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Marriage Consent vis-à-vis St. Thomas Aquinas’ notion on Internal Freedom

“Marriage and Family” is the foundation stone of an authentic human society. It springs from a Divine Institution and it follows the very nature of the human person. “God created humankind in his own image and likeness; calling them to existence through love, he called them at the same time for love”¹. In this line, the Council defines marriage as a “covenant of love”²; a covenant which is “freely and consciously chosen, whereby a man and a woman accept the intimate community of life and love willed by God himself”³.

Love is essentially a voluntary giving of oneself. In marriage, this act of giving is the one contained in the consent of the spouses, which signifies a mutual giving and accepting – of their conjugality – as something owed in Justice.

To understand fully the exact meaning of marriage consent we must allow ourselves to be enlightened by divine revelation. The marriage covenant is an act of the will which signifies and involves a mutual giving which unites the spouses between themselves and at the same time binds them to the children which they may eventually have, with whom they constitute one family, one single home, a domestic family⁴.

It is this demand, intrinsically contained in every marriage, that consent – in order to be valid – has to be sufficiently free, conscious and true.

¹ John Paul II, Apost. Ex. *Familiaris consortio*, November 22, 1981, n. 11 in AAS, 74 (1982), p. 91.

² Vatican Council II, Past. Cons. *Gadium et spes*, December 7, 1965, n. 48 in AAS, 58 (1966), p. 1067.

³ John Paul II, Apost. Ex. *Familiaris consortio*, *Op. cit.*

⁴ John Paul II, *Address to the Roman Rota*, January 28, 1982, n. 4 in AAS, 74 (1982) pp. 450–451.

So, all other requirements and restrictions follow from this very nature of marriage for the benefit of man himself and his society.

It is then appropriate for us - Blessed John Paul II says - [...] to deepen our understanding of the meaning of the act of the gift of oneself in a total oblation by means of a consent, which, if given in time, has a value for eternity⁵.

The formation of a free consent in Marriage

Vatican Council II defines marriage as a covenant of love⁶ “*freely and consciously chosen*”, whereby man and woman accept the intimate community of life and love willed by God himself⁸. The *Catechism of the Catholic Church*, in this line, insists on the *freedom* for contracting marriage: “The parties to a marriage covenant are a baptized man and woman, *free* to contract marriage, who *freely* expresses their consent; «*to be free*» means: - not being under constraint; - not impeded by any natural or ecclesiastical law” (n. 1625). “The consent consists in a «human act by which the partners mutually give themselves to the other»” (n. 1627). “The consent must be an act of the will of the contracting parties, free of coercion or grave external fear. No human power can substitute for this consent. If this *freedom* is lacking the marriage is invalid” (n. 1628).

This marriage covenant is brought into being by the true manifestation of the *marriage consent* between spouses, which is the meaning of the principle: “*consensus facit matrimonium*”⁹. This basic principle has been expressed in a clear-cut statement by the Angelic Doctor in the following words: “Unus non accipit potestatem in eo quod est libere alterius, nisi per eius consensum. Sed per matrimonium accipit uterque coniugum

⁵ *Ibidem*, n. 6.

⁶ Cfr. Vatican Council II, Past. Cons. *Gadium et spes*, December 7, 1965, n. 48. AAS, 58 (1966), p. 1067.

⁷ John Paul II, *Address to the Roman Rota*, January 28, 1982, in AAS, 74 (1982) pp. 449–454: English translation taken from *L'Osservatore Romano*, February 8, 1982, pp. 6–7.

⁸ Cfr. John Paul II, Apost. Ex. *Familiaris consortio*, November 22, 1981, n. 11 in AAS, 74 (1982), p. 91.

⁹ Cfr. E. Saldon, *El Matrimonio, misterio y signo (siglos I a S. Agustín)*, Pamplona 1971; T. Rincón-Pérez, *El Matrimonio, misterio y signo (siglos IX a XIII)*, Pamplona 1971; E. Tejero, *El Matrimonio, misterio y signo (siglos XIV a XVI)*, Pamplona 1971; J. E. Muñoz, *El Matrimonio, misterio y signo (siglos XVII y XVIII)*, Pamplona 1982. In our consultations, we found in these monographs a nearly exhaustive bibliographical information about the orientations of the theological and canonical doctrine concerning this argument.

potestatem [...]. Ergo, consensus facit Matrimonium”¹⁰. The medieval lengthy debate about what precisely brought marriage into being, *i.e.* its sufficient cause: consent or consummation, saw its settling down through Pope Alexander III (1159–1181). The principle *matrimonium facit partium consensus* was thus confirmed definitively while affirming that consummation gives it absolute indissolubility.

Beneath this affirmation, the concept of *internal freedom in matrimonial consent* plays a fundamental role, being an essential prerequisite for the person’s capacity to contract it. In point of fact, the aforementioned principle “is of paramount importance in the whole canonical and theological teaching received from tradition and has frequently been restated by the Church’s Magisterium as one of the chief bases on which both the natural law of the institution of marriage and the evangelical precept are founded”¹¹. Thus, Pope Paul VI—in what is to be his last allocution to the Roman Rota—leaves us this exhortation:

Therefore, it is the duty of this tribunal, in carrying out the commission given it by the Church, to study carefully all the questions submitted to it. Moreover, [...] it is its serious duty to have special regard [...] for questions relative to the formation of a free consent, which alone gives rise to marriage¹².

Man, the only creature on earth that God willed for itself, will only find himself to the greatest degree through a sincere “gift-giving” of himself¹³. In this line Pope John Paul II reminds the members of the Roman Rota:

Love is essentially a gift. Speaking of the act of love the Council envisages an act of giving, which is one, decisive, irrevocable because it is a total giving which wants to be and to remain mutual and fruitful [...] The marriage consent is an act of the will which signifies and involves a mutual giving [...] One who gives oneself does it with awareness of obliging to live one’s giving of oneself to other. If one grants to the other person a right, it is because one wishes to give oneself; and one gives oneself with the intention of obliging oneself to carry out what is required by the total giving one has freely made¹⁴.

¹⁰ *Summa Theologiae, Supplementum, q. 45, a. 1.*

¹¹ Paul VI, *Address to the Roman Rota*, February 9, 1976, in AAS, 68 (1976) pp. 204–208; English translation from latin in *The Pope speaks*, 21 (1976–1977) pp. 150–154. Also see *Mt* 19: 5–6; *Denzinger* nn. 643, 756, 1497, 1813, 3701 and 3713.

¹² Paul VI, *Address to the Roman Rota*, January 28, 1978, in AAS, 70 (1978) pp. 181–186. English translation taken from *The Pope Speaks*, 23 (1978), pp. 158–163.

¹³ *Cfr. Gaudium et spes*, n. 24 in AAS, 58 (1966), pp. 1025–115.

¹⁴ John Paul II, *Address to the Roman Rota*, January 28, 1982 in AAS, 74 (1982) pp. 450–451.

Therefore, the juridical formulation: “consensus matrimonialis est actus voluntatis”¹⁵. It is indeed an *internal* act of the will, i.e. a voluntary or *free will act*¹⁶. Now, every voluntary or *free will act* is a *human act*, it is any act which comes from the whole person through his *voluntary-knowing choice*. As the then Card. Wojtyla affirms:

The most significant characteristics of the person’s inner life are the sense of *truth* and the sense of *freedom* [...]. Truth is a condition of freedom [...]. His ability to discover the truth gives man the possibility of self determination, of deciding for himself the character and direction of his own actions, and that is what freedom means¹⁷.

Thus, according to natural law if there are some defects regarding the effective “voluntariness”¹⁸ of the human act which positively renders the qualified matrimonial consent void, then it necessarily follows that marriage does not exist at all. Therefore, it is for this reason that the Church – ever open to the advances of modern sciences, especially by contemporary psychiatry and psychology¹⁹ – has always availed of the doctrine

¹⁵ Thus, canon 1057 § 2 of the new Code stands as the juridical formulation of what has always been the doctrine of the Church on Marriage. Cfr. AAS, 75 (1983/II), p. 187.

¹⁶ Determining the *matrimonial consent* as an *act of the will*, the 1983 Code of Canon Law establishes the requirements *sine qua non* for the validity in contracting marriage. Above all it has to be a *qualified human act* based on the *sufficient use of reason* in relation to the will (c. 1095 § 1); a *minimal* but sufficient knowledge of the essentials of marriage (c. 1096); a *sufficient discretionary judgement* concerning the essential matrimonial rights and obligations to be mutually given and accepted (c. 1095 § 2); capable of *assuming these essential obligations* of marriage (c. 1095 § 3) and a consent free from any *force or of grave fear imposed from outside* (c. 1103); *internal voluntary consent of the person* which is always presumed true except when there is a *positive act of the will* to exclude marriage itself or any of its essential element or property (c. 1101).

¹⁷ K. Wojtyla, *Love and Responsibility*, Ignatius Press, San Francisco 1993, pp. 114–115. Also cfr. *Summa Theologiae*, Ia IIae, q. 6, a. 1.

¹⁸ We believe Prof. García de Haro’s observation to be very significant in these introductory principles: «Los impedimentos de la *voluntariedad* son los factores que privan o disminuyen la integridad de alguno de los elementos esenciales para la *libertad* del acto. Es decir, la *ignorancia*, que se opone al conocimiento necesario; la *violencia*, que en diversos grados fuerzan la voluntariedad, las *pasiones*, en la medida en que obnubilan la razón y entre las cuales tiene especial importancia el *miedo*; en fin, los disturbios psíquicos de la inteligencia y de la voluntad, o *enfermedades mentales*. Así lo resume el *Catecismo de la Iglesia Católica* (no. 1735): “La imputabilidad y la responsabilidad de una acción pueden quedar disminuidas, e incluso suprimidas, a causa de la *ignorancia*, la *inadvertencia*, la *violencia*, el *temor*, los *hábitos*, los *afectos desordenados* y otros *factores psíquicos y sociales*”» R. García de Haro y E. Cofreces Merino, *Teología Moral Fundamental*, Pamplona 1998, pp. 205–206. Also see: R. García de Haro, *Marriage and Family in the Documents of the Magisterium*, Ignatius Press San Francisco 1993; R. MacInerney, *Ethica thomistica. The moral philosophy of Thomas Aquinas*, Washington 1982, p. 63.

¹⁹ Cfr. John Paul II, February 5, 1987, in AAS, 79 (1987) pp.1453–1459.

on this discipline of the Angelic Doctor as it undoubtedly offers a very coherent anthropological presuppositions with Christian anthropology, *i.e.* the spiritual activity of man and his freedom that proceeds from the intellect and the will directed to the highest truth and goodness: *willing following upon knowing and leading to knowing*. We see St. Thomas' conclusion summarized in the principle *ubi intellectus, ibi voluntas* applied by the Apostolic Tribunal of the *Roman Rota* in a famous decision *coram Wynen*: "Unde, sicut nequit voluntas in iis quae sunt intellectu praedita. *Ubi intellectus, ibi voluntas, et vice versa*"²⁰. According to this principle "where there is knowledge there is will and vice-versa", the scholastics held that the free choice of the will cannot be lacking unless in the disturbed intellect. Today, however, the following distinctions have first to be made. Firstly, about the principle: "where there is will there is knowledge"; inasmuch as every act of the will needs – by necessity – a minimum knowledge of the object. This principle is logically accepted. Secondly, however, many deny the principle that there is "where there is knowledge, then there is always will". The motivation behind this objection is the fact that it can also happen that persons endowed with normal intellectual capacity lack the strength of will to implement realities, which they judge to be good and necessary. Here, the issue is not about the very tight bond by which the will is attached to the intellect. Rather, the apt use of the will in eliciting matrimonial consent is – above all – taken into account because of the fact that personal interior disorders are more easily discovered in the realm of the will than in the simple apprehension of the intellect. Also, as we will discuss it later, the formal act of the will – by which marriage covenant is produced²¹ – is the terminus of the human action from which it receives its very proper and irreplaceable firmness²².

St. Thomas and the Internal Freedom in marriage consent.

It should be said from the very start that here we do not pretend to present a thorough study of the teachings of St. Thomas Aquinas in relation to the canonical doctrine on *internal freedom*. We shall, however, try

²⁰ *coram Wynen*, sent. diei 27 februarii 1937, RRDec., vol. XXIX, pg. 171, n. 4.

²¹ *Cfr.* can. 1057 § 2.

²² *Cfr. coram Turnaturi*, sent. diei 5 martii 1998, *Monitor Ecclesiasticus* I (1999), p. 73, n. 23.

to develop a broad outline essential to have a sufficient understanding of his concept on this theme. The Angelic Doctor examines in detail in the *Summa Theologiae* and subordinately in his public disputations on evil – the *Quaestiones Disputatae de Malo* –, one of the faculties that easily stands out as one of the momentous facts in the whole creation, *i.e.* the motivating power of man’s human actions: his *free will*. Here is how St. Thomas confronts this question in the *Summa Theologiae* as eruditely presented in one of the works of an expert on the Angelic Doctor:

In the *First Part*, the study of the *free will* followed that of the *intellectual faculties* (q. 79). It was introduced by a preamble on sense knowledge (q. 78), and placed among questions on the appetitive powers: the sensible appetite (q. 81) as a preamble, then the *will* (q. 82), and finally *free will* (q. 83). In this arrangement we can already see clearly the dependence of *free will* in relation to *intellect* and *will*. Since faculties are revealed through their actions, it was appropriate to extend the study of them with a discussion of the *human act*, in the *Prima Secundae*. Here we find the same arrangement of topics: first, the acts of the will, desire, intention, and fruition; then the acts wherein *free will* is exercised, particularly *choice* (q. 13). It is the analysis of choice that enables us to establish, as early as the first part (q. 83, a 3), the nature of *free will*²³.

In the prologue of the *Prima Secundae* – where St. Thomas directly treats the theme about *man and his actions* – he writes:

Man is said to be made in God’s image, in so far as the image implies an intelligent being endowed with free-will and self-movement [...]. Man, [...] is the principle of his actions as having free-will and control of his actions²⁴.

Accordingly, in dealing with human freedom – in its two aspects: one in relation to God whose work it was²⁵ and the other in relation to man with his own work²⁶ – St. Thomas considers thoroughly its existence and its object so as to analyze its essential property and the relations between the will and the intellect from which freedom proceeds. The Angelic Doctor concludes this treatise clarifying the question on whether man’s will is moved of necessity or not.

²³ S. Pinckaers, O.P., *The Sources of Christian Ethics*. T&T Clark-Edinburgh, 1995, p. 380. (English translation taken from the third edition by Sr. May Thomas Noble, O.P.). Italics are ours.

²⁴ *Summa Theologiae*, I-II, Prologus.

²⁵ *Cfr. Ibidem*, I, qq. 79–83.

²⁶ *Cfr. Ibidem*, Ia IIae, qq. 6–21.

The Human Will and its Object

St. Thomas affirms that man is the only creature on earth endowed by God with a singular intellectual appetency²⁷ called the will. Over and above the vegetative and sensitive principles of operations specifically proper to plants and animals, man²⁸ is equipped with the spiritual – or psychic – faculties of intellect and will. We know from Aquinas that although named from appetite, *will* in us belongs to the appetitive part which has not for its only act the seeking of what it does not possess but, also the *loving* and *delighting* in what it does possess.²⁹ Commenting on St. Thomas, Card. Wojtyła concludes: “Man’s nature differs fundamentally from that of the animals. It includes the powers of self-determination, based on reflection, and manifested in the fact that a man acts from choice. This power is called the *free will*”³⁰. Here is how Aquinas puts it.

Hence such animals, as move themselves in respect to an end they themselves propose, are superior to these. This can only be done by reason and intellect; whose province it is to know the proportion between the end and the means to that end, and duly coordinate them. Hence, a more perfect degree of life is that of intelligent beings; for their power of self-movement is more perfect. This is shown by the fact that in one and the same man the intellectual faculty moves the sensitive powers; and these by their command move the organs of movement³¹.

The will as the rational appetency of intellectual beings is a faculty distinct from the sentient or sensitive appetency. It is the natural inclination towards what is sensed as good and the natural aversion from what is sensed as evil. The will tends to the end for which it is made, to what is intellectually grasped as good and towards the possession of good in general. St. Thomas concludes that what is apprehended by the intellect and by the senses are generally different, it follows that the *intellectual appetite*

²⁷ This is one of the terms commonly used in the *Summa Theologiae* but, as one expert on Aquinas comments «la teoria proviene da Aristotele per designare la tendenza di una cosa verso il raggiungimento del proprio fine. L'appetito consiste precisamente nell'inclinazione dell'appetente verso un oggetto (*appetitus nihil aliud est quam inclinatio appetentis in aliquid*. [S.Th., Ia IIae, q. 8, a. 1])» M. Battista, *Dizionario Enciclopedico del Pensiero di San Tommaso d'Aquino*, 1991, pp.55–56.

²⁸ As St. Thomas says, man differs from irrational animals in this *that he is the master of his actions*. Therefore those actions alone – of which man is master – are the ones properly called human. And, is master of his actions through his reason and will. *cfr. Summa Theologiae*, Ia IIae, q. 1, a. 1.

²⁹ *Cfr. Summa Theologiae*, Ia, q. 19, a. 1 *Reply Obj. 2*.

³⁰ K. Wojtyła, *Love and Responsibility*, Ignatius Press, San Francisco 1993, p. 23–24.

³¹ *Summa Theologiae*, I, q. 18, a. 3. Translated by the Fathers of the English Dominican Province.

is distinct from the *sensitive*³². As a consequence, man – by his will informed by the intellect – is capable of possessing the forms of all being, *i.e.* the universal good. It is its natural inclination: “As the *intellect* necessarily adheres to the *first principles*, the *will* must of necessity adhere to the *last end*, which is *happiness*”³³. Thus, everything that good comprehends is also contained in the object of the *will*:

For since the *object of the will* is the universal good, whatever has the aspect of good can be the object of an act of the will: and since to will is itself a good, man can will himself to will. Even so the *intellect*, whose object is the true, that it understands, because this again is something true³⁴.

St. Thomas’ three different considerations with respect to *freedom* of the *will* starts with the fundamental principle that the will is considered free inasmuch as it is not tied up to its necessities, that is “*voluntas dicatur libera in quantum necessitatem non habet*”:

quantum ad *primum* horum inest libertas voluntati in quolibet statu naturae respectu cuiuslibet obiecti; cuiuslibet enim voluntatis actus est in potestate ipsius respectu cuiuslibet obiecti. *Secundum* vero horum est respectu quorundam obiectorum, scilicet respectu eorum quae sunt ad finem et non ipsius finis etiam secundum quemlibet statum naturae. *Tertium* vero non est respectu omnium obiectorum sed quorundam, scilicet eorum quae sunt ad finem, nec respectu cuiuslibet status naturae sed illius tantum in quo natura deficere potest: nam ubi non est defectus in apprehendendo et conferendo non potest esse voluntas mali etiam in his quae sunt ad finem, sicut patet in beatis. Et pro tanto dicitur quod velle malum nec est libertas nec pars libertatis quamvis sit quoddam libertatis signum³⁵.

Moreover it is worth noting that today that because of the widespread influence of nominalism, the term *will* has generally taken on an extremely voluntaristic sense or something like a command of pure obedience – setting aside the role of the intellect – upon oneself or others. However, for St. Thomas the will was primarily the faculty of love and desire – the first two acts attributed to it – as can be seen in the treatise on the passions. What must come first in such an agent is an attachment to the goal in question as being an attractive one, for nothing sets itself an end which it does not find in some way attractive or appropriate. Then, it moves toward the goal and consequently comes to rest in the goal once it has been attained.

³² Cfr. *Summa Theologiae*, I, q. 80, a. 2.

³³ *Ibidem*, I, q. 82, a. 1.

³⁴ *Ibidem*, IIa IIae, q. 25, a.2.

³⁵ *De Veritate*, q. 22, a. 6.

Thus, the *proportion of the appetite in regard to the good is love, which is none other than complaisance in the good; the movement towards the good is desire or “concupiscence”; the reposal in the good is enjoyment or pleasure.* Consequently, according to this order *love precedes desire and desire precedes pleasure*³⁶.

In every voluntary act there exists as a spiritual spontaneity brought about by the will’s natural attraction to the good. It is only by following this that the will can act upon itself and move to will those ways and means leading to the good it loves and desires. This process is affected precisely by an act of choice. Albeit one could speak of the will as imposing itself only in cases wherein some resistance has to be overcome; this could be interior (*e.g.* from our sensibility) or exterior (*i.e.* from others). In every case however the spontaneity of love and desire is primary, it moves on the act of the will. It is clear, therefore, that the will is not a sheer pressure (as it maybe understood predominantly in current usage), rather it gives rise to an impression of goodness that causes attraction. Thus, the outcome – of this voluntary movement – is the pleasure resulting from the union with the good whose fullness is happiness. The will is therefore not domineering by nature but unitive³⁷.

The relations between the faculties of the Will and the Intellect³⁸

After having studied the fundamental premises with regard to the will, we now come to the analysis of the relations between the two spiritual or psychic faculties of man: the will (*voluntas*) and the intellect (*intellectus*), according to St. Thomas. First of all we should say that the Angelic Doctor insisted on their mutual coordinating movement and at the same time their generative difference: “*cum intellectus sub cognoscitivo comprehendatur, voluntas autem sub appetitivo, oportet voluntatem et intellectum esse potentias etiam genere diversas*”³⁹.

A human act – “*actus humanus*” – is a voluntary act constituted by the faculties of the will and the intellect⁴⁰. Now, since the function proper to the

³⁶ Cfr. *Summa Theologiae*, Ia IIae, q. 25, a. 2.

³⁷ Cfr. S. Pinckaers, O.P. *Op. cit.*, p. 389–390.

³⁸ St. Thomas treats the question also in *De Malo*, qq. 3 and 6; II *Sentetiae*, dd. 24–25, 35 and 39; and *De Veritate*, q. 22 aside from the parts of the *Summa Theologiae* that we have already mentioned earlier.

³⁹ *De Veritate*, q. 22, art., 10, in corp.

⁴⁰ Cfr. *Summa Theologiae*, Ia IIae, q. 6, a. 1.

will is the freedom to choose it follows that there can never be choice if there is no freedom. As the Angelic Doctor says: “*proprium liberi arbitri est election*”. Thus, we normally say that we have free will by the fact that we can take one thing while refusing another (*i.e.* the act of choosing): “The proper of act of free will is choice [...]. Therefore we must consider the nature of free will, by considering the nature of choice”⁴¹. The will, however, always presupposes a *prius*, which is the intellect so much so that their reciprocal contribution gives light to the two principles: first, that “*ubi intellectus ibi voluntas*”. Msgr. Wynen transformed this Thomistic principle the central argument of one of his then famous sentences:

Pariter non existunt morbi, quibus voluntas eaque sola *directe* afficitur, ita tu liberum arbitrium tollatur [...]. Unde, sicut nequit esse voluntas in iis quae intellectu carent, ita, e contra, certe adest in iis quae intellectu praedita. *Ubi intellectus, ibi voluntas, et viceversa* [...]. Ii Auctores moderni, qui statuunt *ipsam voluntatem* alicuius hominis pleno usu rationis gaudentis laborare posse certis morbis, non sunt imbuti sanis principiis philosophicis neque cognoscunt naturam actus cognitionis et voluntatis, ideoque facile in errores perducuntur⁴².

And second, that “*nihil volitum quin praecognitum*”. At this point a commentary of an expert could be of help to clarify this theme.

Il fulcro della fondazione della psicologia propria alla filosofia tomistica è l'idea che gli atti volontari siano atti appartenenti in parte all'intelletto e in parte alla volontà, ciascuno dei quali agisce e subisce l'azione in diversi ordini di causalità [...]. Il brocardo *nihil volitum quin praecognitum* che intende riassumere in breve la correlazione mutua tra intelletto e volontà descritta dalla psicologia tomistica, non esclude [...] la libertà della volontà [...]. *Intelletto, volontà, libero arbitrio* sono dunque concetti che [...] si intersecano nelle loro operazioni e si implicano a vicenda, come i nodi fondamentali di una concezione psicologica che intende salvaguardare le premesse filosofiche della antropologia cristiana⁴³.

Here are some principles we were able to collect during our readings on St. Thomas' works. We believe that enumerating some of them will give light on the subject: 1. – “Will follows upon intellect”⁴⁴; 2. – “The move-

⁴¹ *Ibidem*, I, q. 83, a. 3 in corp.

⁴² *coram* Wynen, sent. diei 27 februarii 1937, RRDec., vol. XXIX, p. 171, n. 4. Also *cfr. coram* Heard, sent. diei 5 iunii 1941, RRDec., vol. XXXI, p. 490; *coram* Pinna, sent. diei 21 decembris 1959, RRDec. vol. LI, p. 624, n. 2, *coram* Lefebvre, sent. diei 8 iulii 1967, RRDec., vol. LIX, p. 563.

⁴³ O. Fumagalli Carulli, *Intelletto e volontà nel consenso matrimoniale in diritto canonico*, Milano 1981, pp.102–109, n.111. Also *cfr.* O. Fumagalli Carulli, *Sull'incapacità del volere nel matrimonio canonico in "Giurisprudenza Italiana"*, 1970, IV, col. 174–178.

⁴⁴ *Summa Theologiae*, Ia, q. 19, a.1, in corp.

ment of the will follows the movement of the intellect”⁴⁵; 3. – “Every act of the will is preceded by an act of the intellect”⁴⁶; 4. – “The will moves the intellect *as to the exercise of its act*; since even the true itself which is the perfection of the intellect, is included in the universal good. But as to the determination of the act, by which the act derives from the object, the intellect moves the will; since the good itself is apprehended under a special aspect as contained in the universal true. It is therefore evident that the same is not mover and moved in the same respect”⁴⁷; 5. – “Will is like mind in one way and unlike it in another. As regards the exercise of its act it is unlike, since will moves mind to act but it is not itself moved by any other power than itself. As regards objects it is like, for just as will is compelled by an altogether good object but not by objects that can appear bad in some respect, so too mind is compelled by necessary truths that can’t be regarded as false, but not by contingent ones that might be false”⁴⁸.

Is the will, therefore, superior to the intellect? St. Thomas himself answered this question. The superiority of one thing over another – he says – can be considered in two ways: absolutely (*simpliciter*) and relatively (*secundum quid*). The former is considered to be such absolutely which is considered such in itself; while the latter is considered such relatively which is considered such with regard to something else. The first consequence therefore is, if the will and the intellect were considered as regards to themselves, then the intellect is the higher power inasmuch as the object of the intellect is more simple and more absolute than the object of the will. As St. Thomas explains, the object of the intellect is the very idea of the appetible good, and this appetible good – the idea of which is in the intellect – is the object of the will. Now the more simple and the more abstract a thing is, the nobler and higher it is in itself and therefore the object of the intellect is higher than the object of the will. Therefore, since the proper nature of power is in its order to its object, it follows that the intellect in itself absolutely is higher and nobler than the will. Moreover, another necessary logical consequence of this distinction is, *relatively and by comparison* with something else.

⁴⁵ *Ibidem*, Ia IIae, q. 10, a.1, *sed contra*.

⁴⁶ *Ibidem*, q. 4, a.4, ad 2.

⁴⁷ *Ibidem*, q. 9, a.1, ad 3 or Reply Obj. 3.

⁴⁸ *Quaestiones Disputate de Malo*, 6 to 10.

Viewed from this angle, we can say that the will is superior to the intellect inasmuch as the object of the will occurs in something higher than that in which occurs the object of the intellect:

Utrum voluntas sit altior potentia quam intellectus [...]. Respondeo dicendum quod eminentia alicuius ad alterum potest attendi dupliciter: uno modo, *simpliciter*; alio modo, *secundum quid*. Consideratur autem aliquid tale simpliciter, prout est secundum se ipsum tale: secundum quid autem, prout dicitur tale secundum respectum ad alterum. - Si ergo intellectus et voluntas considerentur secundum se, sic intellectus eminentior invenitur. Et hoc apparet ex comparatione obiectorum ad invicem. Obiectum enim intellectus est simplicius et magis absolutum quam obiectum voluntatis, nam obiectum intellectus est ipsa ratio boni appetibilis; bonum autem appetibile, cuius ratio est in intellectu, est obiectum voluntatis. Quanto autem aliquid est simplicius et abstractus, tanto secundum se est nobilior et altius. Et ideo obiectum intellectus est altius quam obiectum voluntatis. Cum ergo propria ratio potentiae sit secundum se et simpliciter intellectus sit altior et nobilior voluntate [...]. Secundum quid autem, et per comparationem ad alterum, voluntas invenitur interdum altior intellectu; ex eo scilicet quod obiectum voluntatis in altiori re invenitur quam obiectum intellectus⁴⁹.

A commentary by Prof. Mondin, an expert in St. Thomas, can be very helpful here. He says:

Da ciò che s'è detto emergono due verità: in quanto *appetito* la *volontà* è *subordinata* all'intelletto: è l'intelletto che propone alla volontà ciò cui che essa esercita il suo *potere di scelta*; per contro, in quanto *liberissima e sovrana* su *tutte le facoltà dell'uomo*, la *volontà* è *superiore al intelletto* [...]. Più precisamente, dal punto di vista della *causalità efficiente* la *volontà* è superiore all'intelletto, in quanto essa *comanda a tutte le facoltà dell'anima, incluso l'intelletto*⁵⁰.

In fact, in his book entitled *L'uomo: chi è?* also poses the same commentary⁵¹. The author arrives at the same conclusion of the Angelic Doctor citing commentary on the *Sententiae*, d. 35 , q. 1 , a. 4.

Finally, an *actus humanus* – which is not merely an *actus hominis* – requires in the person certain conditions which must be presupposed if the act is to be attributed to an individual as its *dominus*. Thus, using the words of Aristotle St. Thomas affirms that human beings are “masters of their own actions”, *i.e.* able to act or not to act. However, this can only be so if they can freely choose as man is capable to freely choose his actions⁵². Also we read in the *Summa*: “Homo est dominus sui actus, quod habet

⁴⁹ *Summa Theologiae*, Ia, q. 83, a. 3.

⁵⁰ B. Mondin, *Op. cit.*, p. 667.

⁵¹ *cfr.* B. Mondin, *L'uomo: chi è? Elementi di Antropologia Filosofica*, VII^a Edition. Milano, 1992, pp. 123–153.

⁵² *cfr.* *Quaestiones Disputate de Malo*, 6.

deliberationem de suis actibus: ex hoc enim quod ratio deliberans se habet ad opposita, voluntas in utrumque potest”⁵³. In other words, from St. Thomas’ superb exposition we can say that man’s nature differs from the rest of the living creature by the fact he is equipped with *the power of self determination based on reflection* and thus, is *capable of executing an act based on free choice*. This power called *free will* is that which makes him master of his own actions: “*sui iuris*”. Now, since a person is an intellectual being it is evident that only acts in which the intellect and the will are freely operative could be considered human. The object of the intellect being the truth (*ratio*) and of the will being the good to be desired (*bonum appetendum*) it follows that the operation of merely the intellect – or of merely the will – is not sufficient, *ergo* not human. Faculties are distinct by reasons of their objects but, they are faculties of the person and *in* the person and are thereby integrated to operational-mutual unity. This is equally clear from the foregoing analysis which St. Thomas holds on these spiritual faculties’ operational unity.

Internal freedom proceeds from the operational
unity of the Intellect and the Will

First and foremost, we say that we believe this principle to be in agreement with that of the Angelic Doctor among others because we too found the same conclusion in the work of one of the experts on St. Thomas. “The *will* is so to say the final authority in ourselves, without whose participation no experience has full personal value or the gravity appropriate to the experiences of the human person. The value of the person is closely bound up with freedom, and freedom is a property of the will. [But] a really free commitment of the will is possible only on the basis of truth. The experience of freedom goes hand in hand with the experience of truth; truth is directly connected with the sphere of *cognition*”⁵⁴. Moreover, “it has already been said that *freedom of the will* is possible only if it rests on *truth in cognition*. For it is a man’s duty to choose the true good. It is, indeed, duty that most fully displays the freedom of the human will. The will «ought to» follow

⁵³ *Summa Theologiae*, Ia IIae, q. 6 art. 2 ad 2um.

⁵⁴ K. Wojtyła, *Love and Responsibility*, Ignatius Press, San Francisco 1993, pp. 115–117; also *cfr.* *Person and act*, Cracow 1969, Part II of which is called “The Transcendence of the Person in the Act”, p. 145.

the true good, but this “ought to” implies that it “may” equally well not do so»⁵⁵. Later as Roman Pontiff: «The hypothesis of real incapacity is to be considered only when an anomaly of a serious nature is present, which, however it may be defined, must substantially vitiate the capacity of the individual *to understand and/or to will*”⁵⁶.

We have just seen that *freedom*⁵⁷ or *free will*⁵⁸ is an act rooted in man’s psychic faculties (whereby the universal truth as good is chosen)⁵⁹. Internal freedom proceeds from the intellect (naturally inclined to judge what is true) and the will (naturally inclined to will, love and desire what is good seen as an end); just as conclusions derive from principles⁶⁰. Thus, St. Thomas defines free will (*liberum arbitrium*) as: “Free will is defined as the faculty of will and reason”⁶¹ and in another place – using the classical text of Peter Lombard –, as: “Free will is a faculty of reason and will whereby the good is chosen, with the help of grace, or evil is chosen if grace is lacking”⁶².

Therefore, we can say that the Angelic Doctor places freedom only after the intellect and will. Man’s internal freedom was placed at “the conjunction of the intellect, which judged, and the will, which willed, loved and desired. From them it received the light and strength that were united within choice”⁶³. Moreover, another fundamental affirmation follows that

⁵⁵ *Ibidem*, p. 119.

⁵⁶ John Paul II, February 5, 1987, in AAS, 79 (1987) pp. 1453–1459; English translation taken from *L’Osservatore Romano*, February 23, 1987, pp. 6–7.

⁵⁷ *Freedom* is generally the term preferred by most authors of modern commentaries on St. Thomas to designate the *mode of exercise* of an act. Although the Angelic Doctor applied the latin counterpart of the english expression *free will* to designate the human *faculty* called the *free will*. Cfr. S. Pinckaers, S., O.P. *Op. cit.*, p. 379.

⁵⁸ St. Thomas in the *Summa Theologiae* explained this question with a different repertoire of concepts. In English it is natural to phrase the question of human freedom in the terms: “Do human beings have free will?”. But in St. Thomas’ Latin which corresponds exactly to the English *free will*, he speaks of the will (*voluntas*); *i.e.* the intellectual appetite which is the subject of *quaestio* 83 of the *Summa Theologiae*. Moreover, he does not customarily speak of *free will* (*libera voluntas*) or of the *freedom of the will* (*libertas voluntatis*). The noun which goes with the Latin word for *free* is not *will* but *decision* (*arbitrium*). It is to the topic of free decision (*liberum arbitrium*), that *quaestio* 83 of the *Summa Theologiae* is developed. cfr. A. Kenny, *Aquinas on the Mind*, London 1993, p. 75.

⁵⁹ Cfr. II *Sententiae*, dist. 25, I, art. I, q. 2.

⁶⁰ Cfr. *Ibidem*, dist. 24, art. I, q. 1 ad 3.

⁶¹ *Summa Theologiae* Ia IIae, q. 1, a.1 *in corp.*

⁶² II *Sententiae*, dist. 25, I, art. I, q. 2.

⁶³ S. Pinckaers, O.P. *Op. cit.*, p. 381–382.

choice is a free act of the will informed by the intellect⁶⁴. As the classical distinction of the Angelic Doctor runs:

The word choice implies something belonging to the reason or intellect, and something belonging to the will (...). Hence, Gregory of Nyssa says that choice is neither desired only, nor counseled only, but a combination of the two. For just as we say that an animal is composed of soul and body, not just a body nor a mere soul, but both; so is it with choice⁶⁵.

And, in another work, he develops the same argument in an even clearer way:

Ci sono delle potenze che raccolgono in se stesse il potere (virtutes) di varie facoltà, tale è il caso del libero arbitrio, come risulta da quanto segue. L'elezione (scelta) che è l'atto proprio del libero arbitrio, comporta la disanima (discretionem) e il desiderio; infatti scegliere è dare la preferenza a una cosa rispetto a un'altra. Ora, queste due azioni non si possono compiere senza l'apporto delle facoltà della ragione e della volontà. È quindi evidente che il libero arbitrio raccoglie il potere della volontà e della ragione, e perciò si dice facoltà di entrambe⁶⁶.

Therefore, human acts depend upon the harmonious ordering of the will and the intellect, which is the only manner of assuring internal freedom in every consenting act or in every choice a person makes. "The root of liberty is the will as the subject thereof; but as cause its root is reason. For the will tends freely towards various objects, precisely because the reason can have various perceptions of good. Hence philosophers define the free will as being a *free judgement arising from reason, implying that reason is the root of liberty*"⁶⁷. Hence, examining St. Thomas's teachings in relation to the canonical doctrine on internal freedom elaborated hitherto one may say that indeed there is always a twofold aspect in every person's free act: the intellect and the will giving man the internal freedom to choose. The intensity of each execution will now vary depending on the degree of the gravity required in every human act.

⁶⁴ As has been noted before: It is the analysis of choice that enables us to establish, as early as the first part (q. 83, a 3), the nature of *free will*. *Vide supra*: S. Pinckaers, O.P. *Op. cit.*, p. 380.

⁶⁵ *Summa Theologiae* Ia IIae, q. 13, a.1.

⁶⁶ This citation is taken from Prof. Mondin's *Dizionario Enciclopedico* referring to St. Thomas' commentary, that is, *II Sent.*, d. 24, q. 1. Here Prof. Mondin concludes: "Pertanto, secondo l'Aquinate, il libero arbitrio non è esclusivamente atto della volontà come sostengono certi volontaristi antichi (Scoto, Occam) e moderni (Nietzsche e Sarte), perché in tal caso si avrebbe un arbitrio cieco, e in nessun modo un arbitrio veramente libero". B. Mondin, *Op. cit.*, p. 59.

⁶⁷ *Summa Theologiae*, Ia IIae, q. 17, art. 1 ad 2.

The following citations on St. Thomas' affirmations will help clarify better his teaching:

The proper act of free will is choice: for we say that we have a free will because we can take one thing while refusing another; and this is to choose. Therefore we must consider the nature of free will, by considering the nature of choice. Now two things concur in choice: one on the part of the cognitive power, the other on the part of the appetitive power. On the part of the cognitive power, counsel is required, by which we judge one thing to be preferred to another: and on the part of the appetitive power, it is required that the appetite should accept the judgement of counsel. Therefore Aristotle (*Ethic. vi 2*) leaves it in doubt whether choice belongs principally to the appetitive or the cognitive power: since he says that choice is either *an appetitive intellect* or *an intellectual appetite*. But (*Ethic. iii, loc. cit.*) he inclines to its being an intellectual appetite when he describes choice as a *desire proceeding from counsel*. And the reason of this is because the proper object of choice is the means to an end: and this, as such, is in the nature of that good which is called useful: wherefore since good, as such, is the object of the appetite, it follows that choice is principally an act of the appetitive power. And thus free will is an appetitive power⁶⁸.

In another place he adds:

The word choice implies something belonging to *the reason or intellect*, and something belonging to the will: for the Philosopher says (*Ethic. vi. 2*) that choice is either *intellect influenced by appetite* or *appetite influenced by intellect*⁶⁹.

Here, it is very interesting to note that St. Thomas' analysis on free choice centered on the joining and interaction of intellect and will in free choice, of judgement and willing, all of which made up human action as matter and form or body and soul⁷⁰.

Conclusion

From the foregoing analysis we can now consider the question: Can there be anything that may affect – render defective or even take away – man's exercise of his free choice?

Again we should start by saying that at the root of man's free will is his unique ability to choose. Not infrequently, however, personal and/or so-

⁶⁸ *Ibidem*, I, q. 83, art. 3 in corp.

⁶⁹ *Ibidem*, Ia IIae, q. 13, art. 1 sed contra.

⁷⁰ Cfr. S. Pinckaers, *Op. cit.*, p. 380. Also see his same study on *choice in the analysis of the human act*, in vol. I in *Les Actes humains de la Somme des Jeunes* (Paris, 1962), particularly notes 52 and 88, as well as *Les Reseignements techniques*, 422–434. Here he says that the distinction between the *order of specification* and the *order of exercise* formed the principal support for the argumentation in the famous disputed question *De malo*, q. 6, occasioned by discussions on *free will*.

cial conditions⁷¹ sometimes obscure in varying degrees the free exercise of the faculty of the will. Therefore, we can say that there is a so-called limits to the exercise of man's free will.

Human freedom is not without bounds⁷². As St. Thomas' explains, natural tendencies are according to a form, *i.e.* that corresponding objects stem from a natural inherent form. The will, a rational appetite or desire, is no other than a natural tendency stemming in a similar way from a form that is thought of. This natural inherent form of the will – that is thought of – is the necessary universal good. Thus, St. Thomas affirms: “*Voluntas nihil facit nisi secundum quod est mota per suum obiectum quod est bonum appetibile*”⁷³.

Now, in the *Summa theologiae* St. Thomas adroitly presents how man's will is more or less dependent on the contribution of the intellect. After having seen that the sensitive appetites may have their influence into the area of the intellect and that these internal motivations work upon the will's ability to choose – *i.e.* the capacity of man to determine himself in favor of one-alternative in preference from another – the possibility therefore exists that they may determine the act of the will:

The passion of the sensitive appetite moves the will, in so far as the will is moved by its object: inasmuch as, to wit, man through being disposed in such and such a way by a passion, judges something to be fitting and good, which he would not judge thus were it not for the passion.⁷⁴

Also in his work *De malo* St. Thomas affirms that *all our knowledge comes through the sense* but, that doesn't mean that everything we know is sensed or known through some immediate sensed effect: mind itself is known to itself through its activity and that can't be sensed. In the same way *will's interior activity is known to mind, as something put in movement by mind's act, and, in another way, as something causing mind to act, as we have said: as effects are known through causes and causes through effects*⁷⁵.

⁷¹ Cfr. John Paul II, Apost. Ex. *Familiaris consortio*, November 22, 1981, n. 82 in AAS, 74 (1982), p. 183.

⁷² Cfr. *Summa Theologiae*, I, q. 83, a. 1. Its corresponding text is found in his work *Quaestiones Disputate de Malo*, q. 6.

⁷³ *De Veritate*, q. 14, a. 2.

⁷⁴ *Summa Theologiae*, Ia IIae, q. 10. Art. 3.

⁷⁵ Cfr. *Quaestiones Disputate de Malo*, 6.

However, not as long as man remains sane to control himself and refuse to be blindly influenced by them:

Now this influence of a passion on man occurs in two ways. First, so that his reason is wholly bound, so that he has not the use of reason: as happens in those who through a violent access of anger or concupiscence become furious or insane, just as they may from some other bodily disorder; since such like passions do not take place without some change in the body. Sometimes, however, the reason is not entirely engrossed by the passion, so that the judgment of reason retains, to a certain extent, its freedom: and thus the movement of the will remains in a certain degree. Accordingly in so far as the reason remains free, and not subject to the passion, the will's movement, which also remains, does not tend of necessity to that whereto the passion inclines it. Consequently, either there is no movement of the will in that man, and the passion alone holds its sway; or if there be a movement of the will, it does not necessarily follow the passion [...]. And, since there is in man a twofold nature, intellectual and sensitive; sometimes man is such and such uniformly in respect of his whole soul: either because the sensitive part is wholly subject to this reason, as in the virtuous; or because reason is entirely engrossed by passion, as in a madman. But sometimes, although reason is clouded by passion, yet something of this reason remains free. And in respect of this, man can either repel the passion entirely, or at least hold himself in check so as not to be led away by the passion. For when thus disposed, since man is variously disposed according to the various parts of the soul, a thing appears to him otherwise according to his reason, than it does according to a passion⁷⁶.

After all that has been said, St. Thomas gives us a further clarification. Now, it would seem erroneous to insist that the will is moved of necessity by the exterior mover, which is God⁷⁷. On the contrary, the Angelic Doctor writes that ordinarily God does not move the will to act of necessity in particular choices. Rather, God moves all things that move, *i.e.* God moves them to act according to the nature that He gave them. Therefore, God moves contingent things to act contingently: “God moves man’s free will to act freely”⁷⁸.

⁷⁶ *Summa Theologiae*, Ia IIae, q. 10. Art. 3.

⁷⁷ *Ibidem*, Art. 4: «Utrum voluntas moveatur de necessitate ab exteriori motivo quod est Deus».

⁷⁸ In *De malo* St. Thomas affirms that God moves wills—though infallibly because his moving power can’t fail—freely and without compulsion, in accordance with the nature of what he is moving, which is open to more than one possibility. Just as his providence works infallibly in everything, yet in such a way that effects follow contingently from contingent causes; for God moves everything proportionately, each in its own way. *Cfr. Quaestiones Disputatae de Malo*, q. 6 and *IV Sententiae dist. 36, q. 1, ad 1–2*.