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In defense of Thomas Aquinas and the just price

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There is a sharp division in medieval economic theory between teachers of canon and Roman law, who, with some qualifications,[1] considered a sale legitimate provided only that the price was acceptable to both parties, and Scholastic writers, who taught that it was sinful to sell a good for more or buy it for less than its just price.[2] The former doctrine corresponds to both current legal practice and conventional economic views on the desirability of freedom of contract. The latter appears, from the point of view of modern economics, to be an undesirable interference with the market process.[3] I shall argue that both the medieval legal doctrine of freedom of contract and the Scholastic ethical doctrine of just price may have been desirable institutions, and that the latter in particular may have served an important and non-obvious function in the medieval economy.

What determined the just price?

> The other way in which we can look at a contract of sale is in so far as it happens to bring benefit to one party at the expense of the other, as in the case where one badly needs to get hold of something and the other is put out by not having it. In such a case the estimation of the just price will have to take into account not merely the commodity to be sold but also the loss which the seller incurs in selling it. The commodity can here be sold for more than it is worth in itself though not for more than it is worth to the possessor.
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> If, on the other hand, a buyer derives great benefit from a transaction without the seller suffering any loss as a result of relinquishing his property, then the latter is not entitled to charge more. This is because the surplus value that accrues to the other is due not to the seller but to the buyer's situation: nobody is entitled to sell another what is not his own though he is justified in charging for any loss he may suffer.[4]

This seems to mean that the just price was either the intrinsic value of the commodity or its value to the seller, whichever was higher.[5] This leads us to the question of what the Scholastic writers meant by the intrinsic value of the commodity, a subject of some controversy.

It appears, from the arguments of de Roover and others,[6] that most of the Scholastic writers meant by the value of a commodity simply its market value, although Duns Scotus and some of his followers interpreted value as meaning cost of production.[7] The former interpretation appears at first to make the doctrine of the just price superfluous; since the market value of a good is the highest price for which the seller can sell it and the lowest for which the buyer can buy it, it hardly seems necessary to instruct sellers not to charge more than the good's value and buyers not to buy for less.

But a market price is only well defined when there are many buyers and sellers. Such a situation was far from universal in the medieval

1. In particular the doctrine of *laesio enormis*, discussed below.

2. For an extensive discussion see Baldwin 1959.

3. To some extent the bad reputation of the doctrine of just price comes from its supposed connection with the prohibition on usury. The connection is actually very tenuous, see Noonan 1957, pp. 82–91. I do not intend to argue that the prohibition served any useful purpose, although the ingenuity of medieval bankers in finding ways around it may have made it less damaging than one might otherwise expect. See Baldwin 1959, p. ?. Noonan 1957, pp. 181–89; and de Roover 1974, pp. 183–99.

4. Aquinas 1975, 2a 2ae, 77, pp. 215–16.

5. The doctrine that a price above the value of a good is licit if the seller suffers a loss in selling is familiar in discussions of usury as *damnum emergens*. Whether opportunity cost (*lucrum cessans*) deserved the same treatment was a subject of debate. See Schumpeter 1954, p. 103; Baldwin 1959, p. 79; and Noonan 1957, p. 88.

6. For arguments in favor of this position, see de Roover 1951, p. 496, 1958, and 1967, pp. 17–21; Gordon 1975, pp. 174–76; Baldwin 1959; Barath 1960, pp. 420–30; Worland 1967, pp. 16–18, 222, 233; Noonan 1957, pp. 82–99; and Schumpeter 1954, pp. 61–62, 98–99. Cahn (1969) gives an extensive discussion of the development of the doctrine, leading to the same conclusion. Hollander (1965) argues that Aquinas's views were inconsistent. For the older position, according to which the just price was that required to maintain the social status of the producer, see references in the above. Bartell (1962, pp. 369–81) rejects both positions, suggesting, if I understand him correctly, that for Aquinas the just price is what the market price would be if the tastes of those participating in the market were virtuous. Where the price was controlled by government, the Scholastics accepted the legal price (if enforced) instead of the (nonexistent) market price. See de Roover 1958, pp. 425–26; Baldwin 1959, p. 79; Cahn 1969, p. 48; and Noonan 1957, p. 89. For an interesting exchange on this subject in the recent literature see Wilson 1975 and Worland 1977. The former defends the older position, arguing that Aquinas was concerned with maintaining social stability. The latter argues that income according to status is a feature of *distributive justice*, which ought to determine the initial allocation of factor endowments, while price is a feature of *commutative justice* and consequently depends on the qualities of the objects, not the status of their producers.

7. Whether Duns Scotus recognized the connection between cost of production and market price is a matter of debate. De Roover (1958, p. 422) and Barath (1960, pp. 421–22) argue that Aquinas did, but Gordon (1965) and Hollander (1965, pp. 628–32) argue the contrary. De Roover (1951, p. 487) also claims that Sant' Antonino of Florence recognized the connection. For general discussions see Noonan 1957, pp. 82–87; Bartell 1962, pp. 364–68; and Worland 1967, pp. 210–33.

economy. Both the writers in the Scholastic tradition and Aristotle,[8] their primary source, were largely concerned with exchanges involving small numbers of buyers and sellers. As the situation approaches closer and closer to the pure case of bilateral monopoly—one buyer and one seller—the price at which a good can be bought or sold becomes increasingly less determinate. The purpose of the doctrine of just price was to determine the price in such non-competitive situations,[9] and I will argue that in doing so it may have served a useful economic purpose.[10]

Consider a bilateral monopoly. I own the only horse in the village; you are the only one in the village who wants to buy a horse. I value the horse at 10 pennies, you at 20. Conventional economic analysis says only that we will agree on some price between 10 and 20. But suppose further that each of us can influence the price by various costly means. For instance, I can overstate the value of the horse to me, you can understate its value to you. The cost here is the risk that if both of us misstate our values too much—if I persuade you that the horse is worth 21 pence to me, and you persuade me that it is worth 9 to you—I may sell you a line but fail to sell you a horse. Alternatively, you may try to prove that the horse is not worth much to you by making a low offer and trying to wait me out—while crops rot in your field. This is a common situation in union-management bargaining, a familiar example of bilateral monopoly.

While there is no satisfactory theory to tell us how much of the 10-penny profit will be eaten up by bargaining costs, much of it may be.[11] If so, it might be in our joint interest to accept some less costly way of deciding on a price. Suppose, for instance, that a neutral arbi-

8. "[Aristotle] was preoccupied with the isolated exchange between individuals and not with the exchange of goods by many sellers and buyers competing with each other" (J. Soudek 1952, p. 46). This position is attacked by M. I. Finley (1970, p. 36) in an essay which argues the nonexistence of Aristotle's economic theory. See on the other hand Lowry (1969), who argues that Aristotle may have had a sophisticated theory obscured, perhaps irrecoverably, by errors in the transmission of his ideas.

9. "Goods sold outside of the marketplace were to be sold at the price then prevailing in the market place" (Cahn 1969, p. 3). The reference is to Pope Gregory IX's Decretals, published in 1234. Wilson (1975, p. 56), discussing the just price doctrine, refers to the "problems of non-market regulation of varying degrees of monopoly power."

10. The doctrine was also used to condemn non-market prices produced by fraud; the argument that this might lead to, in modern terms, inefficient transactions (in which the good was worth more to the seller than the buyer) was made explicitly; see Baldwin 1959, pp. 54–57, 67–68. Aquinas did not, however, consider it unjust for a merchant to withhold knowledge of market conditions that would have lowered the price for which he could sell his goods; in this case the question is only one of distributional transfers, not inefficient transactions (Baldwin 1959, p. 78).

11. For general discussions of this sort of problem see Tullock 1967 and Krueger 1974. Oliver Williamson (1975) has constructed a theory of organization based largely on the attempt to avoid costs of this sort.

trator with a lie detector agrees to ask each of us how much he really values the horse, then set a price halfway between. Although I might expect to do better than that on some bargains, I would do worse on others; if bargaining costs were substantial, the arbitrator's decision might be more attractive than my *ex ante* value for bargaining.

The doctrine of the just price may be interpreted as just such an arbitration procedure, designed for an economy containing both competitive and non-competitive markets. The value of a good—its market price when it was sold on a competitive market—would be a price at which the merchants in the competitive market could afford to sell it. In the normal non-competitive case the merchant's costs would be the same as those of a merchant in the competitive market; hence the market value of the good would be within the bargaining range and would provide a reasonable arbitrated price. In the exceptional case in which a good was worth more than its market price to the seller, the just price would be adjusted upward accordingly, as Aquinas explained in the passage quoted above.[12]

Before going on to discuss the evidence for this view, two points are worth making. The first is that the particular arbitrated price imposed by the doctrine of the just price has the great advantage of being relatively easy to determine, simplifying enforcement, whether by legal, social, or moral means. In situations where the buyer was willing to pay much more than the market price and the seller had no reason to accept less (goods that could easily be stored until more purchasers appeared, for instance), the doctrine would allocate virtually all of the surplus to the buyer. In other situations, where the seller was stuck with a good he had to get rid of and faced by a buyer prepared to bargain the price down to almost nothing, the arbitrated price would be favorable to the seller.[13] On average, both buyer and seller might be better off than if they were free to engage in unrestricted bargaining.

The second point is that in any arbitration scheme a perfect arbitrated price—one guaranteed to be within the bargaining range—depends on knowledge of the subjective values of the bargainers. In my hypothetical case, that knowlege was provided by a lie detector. In the actual medieval case, the competitive market price gave a first approximation to the subjective values, and the provision allowing a higher price where the cost to the seller was higher gave a second approximation. This latter was far more practical for a rule enforced by

12. In addition to the sort of implicit "arbitration" discussed here, both Romanists and Scholastics frequently suggested the use of real, 'fair-minded' arbitrators to settle disputes and determine what was just (Cahn 1969, p. 46).

13. The possibility of monopsony was discussed by Lessius; see de Roover 1951, p. 500.

this was a problem of which medieval writers on economics were intensely conscious, and that the doctrine of just price can be interpreted as a useful device to minimize the (bargaining) costs resulting from imperfect competition by providing an arbitrated price enforced by moral sanctions. I have given reasons for the relative superiority of moral over legal sanctions for this purpose and thus provided a possible explanation of the division between the Roman and canonist lawyers, who supported freedom of contract, and the Scholastics, who argued for the doctrine of the just price.

I close by pointing out what I have not done. I have not shown that the doctrine of just price was sufficiently well enforced to serve the purpose I suggest, although I have given reasons why one may believe moral sanctions to have had force in medieval society. I have not shown that the advantages of the just price as an arbitrated solution to the bargaining problem make up for its disadvantages as a constraint on price flexibility; in particular I have not dealt with the possibility that the just price might be above the bargaining range in a situation in which the merchant was stuck with goods which were worth less than their market price to the only buyer. It is worth noting that the most notorious Scholastic doctrine related to price (although not derived from the just price doctrine), the prohibition on usury, set the price of credit at zero,[27] outside the bargaining range, and so, insofar as it was enforced, prevented transactions from occurring. Lastly, I have made no attempt to show that the Scholastic writers were themselves concerned with the economic (as opposed to the moral) costs of imperfect competition.[28] Indeed, by suggesting that the doctrine of the just price served a useful economic function I do not intend to imply that that was the principal reason why particular philosophers believed in it. I do intend to suggest that its economic function was one of the reasons why the doctrine, even if adopted for wholly different reasons, survived and spread. This essay is thus at least intended as a contribution not only to the history of economic thought, but to the economic history of thought as well.

27. But see references in note 3 above for discussion of the exceptions by which Scholastics justified interest.

28. It is worth noting that according to Schumpeter (1954, pp. 96–97) the economic sociology of the Scholastics "continued to treat temporal institutions as utilitarian devices that were to be explained—or justified—by considerations of social expedience centering in the concept of the Public Good" and "the scholastics' idea of what is 'unjust' was associated—though never identified with—their idea of what is contrary to public welfare." Similarly, Worland (1967, p. 17) cites Aquinas (commenting on Book V of Aristotle's *Ethics*) as defending justice in exchange by arguing that "if this is not observed—if goods do not exchange in proportion to the labor and expense of their producers—there would be no exchange of goods, nor will men share their goods with one another." For a contrasting view see Bartell 1962. Readers may wish to compare my argument with the very different defense of the just price doctrine in Lowry 1974.

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moral sanctions than it would have been for one enforced by law.[14] To the extent that those sanctions were effective (and there is evidence that they often were[15]) the seller only needed to know his own opportunities and preferences in order to decide whether a particular price was licit. This suggests that the system of combining legal freedom of contract with a morally enforced arbitration procedure for imperfect markets may have been an efficient use of the available instruments of control.

The plausibility of this interpretation of the role of the just price depends, first, on the medieval economy being characterized by a mixture of competitive and non-competitive markets, and second, on medieval writers having been aware of the problems of imperfect competition. The first condition is quite generally conceded;[16] the second is shown by the extensive discussion of problems of imperfect competition in medieval writing.

One case discussed by early medieval writers was that of a stranger entering a village whose inhabitants could and would charge him cartel prices. According to a Carolingian capitulary of 884, later incorporated into canon law, a priest or bishop was entitled to arbitrate in order to guarantee that the stranger was charged no more than local market prices.[17]

The possibility of discriminatory pricing, a typical symptom of imperfect competition, was recognized in Roman times,[18] and the practice was repeatedly condemned during the Middle Ages.[19]

Medieval writers were also concerned about attempts to deliberately create monopoly situations. "Everywhere measures were taken against engrossers (*accapareurs*), forestallers (*recoupeurs*), and regraters (*regrattiers*) who tried to accumulate stocks, to prevent supplies from reaching the market, or to form corners in order to drive prices

14. There were some cases in which the just price could be enforced in the courts (de Roover 1951, 500–508). For the general distinction between *forum internum* (confessional) and *forum externum* (the courts) see Baldwin 1959, pp. 10, 57–58.

15. De Roover 1951, p. 498: "There are countless examples of restitution of usury and ill-gotten gains in medieval wills, so that there can be no doubt that the code of social ethics was actually enforced by the Church, chiefly *in foro conscientiae*, that is, through the sacrament of confession.

16. For the existence of both competitive and imperfect markets see Cipolla 1967, pp. 10–12, 53–57; de Roover 1951, p. 502; and Roll 1953, p. 47. For the prevalence of bargaining, which suggests the existence of imperfect markets, see Baldwin 1959, pp. 21–22, and the sources he cites.

17. The canon "Placuit" was incorporated into canon law in the thirteenth century; see de Roover 1958, p. 421, and Baldwin 1959, p. 33.

18. De Roover 1951, p. 493; Baldwin 1959, p. 80.

19. De Roover 1951, p. 497, 1958, p. 426. The term used for a discriminating price was *pretium affectionis*. See also Cahn 1969, pp. 40–42.

up."[20] To a modern economist familiar with the difficulties of maintaining a successful monopoly their concern seems if anything excessive,[21] but that may be a reflection of improvements in the market, not in economic wisdom, over the intervening centuries.[22]

As a final piece of evidence on the medieval concern with bargaining ranges and imperfect markets, it is worth examining briefly the doctrine of *laesio enormis*, as it developed in the Middle Ages. Originally, *laesio enormis* was a provision in Byzantine law under which the seller of land could cancel the sale if he could show that the land had been sold for less than half its true value. This rule was an exception to the general principle of Roman, Byzantine, and canon law, under which any price freely agreed to by the buyer and seller was legally binding.[23] As the principle developed in medieval law, it was generalized to apply to all goods, and extended to permit the buyer to cancel the sale if the price was more than one and a half times, or in some interpretations twice, the value of the goods.[24]

The doctrine of *laesio enormis* shows that medieval writers recognized the possibility of a freely bargained price other than the market price, and the existence of a range of such prices within which both buyer and seller might be satisfied.[25] The bounds of half the market price to one-and-a-half times the market price provided some sort of rough approximation of that range.[26]

Conclusion

I have tried to show in this article that the medieval economy was characterized by frequent but not universal imperfect competition, that

20. De Roover 1958, p. 429. See also de Roover 1951 and 1967, p. 22; Noonan 1957, p. 88; and Gordon 1976, pp. 143–44, 220, 266–67.

21. For a specific case see McGee 1958; the general arguments are discussed in Stigler 1964 and Friedman 1973, pp. 39–50.

22. A friend who has lived for some time in a city in India describes non-competitive behavior that seems extraordinary, including successful discriminatory pricing in a market with a considerable number of sellers.

23. Baldwin 1959, pp. 16–21.

24. Baldwin 1959, pp. 22–27, 43–46. Cahn (1969, pp. 12–29) argues that the medieval law may have developed from a misreading of a Byzantine law intended to apply either exclusively to minors or perhaps to cases where less than half of the agreed-upon price had been actually paid out.

25. "We should therefore bear in mind the possibility that, at least for some Scholastics, 'just price' may have meant the zone of possible prices inherent within the 'natural' preconditions of trade" (Lowry 1969, p. 49). As evidence that Scholastics perceived the existence of a bargaining range, this conjecture supports my argument; as a definition of the just price it is inconsistent with it. See also Wilson 1975, p. 72–73.

26. *Laesio enormis* was less of a restriction on freedom of contract than it at first appears, since formulas by which the seller could renounce its remedies in advance were developed and accepted as legally binding within medieval Roman law (Baldwin 1959, pp. 24–27).

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