him, just as no one is excused for hating someone who hates him. For a man ought not to sin against another by reason of the fact that the other has first sinned against him, since this is to be conquered by evil and is prohibited by the Apostle in Romans 12:21 when he says, “Do not be overcome by evil, but overcome evil with good.”

On the other hand, if the intention of the one taking retribution is directed mainly toward some good that is attained by punishing the sinner, viz., toward bettering the sinner—or at least restraining him and bringing tranquility to others—and toward the conservation of justice and of the honor of God, then retribution can be licit, as long as the other appropriate circumstances are preserved.

Reply to objection 1: Someone who, in accord with the rank of his position, takes vengeance against bad individuals does not usurp for himself what belongs to God, but he instead makes use of the power that has been divinely granted to him; for Romans 13:4 says of the earthly ruler that “he is the minister of God, an avenger to execute wrath upon him who acts badly.”

On the other hand, if someone exacts vengeance beyond the divinely established order, then he does indeed usurp for himself what belongs to God, and so he commits a sin.

Reply to objection 2: Bad men are tolerated by good men in the sense that the latter bear patiently the wrongs inflicted on them by the former in the way that is required. However, good men do not tolerate bad men in the sense of bearing the wrongs inflicted on God and their neighbors. For in *Super Matthaicum* Chrysostom says, “In the case of wrongs done against ourselves it is praiseworthy to be patient, but it is very impious to neglect wrongs done against God.”

Reply to objection 3: The Law of the Gospel is a law of love. Therefore, fear is not to be wielded through punishments against those who do good out of love and who alone properly belong to the Gospel (*qui soli proprie ad Evangelium pertinent*); instead, fear is to be wielded only against those who are not moved toward the good out of love and who, even if they belong to the Church numerically speaking (*numero*), nonetheless, do not deserve to belong to her (*non tamen merito*).

Reply to objection 4: A wrong that is inflicted on an individual person sometimes redounds upon God and upon the Church, and in such a case one ought to avenge a wrong done against himself. This is clear in the case of Elijah, who, as 4 Kings 1:9 reports, brought fire down upon those who had come to seize him. Similarly, as 4 Kings 2:23 reports, Elisha cursed the boys who were making fun of him. Again, according to *Decretals* 23, q. 4, Pope Sylvester excommunicated those who had sent him into exile.

However, to the extent that a wrong inflicted on someone is against his own person, he ought to bear it patiently if this is expedient. For as Augustine explains in *De Sermone Domini in Monte*, the precepts of patience are to be understood in a way that corresponds to the mind’s preparation.

Reply to objection 5: When a whole multitude sins, vengeance is to be taken on the multitude either (a) with respect to the *whole* multitude, in the way that the Egyptians who pursued the children of Israel drowned in the Red Sea (Exodus 14:22), and in the way that the citizens of Sodom all perished together (Genesis 19:25), or (b) with respect to a *large part* of the multitude, as is clear from the punishment of those who adored the calf (Exodus 32:27-28).

However, sometimes, if the correction of the many is hoped for, the severity of the vengeance ought to be carried out against a few principal individuals, so that their being punished might strike fear in the others—in the way the Lord commanded that the leaders of the people should be hanged for the sin of the multitude (Numbers 25:4).

On the other hand, if a part, but not the whole, of a multitude has sinned, then if the bad can be separated from the good, vengeance should be exercised on them, though only if this can be done without scandalizing the others. And the same line of argument holds for a leader whom the multitude follows. His sin is to be tolerated if he cannot be punished without scandalizing the multitude—unless, perhaps, the leader’s sin is of such a nature that it itself would do more damage to the multitude, either spiritually or temporally, than the scandal feared to arise from the punishment.

Article 2

Is retribution a specific virtue distinct from the others?

It seems that retribution (*vindication*) is not a specific virtue distinct from the others:

Objection 1: Just as good individuals are repaid (*remunerantur*) for things that they do well, so bad individuals are punished for things that they do badly. Yet the repayment of good individuals does not involve any specific virtue, but is instead an act of commutative justice. Therefore, by parity of reasoning, retribution should not be posited as a specific virtue, either.

Objection 2: A specific virtue ought not to be ordered toward an act for which a man is sufficiently disposed by other virtues. But a man is sufficiently disposed to exact retribution by the virtue of fortitude and by zeal. Therefore, retribution should not be posited as a specific virtue.

Objection 3: Every specific virtue is such that a specific vice is opposed to it. But there does not seem to be any specific vice that is opposed to retribution. Therefore, retribution is not a specific virtue.

But contrary to this: Tully posits retribution as a part of justice.

I respond: As the Philosopher explains in *Ethics* 2, an aptitude for virtue exists in us by nature, even though the realization of virtue occurs through habituation (*per assuetudinem*) or through some other cause. Hence, it is clear that the virtues perfect us for following through on our natural inclinations in an appropriate way. And so each determinate natural inclination is such that some specific virtue is ordered toward it.

Now there is a specific inclination of nature toward removing what is harmful, and this is why animals are given an irascible power (*vis irascibilis*) that is separate from their concupiscible power (*vis concupiscibilis*). And a man repels what is harmful by (a) defending himself against wrongs (*contra iniurias*), in order that they not be inflicted on him, or by (b) avenging wrongs that have already been inflicted on him—not with the intention of *doing* harm, but with the intention of *removing* what is harmful. This involves retribution. For in his *Rhetorica* Tully says, “Retribution (*vindication*) is that by which violence or wrong or, in general, whatever is dark”—that is, shameful—“is repelled, either by defending oneself against it or by avenging it.” Hence, retribution is a specific virtue.

Reply to objection 1: Just as the repayment of a *legal* debt belongs to *commutative justice*, whereas the repayment of a *moral* debt arising from a particular favor that has been granted belongs to *thankfulness or gratitude* (*gratia*), so, too, the punishment of sinners is an act of *commutative justice* insofar as it involves *public* justice, whereas it belongs to the virtue of *retribution* insofar as it involves the inviolability of an individual person who is repelling a wrong.

Reply to objection 2: Fortitude disposes one toward retribution by removing an impeding cause, viz., fear of imminent danger, whereas zeal, insofar as it implies the fervor of love, involves the primary root of retribution insofar as it avenges wrongs against God or neighbor which out of charity it thinks of as wrongs against oneself. Now the act of any virtue proceeds from the root of charity, since, as Gregory puts it in one of his homilies, “There is no green foliage on the branch of good works unless it proceeds from the root of charity.”

Reply to objection 3: There are two vices opposed to [the virtue of] retribution. One is through *excess*, viz., the sin of cruelty (*crudelitas*) or ferocity (*saevitas*), which exceeds moderation in punishing. The other is a vice that consists in *deficiency*, as when someone is too remiss in punishing; hence Proverbs 13:24 says, “He who spares the rod hates his own child.”

By contrast, the virtue of retribution consists in a man’s preserving, in all circumstances, the appropriate measure in punishing.

Article 3

Should retribution be exacted through punishments that are customary among men?

It seems that retribution should not be exacted through punishments that are customary among men:

Objection 1: The killing of a man is a sort of uprooting (*eradicatio*) of him. But in Matthew 13:29 the master commanded that the weeds, which signify the children of the wicked one, not be uprooted. Therefore, sinners are not to be killed.

Objection 2: All those who commit mortal sins seem to deserve the same punishment. Therefore, if some who commit mortal sins are punished by death, then it seems that all such individuals ought to be punished by death. But this is clearly false.

Objection 3: When someone is openly punished for a sin, then his sin is thereby made manifest. But this seems to be harmful to the multitude, which takes the example of a sin as an occasion for sinning. Therefore, it seems that the punishment of death should not be inflicted for any sin.

But contrary to this: As is clear from what was said above (*ST* 1-2, q. 105, a. 2), punishments are determined in divine law for sins of the sort in question.

I respond: Insofar as retribution is licit, it is virtuous to the extent that it tends toward restraining bad individuals. Now some individuals, who do not have virtuous affections, are restrained from sinning by their fear of losing certain things that they love more than the things they gain by sinning—otherwise, fear would not curb sin. And so retribution is to be exacted for sins by taking away all the things that a man loves the most.

Now here are the things that a man loves most: life (*vita*), bodily well-being (*corporis incolumitas*), the state of being a free man (*libertas sui*), and exterior goods such as wealth (*divitiae*), homeland (*patria*), and glory (*gloria*). And so, according to the reference Augustine makes in *De Civitate Dei* 21, Tully wrote that there are eight kinds of punishment in the law, viz., *death*, by which life is taken away; *scourging* and *retaliation in kind* (so that one loses “an eye for an eye”), by which a man loses his bodily well-being; *servitude* and *imprisonment*, by which a man is deprived of his freedom; *exile*, by which a man loses his homeland; *fines*, by which a man loses wealth; and *dishonor*, by which a man loses his glory or good reputation.

Reply to objection 1: The master forbade the uprooting of the weeds at a time when it was feared that the wheat would be uprooted along with them. But sometimes bad men can be uprooted through death not only without danger to good men, but also to their great advantage. And so in such a case the punishment of death can be inflicted on sinners.

Reply to objection 2: Everyone who commits a mortal sin deserves eternal death as regards *future* retribution, which is in accord with the truth of God’s judgment. By contrast, the punishments of the *present* life are more medicinal. And so the punishment of death is inflicted only for those sins that result in a great disaster for others.

Reply to objection 3: When the punishment—whether it be the punishment of death or any other punishment that strikes fear in a man—is made known *at the same time* as the sin is, then his will is drawn back from sinning by this very fact, since the punishment makes him fearful to a greater degree than the degree to which the example of the sin entices him.

Article 4

Should retribution be exercised on those who have sinned involuntarily?

It seems that retribution should be exercised on those who have sinned involuntarily:

Objection 1: The will of one individual does not follow upon the will of another. But one individual is indeed punished for another—this according to Exodus 20:3 (“I am a jealous God, visiting the iniquity of the fathers on their children, unto the third and fourth generation”). Hence, as Genesis 9:23ff. has it, for the sin of Ham his son Canaan is cursed. Again, as 4 Kings 5:27 reports, when Gehazi sins, leprosy is transmitted to his descendants. Again, the blood of Christ renders liable to punishment the descendants of the Jews who said, “His blood be upon us and upon our children” (Matthew 27:25). Moreover, we read in Joshua 7 that the people of Israel were delivered into the hands of their enemies for the sin of Achan, and that the same people fell in the presence of the Philistines because of the sin of the sons of Eli (1 Kings 4). Therefore, some involuntary individuals are to be punished.

Objection 2: What is voluntary is only that which is within a man’s power. But sometimes a punishment is inflicted for something that is not within his power. For instance, someone is removed from the administration of a church because of the bodily defect of leprosy, or a church loses its status as an episcopal see because of the poverty or ill-will of its people. Therefore, it is not only for voluntary sin that retribution is inflicted.

Objection 3: Ignorance is a cause of involuntariness. But retribution is sometimes exercised against certain individuals who are ignorant. For instance, as we read in Genesis 19:25, even though the little children of the citizens of Sodom had invincible ignorance, they nonetheless perished with their parents. Similarly, as we read in Numbers 16:27ff., for the sin of Dathan and Abiram their little children were equally swallowed down along with them. Again, as 1 Kings 15:2-3 reports, non-rational animals, which lack reason, were ordered to be slain for the sin of the Amalekites. Therefore, retribution is sometimes exercised against involuntary individuals.

Objection 4: Coercion is especially incompatible with voluntariness. But someone who commits a sin while being coerced by fear does not for this reason escape a liability to punishment. Therefore, retribution is exercised even against involuntary individuals.

Objection 5: In *Super Lucam* Ambrose says, “The ship that Judas was in was tossed about in the storm, and so even Peter, who was secure in his own merits, was tossed about because of someone else” (Luke 5:3). But Peter did not will the sin of Judas. Therefore, sometimes an involuntary individual is punished.

But contrary to this: Punishment is owed because of sin. But as Augustine insists, every sin is voluntary. Therefore, retribution should be exercised only against voluntary individuals.

I respond: Punishment can be thought of in two ways:

In one way, with respect to the *nature of punishment*. On this score, punishment is due only for sin, since it is through punishment that the balance of justice (*aequalitas iustitiae*) is restored, given that the one who in sinning followed his own will to an excessive degree now suffers something contrary to his own will. Hence, since every sin is voluntary—even original sin, as was established above (*ST* 1-2, q. 81, a. 1)—it follows that no one is punished in this way except for something that has been done voluntarily.

In the second way, punishment can be thought of as *something medicinal*, not only healing past sin but also preserving one from future sin and promoting something good. On this score, one is sometimes punished without sin, though not without cause. However, note that even though it is never the case that medicine takes away a greater good in order to promote a lesser good, e.g., bodily medicine never blinds the eye in order to make a heel better, it does nonetheless sometimes inflict harm on lesser goods in order to assist better goods. And since spiritual goods are the greatest goods, whereas temporal goods are the smallest goods, it follows that one is sometimes punished without sin with respect to temporal goods—including most punishments of the present life, which are inflicted by God in order to produce humility or in order to put someone to the test. But no one is punished with respect to spiritual goods without having sinned himself, either in the present life or in the life to come, since punishments in the life to come are not medicinal but instead follow upon spiritual damnation.

Reply to objection 1: One man is never punished by a spiritual punishment for the sin of another

man, since a spiritual punishment belongs to the soul, with respect to which everyone has freedom over himself. By contrast, there are three reasons why it is sometimes the case that one man is punished by a temporal punishment for the sin of another man:

First, because *the one man, temporally speaking, belongs to the other man*—in the way that children are a sort of property of their father and in the way that servants are a sort of property of their master—and so he is also punished in the punishment of the other man.

Second, insofar as *the sin of the one man spills over into the other man*, either (a) through *imitation*, in the way that children imitate the sins of their parents and servants imitate the sins of their masters, so that they sin more audaciously, or (b) through the mode of *merit*, in the way that the sins of the subjects deserve the sin of their leaders—this according to Job 34:30 (“... He who makes a man that is a hypocrite to reign because of the sins of the people). Hence, as 2 Kings 24 reports, the whole people of Israel was punished for the sin of David, who had numbered the people. Or, again, as Augustine explains in *De Civitate Dei* 1, this might happen through a certain sort of *consent or neglect (per aliqualem consensum seu dissimulationem)*, in the way that the good are sometimes punished along with the bad because they did not object to their sins.

Third, in order to emphasize (a) *the unity of human fellowship*, in light of which the one man ought to be solicitous that the other man does not sin, and (b) *the hatred of sin*, given that the punishment of the one man redounds upon all, as if they were all a single body. This is what Augustine says about the sin of Achan.

Now what the Lord says, viz., “... visiting the sins of the parents on their children, unto the third and fourth generation,” seems to involve mercy more than severity, since He does not apply the retribution all at once, but waits for the descendants, in order that at least these descendants might be corrected. On the other hand, if the malice of the descendants increases, it is, as it were, necessary for vengeance to be inflicted.

Reply to objection 2: As Augustine explains, human judgment ought to imitate divine judgment in the case of the *manifest* judgments of God, by which men suffer a spiritual loss for their own sins. By contrast, human judgment cannot imitate the *hidden* judgments of God by which He punishes certain individuals temporally without fault, since a man cannot comprehend the reasons for these judgments in such a way as to know what is expedient for each individual. And so according to human judgment no one should ever be punished without sin by a *severe corporeal punishment (poena flagelli)* such as being killed or mutilated or scourged.

On the other hand, likewise according to human judgment, some are punished—even without sin, though not without cause—by a *punishment of loss*. There are three ways in which this happens:

First, because someone is, without sin on his part, rendered incapable of possessing or pursuing some good, in the way that someone with the bodily defect of leprosy is removed from the position of administering a church, or in the way that someone is prevented from receiving Holy Orders because of a remarriage (*bigamia*) or a judgment about his blood relatives (*iudicium sanguinis*).

Second, because the good of which someone is deprived is not his own proper good but instead a common good, in the way that a church’s having an episcopal see pertains to the good of the whole city and not just to the good of the clerics.

Third, because the good of the one individual depends on the good of the other; for instance, in a case of treason (*in crimine laesae maiestatis*), a son loses his inheritance because of his parent’s sin.

Reply to objection 3: By divine judgment little children are punished temporally along with their parents, both (a) because they belong to their parents and the parents are also punished in them, and also because (b) this is for their good, lest, if they were spared, they should become imitators of their parents’ malice and so merit even more serious punishments.

On the other hand, vengeance is exercised against non-rational animals, along with any other non-rational creatures, because those to whom they belong are thereby punished. And, again, this also

promotes the hatred of sin.

Reply to objection 4: The coercion that belongs to fear does not make for involuntariness absolutely speaking; instead, as was established above (*ST* 1-2, q. 9, a. 6), it has voluntariness mixed in with it.

Reply to objection 5: The other apostles were tossed about for the sin of Judas in the same way that, as has been explained, a multitude is punished for the sin of the one individual, in order to emphasize their unity.