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FROM SEARLE TO SCOTUS AND BACK: INSTITUTIONS, POWERS, AND MARY

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1. INTRODUCTION

This paper is a long shot. It explores whether we can solve a hard metaphysical problem for contemporary social ontology by turning to medieval theology and simultaneously solve a problem for medieval theology by turning to social ontology. However exotic as it may seem, the connection between the two has been noted before. In his review of an edited volume on social ontology (Smith 2008), Wolfgang Grassl wondered why 'one avenue has been totally neglected from which insights may be derived for an unequivocally realist understanding of the social world: sacramental theology' (Grassl 2008, 345). Baptism, holy orders, transubstantiation, etc. are all performative speech acts that bring about an irrevocable ontological change. There are also sophisticated understandings of the relation between speech acts and social reality – 'entia moralia' – in late medieval scholasticism (Kobusch 2018).

The hard metaphysical problem for social ontology, as indicated by John Searle, is: '*How can there be an epistemically objective set of statements about a reality which is ontologically subjective?* In large part, that is what this book is about.' (Searle 2010, 18 original emphasis) The proposed solution is that, if *human* persons are metaphysically primordial to institutional reality in the same way that *divine* persons are metaphysically primordial to all of reality, the privileged epistemic status of 'mountains and volcanoes, which are ontologically objective' (ibid.) is replaced by a fundamental congruence and compatibility between what is ontologically subjective for divine *or* human persons but is epistemically objective across the board. If what is ontologically objective for human persons is in fact ontologically subjective for divine persons, the epistemic objectivity of what is ontologically subjective for human persons does not pose a special problem – assuming that personhood holds univocally for human and divine persons alike, i.e., that human persons are made 'in the image and likeness' of God (*Genesis* 1: 26).

The problem for medieval theology is reconciling so-called divine voluntarism, as exemplified by John Duns Scotus, with the stability and knowability of God and His creation. If the radically free divine will is the ground for our contingent order of creation, does this threaten the stability and knowability of the created order, and *a fortiori* the knowability of God Himself – much like a whimsical or fickle despot in the human institutional realm makes both institutional reality as well as himself unstable and unknowable? The proposed solution starts from the Scotistic thesis that Christ would have become incarnate regardless of the Fall, as well as the related Immaculate Conception of Mary. These two points taken together are then used to indicate a spousal covenant (a social reality *par excellence*) between God and creation through Mary and in Christ. This spousal covenant is radically contingent, yet steadfastly maintained by God – at the cost of His own human life on the cross. It thereby reveals the innermost reality of God as well as the stability and knowability of the created order.

Traversing the distance between two different worlds requires a specific methodological approach. This paper does not try 'to remove in advance every conceivable misunderstanding or misinterpretation or objection' (Williams 2008, 183) that could occur along the way. The goal is to gauge whether the target can be hit at all at such a distance, instead of (or at least: before setting up) more thorough argumentative inroads. The paper therefore employs what Daniel Dennett described as 'the method of the sculptor': 'First you rough out the block, standing back and squinting now and then to make sure you are closing in on the dimly seen final product.' (Dennett 1984, 3) He notes that some people are rather impatient with this approach because they want to see nothing but clean edges and sharp distinctions from the start but he thinks that such an approach runs the risk of failing 'to see the shape of the main body of the topic.' (Dennett 1984, 4). This paper is standing back and squinting, trying to see the contours of a dimly seen target as clearly as possible.

As a final terminological as well as methodological note, this paper prefers metaphysics over ontology. Epstein already noted that 'the term social metaphysics is more apt' than social ontology 'because to some people, ontology is a narrower pursuit.' (Epstein 2016, 149) Baker, for example, sees ontology, including social ontology, as 'a complete inventory of all the entities, kinds and properties that ever exist or are instantiated' (Baker 2015, 77, cf. also Baker, 2019). But metaphysics as traditionally understood is indeed a wider pursuit – from the 'why there is something rather than nothing' question, to the study of the transcendentals which emphatically do not fall under any inventoried 'category' of entities, kinds, or properties that exist. According to some, much hinges on the difference between the term metaphysics and ontology (Jaroszyński, 2018), so this paper sticks to the older and wider term, where it can.

The next section (2) reintroduces and expands upon the hard problem and the basic solution. Section (3) presents a first element of the overall proposal, namely a metaphysics of powers or dispositions for institutional reality grounded in the two-way power of the human will. Section (4) presents a counterargument, namely that it fails to account for the normativity of institutions, to that first element and responds to it by appealing to higher-order powers and a minimal kind of Platonism, i.e., the transcendence of the good. Section (5) elaborates on this proposal by distinguishing two kinds of contingency. Section (6) then considers a theological problem that arises if we think through the combination of freedom and the transcendence of goodness for divine persons. A solution is proposed in section (7) whereby the relation between God and creation is of an institutional nature, i.e., a spousal covenant.

2. THE HARD PROBLEM AND THE BASIC PROPOSAL

Searle explicitly frames his problem against the background of a default metaphysical naturalism: ‘How is it possible in a universe consisting entirely of physical particles in fields of force that there can be such things as consciousness, intentionality, free will, language, society, ethics, aesthetics, and political obligations?’ (Searle 2010, 3)

Hence, the problem for social ontology is not merely what ‘the fundamental nature and mode of existence [...] of human social institutional reality’ (Searle 2010, ix) is, but what its fundamental nature and mode of existence is given ‘a universe consisting entirely of physical particles in fields of force’. He is therefore looking for ‘a continuous line that goes from molecules and mountains to screwdrivers, levers, and beautiful sunsets, and then to legislatures, money, and nation-states.’ (Searle 1995, 41). He thereby explicitly sets out to combine naturalism with a realist position on human and institutional reality. Elsewhere he admitted that it was only ‘with the greatest reluctance’ (Searle 2001, 75) that he came to accept an irreducible, non-Humean self – a reluctance and eventual acceptance that testifies to his respective commitments to both naturalism and realism.

The proposal of this paper is that we can find that ‘continuous line’ in a fractal-like structure whereby the lower-level structures repeat, and thereby reveal, the higher-level structure of which the lower-level structure is a part. Consider that according to *Genesis* creation was ‘spoken’ into being by a series of speech acts: ‘And God said: Be light made. And light was made.’ (*Genesis* 1: 3) In the New Testament, the prologue of the gospel of John takes up the ‘in the beginning’ opening verse of *Genesis* and speaks of God as the ‘Word’ (Gr. *Logos*) through which all things are created. Given the central role of speech acts for human institutional reality, and the metaphysical status of human persons as being made in the image

and likeness of a Creator God, there are grounds for a deep parallel between the metaphysical status of creation vis-à-vis the Creator, and institutional reality vis-à-vis human persons. The latter is thereby the smaller fractal structure *within* creation, revealing the former distinction *between* creation and Creator.

In that case, instead of a metaphysical oddity, institutional reality and human persons unearth or reveal a fundamental dimension of reality. The fundamental nature and mode of existence of human institutional reality vis-à-vis human persons can then be enlightened by looking at the metaphysical status of all of reality vis-à-vis God, just like the metaphysical status of all of reality vis-à-vis God can be enlightened by looking at the fundamental nature and mode of existence of human institutional reality vis-à-vis human persons. In both cases we have a reality that is created, sustained, and altered ('dependent on' and 'derived from' as Searle would put it) by a more basic reality consisting of persons. The problem then becomes not, how to conceive of persons within a more basic metaphysical framework, but how to conceive of the metaphysical status of a reality that is dependent on and derived from persons.

Such a picture might seem hard to square with Searle's naturalistic universe 'consisting entirely of physical particles in fields of force', but it is perhaps not much different from the way in which the magnetic force of lodestones attracting iron was a hard fit for early materialism. If we accept 'fields of force' in our naturalist metaphysics, the problem of magnetism disappears, and lodestones simply reveal a fundamental property of our physical world. Similarly, (human) persons and their specific powers of intellect and will can simply reveal a fundamental metaphysical property – e.g., the two-way power of persons to freely decide which states of affairs they are attracted to and whether to try to bring them about.

3. FREEDOM, INSTITUTIONS, POWERS

Whereas for Searle the 'central span on the bridge [i.e. the 'continuous line'] from physics to society is collective intentionality' (Searle 1995, 41), this paper proposes that the metaphysical role played by this central span, or hinge, is (libertarian) free choice. Searle does recognize the crucial role of free will for institutional reality, although he usually refers to it as 'the gap' in order to avoid the 'sordid history' (Searle 2010, 133) of the expression 'freedom of the will': 'Without free will the structures of private property, voting in elections, going to cocktail parties, and giving lectures in a university are meaningless.' (Searle 2010, 139). What is taken to be crucial is that we are *free* to act according to said structures *or not* – on a standard libertarian account of having alternative possibilities.

Importantly, Duns Scotus, referring to Aristotle, makes the exact same point,¹ although he uses the word contingency instead:

...if contingency does not exist, there is no need to exert oneself or take counsel [...] neither virtues nor precepts, neither merits nor rewards, nor punishment, nor honors would be necessary, and in short all social structures and human intercourse would be destroyed (Duns Scotus 2008, 473)

Scotus developed a metaphysics of freedom that has come to be known in the literature as his metaphysics of synchronic contingency (Dalbiez, 1948; Duns Scotus, 1994, 2005; González-Ayesta, 2010). The libertarian principle whereby freedom requires alternative possibilities is thereby not restricted to a future choice but pertains first and foremost to the present moment. Scotus was preceded and most likely influenced by Olivi on this point (Dumont, 1995), who keenly noted that if the alternative possibility were not present now, but only at some point in the future, we would never arrive there because by the time we did, it would have become present, and the alternative possibility would be gone.

Any contingent choice remains accompanied at the very moment of choosing by the real possibility of the opposite alternative. The typical libertarian picture of a garden of forking paths is in that sense misleading, since the array of alternative possibilities is synchronically present, instead of diachronically diverging roads. Although it is not possible for an actualized choice and its actualized alternative to coexist at the same time, it is possible for an actualized choice to coexist at the same time with the real power for its alternative. The opposite of whatever one is currently doing remains equally within one's power at the very moment one is doing it. This real synchronic power to do the opposite of what is currently and contingently made manifest by a person is an irreducibly real, albeit invisible part of reality.

Searle seems to endorse this kind of contingency for human freedom:

...at any normal, conscious, waking moment in our lives we are presented with an indefinite, indeed strictly speaking infinite, range of choices. We are *always at a choice point* and the choices are infinite. *At this moment*, as I am writing this chapter, I can wriggle my toes, move my left hand, my right hand, or set out for Timbuktu. The experience of any normal, conscious, free action *contains within it the possibility* of not performing that action, but doing something else instead (Searle 2001, 233 emphasis added)

If the will is this particular two-way power, it would imply that the fundamental nature and mode of existence of human institutional reality is such, that it is permanently and necessarily in a peculiar state of being able to become manifest when it is not, or of

disappearing when it is manifest. Such a powers-based account of institutional reality is developed more fully elsewhere (Bauwens 2018b).

The immense or indeed infinite range of alternative possibilities that are open to us is not an amorphous spread of possibilities but structured by institutions in a highly complex interlocking of possible, necessary, and contingent actions among countless persons. Although all these institutional structures and actions are always fundamentally contingent, institutions exist in virtue of the fact that they are (contingently) recognized as binding, and thereby exhibit their own kind of necessity. The breakdown of the Soviet Union or the economies almost brought to a standstill during the coronavirus pandemic demonstrate the contingency of institutional processes and structures with a seemingly high degree of necessity. The ‘substance’ of institutional reality then consists of these highly complex and structured alternative possibilities, i.e., the real power to do the opposite. With that in mind, what is currently manifest or actual in reality is always but a small contingent island in an ocean of synchronically alternative possibilities.

Despite Searle’s stated intention to answer the metaphysical question of what the fundamental nature and mode of existence of institutional *reality* is, he prefers to talk about *facts*. But at times Searle does seem to talk about institutional reality itself. In a debate with Smith, he explicitly states that ‘The crucial notions for me involve rights, duties, obligations, and various other sorts of powers. Institutional reality, broadly speaking, is about power [...] the structure of institutional reality is a structure of power.’ (Smith and Searle 2003, 306). In the paradigmatic case of money, Searle explicitly stressed that ‘in a sense, *the object is just the continuous possibility of the activity*. A twenty-dollar bill, for example, is a standing possibility of paying for something’ (Searle 1995, 36 original emphasis).

Although Searle does not develop these points into a fleshed out metaphysical account of institutions as powers or dispositions, they at least make clear that his account would be congenial to, or supportive of, such an account. His ‘huge, invisible ontology’ (Searle 1995, 3) of institutional reality would then refer to the structure of *unmanifested* powers as a ‘continuous possibility’ for voting, firing, hiring, etc.

This account would fit in well with an overall powers metaphysic for the natural world that is gaining momentum in analytic metaphysics, which normally accepts that ‘a power may exist without ever being used or exercised’. Moreover, human institutions can be and usually are deeply interwoven with ordinary, natural powers. We use paper documents to extend our memory of complex institutional arrangements we have made. We use brick walls and metal locks and keys to protect property rights. Ingrained habits of thought and behaviour can

internalize quite a lot of institutional structures. The atomic power of an H-bomb is tightly restricted by institutional powers.

But these institutional powers are unlike ordinary natural powers in that their manifestation is contingent upon a free human decision. Evidently the manifestation of the atomic power of an H-bomb can also be contingent upon a human decision to detonate it, but the bomb itself is not an irreducible source of contingency. Humanity would be in peril if it were. The bomb does not contain within itself the final explanation for why it did or did not explode, but always points towards external circumstances in combination with its own necessary properties. But for the contingent manifestations of institutional powers, the explanatory chain ultimately stops at a contingent decision made by a human person.

This might seem to be an unsatisfactory conclusion, and dissatisfaction fuels the free will debate, as it has for centuries if not millennia. But if the capacity for free choice is part of what makes human persons made in the image and likeness of God, the inexplicability of human choice ultimately reflects, or participates in, the inexplicability of why there is something (created) rather than nothing – or rather, the choices of the particular persons involved are the *explanans* instead of the *explanandum*. If the ultimate ground for the created order cannot be found within the created order itself, an aspect of this fundamental fact must be present in human action as well. Institutional reality is ultimately grounded in contingent human choices (to start a company or a revolution) which cannot be exhaustively explained from within the institutional (and entire created) order itself.

The structure of both manifest as well as not, or not yet, manifest powers in the institutional realm or order, as grounded in the capacity for opposites of human persons, is then, the lower level fractal of the structure of manifest as well as not, or not yet, manifest powers in the entire created realm or order, as grounded in the capacity for opposites of the divine persons. That the institutional realm is created and sustained in an intimate and complex intertwinement with the natural realm – and the natural powers of paper for contracts, gold for money, iron for locks, water for baptism, etc. – is then not a problem, but precisely what is to be expected, and what enables the institutional realm to reveal the structure of the upper fractal.

4. CRITIQUE AND REJOINDER: MERE DISPOSITIONS AND TRANSCENDENCE

However, there are elements in Searle's account that speak against giving powers or dispositions – the two terms are often used interchangeably in the contemporary literature – the central role proposed here. Speculating about the origin of boundaries and territorial behaviour

in a tribe, Searle explicitly states that merely being disposed not to cross a line is not the same thing as recognizing a territorial border as an institutional fact (Searle 1995, 71; Searle 2010, 95).

This critique is very similar to Kripke's critique against dispositionalist accounts of semantic rule-following. His argument that a dispositionalist account gives a merely descriptive answer, but lacks the normativity involved in rule-following, especially mirrors Searle's concern: 'The dispositionalist gives a *descriptive* account of this relation: if "+" meant addition, then I will answer "125". But this is not the proper account of the relation, which is *normative*, not descriptive' (Kripke 1982, 37, original emphasis)

However, the counter argument developed by Paul Coates against Kripke's critique can also be applied to the case of institutions. Coates distinguishes between dispositions that govern the particular responses given at a particular time, and higher-order dispositions 'that relate to the maintenance or change of properties over time, including those structural properties that ground dispositions of the first kind which govern responses at a particular time' (Coates 1997, 180). One can develop a first-order 'mere disposition' to spend a lot of time together with another person, but by getting married you acquire a second-order disposition to make sure that that first-order disposition stays there 'in good times and in bad, in sickness and in health'.

That, in itself, is not sufficient to counter the normativity-objection, since it can be seen as a case of kicking the can down the road. Isn't that second-order disposition also a 'mere disposition', lacking inherent normative force? For Searle, what is crucial is that institutions involve the recognition of desire-independent reasons for action. Those desire-independent reasons serve as the higher-order check to block lower-order dispositions from being 'mere dispositions'. You can happen to be (merely) disposed not to cross a line, but if you also recognize a desire-independent reason not to cross that line, that very recognition serves as a higher-order disposition to govern lower-order dispositions to cross the line or not. Natural barriers, walls and barbed wire all serve to strengthen our mere dispositions not to cross certain lines, but the recognition of someone's property right or sovereignty is a desire-independent reason that makes the difference between a set of mere dispositions however complex and an institutional structure of deontic powers.

Incorporating this requirement in the general metaphysics of powers for institutional reality requires two assumptions that are not uncontroversial in the current context but would have been almost self-evident to the medievals. The first one is the human power or capacity to discern these desire-independent reasons for actions, the validity of our promises, the soundness of an argument, etc. If there is a difference between a valid or an invalid promise, a

sound or an unsound argument, humans have the capacity to recognize that difference. Without that capacity – which the medievals would ascribe to the intellect as a mental power – we would not be able to recognize and act upon these desire-independent reasons for action that are crucial for our account of institutions. That is a second crucial power for (human) persons, besides the already mentioned two-way power of the will.

The second assumption is a minimal kind of Platonism or metaphysical realism for transcendent realities like truth and goodness that are ultimately grounding particular judgments of the intellect. Whatever it is that our intellect recognizes in the validity of promises or the soundness of an argument is something real and distinguishable from these particular promises, arguments and judgments. For the medievals, this would be close to a kind of Augustinian (or Pseudo-Dionysian) Platonism. If the human intellect, as a distinct power, can discern the validity of a desire-independent reason for action, the soundness of an argument, the truth of an assertion, etc., then some kind of being has to be granted to validity, truth, goodness, etc. themselves.

On these two assumptions, what distinguishes mere dispositions from ‘institutional’ powers, relying on desire-independent reasons for action, is that the latter are bound up with the higher-order power of the human intellect to recognize and act upon the validity, truth, goodness, etc. of reasons and arguments undergirding particular institutional realities. Dogs can be trained to recognize borders, but they cannot recognize the arguments in political philosophy for or against private property, democracy, territorial states, etc. In political philosophy, it was Augustine’s Platonism that undergirded his statement that an unjust law is not a law.

In brief, the ‘mere dispositions’ argument can be countered by linking the proposal of higher-order dispositions to a generic human power to recognize and act upon a transcendent realm of truth and justice in which particular institutional realities participate. This retains their contingent nature, since countless determinations of positive law are contingent upon human decisions that are not directly derived from this transcendent realm, but are nevertheless just laws because the authority that contingently promulgated them is a just authority. Moreover, whether institutions or their ultimate transcendent foundations are recognized remains contingent at any point. Just institutions can collapse when their foundations are no longer recognized, unjust institutions can collapse when their lack of foundations is no longer accepted, recognition or acceptance that depend on the contingent decisions of the human will. A myriad of psychological, sociological, economic, military, etc. factors play a role here but fundamentally institutional reality is contingent.

5. CONTINGENT VALUATIONS

In preparation for the theological section, one further element of the proposal should be developed. As briefly indicated, institutional reality is not only contingent in its recognition of transcendent standards of truth or justice, but also in adding a purely contingent layer of things (objects, states of affairs, ...) that are contingently valued and therefore contingently created and sustained. In the same manner, these contingent valuations are themselves subject to the same kind of recognition problems.

Let us start with a simple object like a house. A young couple values a common home and decides to build one. This is a contingent valuation. The actual building of the house involves countless contingent (e.g. architectural) decisions that are further determinations of that contingent valuation. But it also involves countless contingent decisions by all the people involved to uphold their *necessary* contractual promises and professional standards, i.e. to adhere to truth, justice and goodness by not lying in contracts, not cheating in the delivery of materials, by showing up for work, etc., and if they would fail to do so, a set of higher-order institutional structures like courts, lawyers, etc. might get involved.

This second kind of decisions is also strictly speaking contingent because it is always contingent on whether persons will adhere to these standards, but they are necessary in that truth and justice are necessary values, whereas the valuation of the house is contingent. Evidently, in that particular case the necessary standard of justice requires a labourer to show up to work on that contingent house, and in that sense his work participates in both the necessary standard of justice as well as the contingent valuation of that house.

Afterwards, the natural powers of rain and wind and gravity and the general degradation of materials all exert a constant pressure towards the gradual destruction of the house, whereas the small maintenance chores, and the larger reconstruction works of the inhabitants all exert a pressure towards its continued existence. In a worst-case scenario, lightning strikes the house and the ensuing fire totally destroys it. But if the owners had a fire insurance policy, the insurance company will pay for the house to be rebuilt. What has happened is that upon signing the insurance policy, a particular institutional power or disposition has been added to the house, namely a power for the house to be rebuilt in the event of fire or other calamities.

Taken as a whole, what ultimately explains why the world is the way it is (including the house) rather than another way (without the house), is not only determined by the necessary (but from the divine point of view, contingent) natural dispositional properties of brick and

mortar, water and fire, in combination with transcendent realities like truth and goodness. It is also determined by a contingent choice to *value* that house highly enough for it to be (re)built (e.g. through an insurance policy).

Likewise, a contingent valuation to marry someone results in an institutional power (a set of mutual rights and obligations) to stay with and lovingly care for each other – in brief, to *value* the other person ‘in good times and in bad, in sickness and in health’. Even when the vicissitudes of material circumstances (bad times, like a burned down house) and natural dispositions (sickness, like being crippled for life when jumping out of the window of the burning house with a child in one’s arms) would exhibit a tendency against *experiencing* those circumstances as reflecting something valuable, the contingent valuation is linked with a transcendent standard of justice and has thereby become necessary. Marriage as an institutional reality is then a reciprocal valuation of the other person, ensuring mutual love and support ‘no matter what happens’ – regardless of bad times or sickness.

6. THE THEOLOGICAL PROBLEM: VOLUNTARISM AND GOODNESS

But the connection between human beings as *imago Dei*, freedom, and transcendence brings along difficulties of its own. If personhood applies univocally to both human and divine persons, the radical contingency of human persons also holds for the divine persons. Freedom as a radical ability to do otherwise at the very moment of choosing was used as the very foundation for a metaphysics of institutional reality, but our parallel implies that it also holds on the divine level, and that God also can or could have done otherwise than what He has actually done.

This has led several people to the conclusion that the divine voluntarism introduced by Scotus had disastrous effects upon theological thinking by sundering the synthesis between the Greek philosophical spirit and the Christian religious spirit. A famous instance is found in Pope Benedict XVI’s Regensburg address, worth quoting in some length:

In contrast with the so-called intellectualism of Augustine and Thomas, there arose with Duns Scotus a voluntarism which, in its later developments, led to the claim that we can only know God's *voluntas ordinata*. Beyond this is the realm of God's freedom, in virtue of which he could have done the opposite of everything he has actually done. This gives rise to positions

which clearly approach those of Ibn Hazm and might even lead to the image of a capricious God, who is not even bound to truth and goodness. God's transcendence and otherness are so exalted that our reason, our sense of the true and good, are no longer an authentic mirror of God, whose deepest possibilities remain eternally unattainable and hidden behind his actual decisions. (Benedict XVI, 2006)²

Hence, the very combination of freedom and its radical contingency with the transcendence of truth and goodness, a combination that was crucial in the proposed metaphysics of institutions, is threatened by instability at its very pinnacle. What about the relation between divine freedom and (our human notions of) goodness and truth? Is freedom in the sense of an irreducible contingency involving unrealized, but realizable, alternative actions consistent with a perfect adherence to transcendent standards of truth and goodness, which seem to leave open only one choice, i.e., the best one?

Another way to approach the same issue is the problem of heavenly freedom (Gaine, 2003). Will we be free in heaven in any meaningful sense of being able to do otherwise if we no longer have the possibility to sin, i.e., to do otherwise than perfectly adhere to those standards? A response to that problem has been provided elsewhere (Bauwens 2017), using a Scotist account of freedom to resolve the dilemma. Very briefly, the proposal stresses the link between the human power to (co-)create with the divine power to create (*ex nihilo*) – and related to it, the human power to procreate as the highest kind of co-creation within the natural order. Can Scotus, somewhat standing at the origin of the problem, also provide a solution? It is an exercise in philosophical theology that has also been developed elsewhere (Bauwens 2018a), but is here taken up from the specific perspective of social ontology.

Approaching the issue from a perhaps unexpected author, Hannah Arendt extols Scotus precisely because of his thought on contingency and freedom: 'the simple truth is that for his quintessential thought – contingency, the price gladly paid for freedom – he had neither predecessors nor successors.' (Arendt 1981, 133) She also praises him as the only one 'for whom the word 'contingent' has no derogatory association.' (*ibid.*, 134) and considered him to have provided the 'speculative conditions for a philosophy of freedom' (*ibid.*, 146). This positive appraisal of Scotus and contingency is taken up to address Benedict's worry. Though probably in a different way than envisioned by Arendt but in a genuine effort to 'think along with' her.

Arendt repeatedly and approvingly employs the phrase *Amo: volo ut sis* (I love you: I want you to be). She attributed it to Augustine but it is nowhere to be found in Augustine's writings (Miles 2002). In her very last book *Willing*, she also uses the phrase in connection to Scotus:

The willing ego, when it says in its highest manifestation, "*Amo: Volo ut sis*," "I love you; I want you to be"—and not 'I want to have you' or "I want to rule you"—shows itself capable of the same love with which supposedly God loves men, whom He created only because He willed them to exist and whom He *loves without desiring them*. That is how the matter presented itself to the Christian; It is why "Christians . . . say that God acts contingently . . . freely and contingently." But it is also possible, according to Scotus, to arrive at the same evaluation of contingency by way of philosophy. (Arendt 1981, 136, original emphasis)³

Hence, Arendt links Scotus's understanding of contingency to the contingent love of the Creator for his creatures, and it is that link that will be used to counter Benedict's worry, relying on two further theological points defended by Scotus, namely the absolute primacy of Christ and the Immaculate Conception of Mary.

7. COVENANT AND MARY

The issue of the absolute primacy or predestination of Christ can change our understanding of the nature of the relation between God and creation. What is stated in the Nicene creed is straightforward: Christ came down from heaven '*propter nos homines et propter nostram salutem*.' – 'for us men, and for our salvation'. But the same act of dying for someone's salvation can derive from very different motivations.

In the Scotistic thesis, Christ did not come first and foremost to restore the created order, but was destined to be the very heart and pinnacle of creation from the Beginning. It was only because of the contingent situation of original sin that His incarnation ended on the cross.

In the Thomistic thesis, Christ came and died for mankind out of compassionate love for our miserable situation. Which is analogous to how a king would come down from his palace to die on the battlefield in order to save his beloved people after they betrayed him. Such a heroic act of love would definitely elicit inestimable gratitude, admiration, devotion, and loyalty, but is that the kind of love 'greater than which none can be thought of', using Anselm's wording from his *Proslogion*?

The *Song of Songs* has been read by mystics through the centuries as referring to the spousal union between God and His people – or between God and a particular soul – and St. Paul endorsed a nuptial view of the relationship between Christ and His Church (*Ephesians* 5: 32; *2 Corinthians* 11: 2). With that in mind, a more proper analogy for the ‘*propter nos homines*’ would be that of a bridegroom going to meet his bride on their wedding day. At the moment he meets her, however, she is attacked by an enemy, and the bridegroom unhesitatingly interposes himself to take the bullet, and subsequently dies in her arms.

What the bridegroom did, as a contingent matter of fact, was sacrifice himself to save the life of his bride – like the king did for his people. But his primary motivation was spousal love, which determines his identity in a more ultimate way than his contingent identity of being her saviour. Spousal love *implies* that one values the other person ‘no matter what happens’, even if it means dying on a cross, as St. Paul instructs husbands.

Such an analogy is much more congenial to the Scotistic thesis because spousal love arguably finds *union* with the beloved more important than the act of saving the beloved. It would be strange if the bridegroom would not have come to the wedding day, or even have proposed marriage, unless there would be an attack. Surely sacrificing one’s own life to save the life of another is an act of heroic love, but it does not imply spousal love, whereas spousal love does *ipso facto* imply that kind of heroic love. Moreover, spousal love exhibits the Arendtian radical contingency of loving another person merely because of that other person, relishing in the sheer existence of that other person – *Amo: volo ut sis*. It is gratuitous in a way that encompasses but infinitely surpasses moral categories of gratitude, admiration, devotion, and loyalty.

Within Catholic moral theology, *Humanae Vitae* stressed that the unitive meaning of spousal love is inseparably connected to the procreative meaning (Paul VI 1968, §12). Thinking along with Arendt and Catholic theology, the reciprocal ‘*amo: volo ut sis*’ of the spouses whereby they lovingly affirm each other’s existence results in a common ‘*amamus: volumus ut sis*’ (we love you: we want you to be) of the parents towards their child. Their reciprocal loving affirmation of each other’s existence has become a common donation of existence to the child that they mutually love *through* each other. The spousal covenant between Christ and His Church is then prefigured and even diachronically enabled by the preceding fractal-like parallel of Mary being the Bride of the Holy Spirit. Mary as bride of the Holy Spirit is a very traditional title stemming back to the first centuries (Poiré 1643, 43 ff; Paul VI 1974, § 26) and received a distinct impetus in the Franciscan tradition in which Scotus was standing (Schneider 2004, 219 ff.).

Taking all the threads together, we can now return to Benedict's worry. He ended the above quoted paragraph by saying that:

God does not become more divine when we push him away from us in a sheer, impenetrable voluntarism; rather, the truly divine God is the God who has revealed himself as *Logos* and, as *Logos*, has acted and continues to act lovingly on our behalf. (Benedict XVI, 2006)

The above proposal would add that this sheer, impenetrable voluntarism should be seen as the sheer contingency and gratuitousness of God's gift of creation – *Amo: volo ut sis* – as a contingent valuation (cf. section 5). Moreover, the creative love of this contingent valuation is directed in a unique and unsurpassable way towards Mary – the created person elevated above all other created persons as bride of God. She was enabled to speak a common *amamus: volumus ut sis* together with God and towards the incarnated God, thereby participating in the love of the Trinity in an unfathomable way. Put differently, the danger of a sheer, impenetrable voluntarism – God as a whimsical despot – can be averted if that contingency is the contingency of a spousal covenant, a contingent valuation which has acquired the full strength of the transcendent standards to value the other person (as well as one's children in common⁴) 'no matter what happens' – *usque ad mortem, mortem autem crucis* (Phil. 2:8) ('unto death, even to the death of the cross.').

It is then not only the *Logos* Who guarantees the stability of the current order of creation over and against the boundless ocean of divine synchronic alternatives (the divine *voluntas absoluta*), but also the created person to whom God bound Himself in a spousal covenant. The *Logos* as the second person of the Trinity retains the same personal identity across all 'possible worlds', but Mary's personal identity is arguably exclusively tied to this particular contingent order of creation with all its natural dispositional properties of 'physical particles in fields of force' up to and including the properties of her immaculate human flesh and blood – hence including the human nature of Christ which He received from Mary's human nature.

This can be tied to a broader metametaphysical project involving Mary that has been introduced elsewhere (Bauwens 2019). In this context in particular, it is worth considering the relation to *Proverbs* 8, which has been applied to Mary as early as the 6th century and is used as a reading on the Feast of the Immaculate Conception:

[22] The Lord possessed me in the beginning of his ways, before he made any thing from the beginning. [23] I was set up from eternity, and of old before the earth was made. [24] The depths were not as yet, and I was already conceived. Neither had the fountains of waters as yet sprung out [...] [30] I was with him forming all things: and

was delighted every day, playing before him at all times (Douay-Rheims 1899 American Edition)

In connection with the *Prologue* of John, one can envisage a personified reading of created Wisdom in relation to this contingent created order, as a companion to the uncreated Logos.

Returning to our general proposal, if all of creation itself is the manifestation of a contingent valuation by God, one and the same contingent valuation of Mary, and therefore of Christ, was present in creation ‘from the Beginning’. The plan for the spousal covenant was steadfastly realized ‘no matter what happened’, regardless of the Fall that had all but ravaged the original house of creation by original sin and which made the wedding feast of the lamb (Cf. Revelation 19: 7) end on Calvary. Similar to how fire insurance causes a house to be rebuilt after a fire, or how wedding vows keep a couple together in spite of adversities or even betrayal, God’s providence and grace steadfastly worked toward the fulfilment and continuation of His covenant with Mary – *amo: volo ut sis* – and the intimate union with humanity in Jesus Christ – *amamus: volumus ut sis*.

8. CONCLUSION: INSTITUTIONS AND SACRAMENTS

Developing these points with sufficient philosophical or theological rigour was beyond the confines of this contribution, but a creative dialogue spanning several centuries requires a broad brush and a lavishly employed principle of charity – and the thrill of possibly hitting a target at such a great distance makes it at least worth the try.

Searle pointed to a seeming ‘element of magic, a conjuring trick’ (1995, 45) because the creation of institutional facts happens in a non-physical and non-causal manner. The non-naturalist account that is offered here might cause reluctance in appearing to give too much credence to ‘hocus pocus’, but that very expression likely originates from the Latin phrase ‘hoc est enim corpus meum’ by which the priest consecrates the Host.

However, given that the bread and the wine that are present on the altar are ontologically subjective for the divine persons, a divine person united to a human nature could indeed change the substance of bread and wine into the substance of His Body and Blood in the same way that we human persons turn a citizen into an MP or a student into an employee. If the order of natural reality and the order of institutional reality work with the same metaphysical ‘operating system’, no special metaphysical problem arises when the Word through whom ‘all things were made’ (*John* 1: 3) alters natural reality through a speech act. Instead of a metaphysical oddity

for an Aristotelian substance ontology, it reveals the innermost structure of reality at the hinge between Creator and creation.⁵

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NOTES

¹ For a criticism and discussion of Scotus as a libertarian, cf. (Langston 1986, 2010; Wolter 1987).

² Cf. also his later audience on Duns Scotus, Benedict XVI, 2010.

³ Cf. *ibid.*, 143.

⁴ At that point, one could start to explore the relation to John 19: 26-27.

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