

# «INCITING TO GOOD AND MURMURING AT EVIL». THE MEDIEVAL CONCEPT OF 'SYNDERESIS' AND THE RESTORATIVE PROCESS

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**Abstract.** *Restorative Justice touches on several moral topics: these include the capability to recognise 'evil' and 'good', the connection between evil and suffering and the link between moral judgement and feelings; the problem of the foundation of moral judgement, that is the question whether it involves an intuition or a demonstration. The paper suggests that some classical moral concepts and figures could work as the philosophical background for RJ. Particularly, it tries to show that the medieval notion of synderesis could represent the anthropological key that provides a theoretical framework of what occurs 'within' the offender due to the encounter with the victim. As a result, the paper finally suggests that the restorative approach to wrongdoing seems more coherent with the classical anthropological and moral thought than the punitive approach, which seems to neglect exactly the resources of synderesis and the power of affective insights about good and evil.*

**Keywords.** *Moral Judgement; Restorative Approach; Synderesis; Victim-Offender Mediation*

## 1. Introduction

How can we recognise and distinguish between 'good' and 'evil'? This is perhaps one of the most relevant questions in anthropology and moral philosophy and is of course deeply connected with the problem of 'justice'. This is particularly evident if we consider 'justice', not in the sense of public retribution for crime but as the spontaneous demand for satisfaction that arises from a personal experience of deprivation. Undoubtedly, restorative justice (RJ) has rediscovered this particular approach to wrongdoing, first of all taking into account the viewpoint of victims and trying to

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involve them in a process of justice – which aims to «put things right», as Zehr says<sup>1</sup> – together with offenders and communities. A restorative process needs a community (which includes victims and offenders) that is capable of not simply recognising that something *illegal* has occurred but more deeply, that something *evil* has occurred that has generated suffering and therefore leads to *obligations*. In other words, a restorative process needs a community that is capable of recognising the necessity to give something good to the victim as an answer – material, spiritual or symbolic – to the deprivation that he/she suffered.

One of the crucial points in various forms of RJ processes is the encounter between the victim and the offender, which could happen privately, through the Victim-Offender Mediation programmes or in a more public way, such as in circle sentencing or in similar experiences<sup>2</sup>. This encounter is probably the key to the process because the offender has the possibility to feel what he/she has done as ‘evil’, not simply as ‘illegal’, looking at the ‘criminal facts’ through the suffering eyes of the victim. The offender’s engagement in restoration, in making something good for the victim according to the latter’s needs, arises from this sort of *affective experience of evil*, which seems stronger – as motivating power – than every kind of punishment or promise of it.

Somehow, RJ practically touches on several moral topics. As I stated in the very beginning, these include the capability to *recognise* ‘evil’ and ‘good’ (not to *establish* them; that is of course different); the connection between evil and suffering and in this sense, the link between moral judgement and feelings; the problem of the *foundation* of moral judgement, that is the question whether it involves an intuition or a demonstration.

<sup>1</sup> «Central to restorative justice is the idea of making things right or, to use a more active phrase often used in British English, ‘putting right’. It is the opportunity and encouragement for those who have caused harm to do right by those they harmed» (H. Zehr, *The Big Book of Restorative Justice*, New York, Good Books, 2015, p. 40).

<sup>2</sup> See United Nations, Office on Drugs and Crime, *Handbook on Restorative Justice Programmes*, New York, 2006, pp. 13-29.

In this paper, I suggest that some classical moral concepts and figures work very well as the philosophical background for RJ. Particularly, I try to show that the medieval notion of *synderesis* could represent the anthropological key that provides a theoretical framework of what occurs ‘within’ the offender due to the encounter with the victim. It is a practical acknowledgement of evil and good through an affective experience and a consequent reflection on it.

As a result, I finally suggest that the restorative approach to wrongdoing seems more coherent with the classical anthropological and moral thought than the punitive approach, which curiously neglects exactly the resources of *synderesis* and the power of affective insights about good and evil.

## 2. *Synderesis, a medieval concept*

How is it possible that humans naturally comprehend and desire the good? *Synderesis* is the anthropological structure elaborated on by medieval thinkers to answer this question. The ‘golden age’ of the discussion about this element of the human soul spans the twelfth, thirteenth and fourteenth centuries. However, the starting point for the elaboration of the concept<sup>3</sup> is a quite enigmatic passage from Jerome’s commentary on Ezekiel, where he refers to an allegorical interpretation of the famous vision of the prophet, who writes about four figures (an angel, a lion, an ox and an eagle). Most commonly, these figures are associated with the four Evangelists who wrote the Gospels (Matthew, Mark, Luke and John), but here, Jerome follows other commentators who have seen in the vision a reference to the three parts of the soul, according to the platonic doctrine of the fourth book of the Republic: the *logikon* (the angel), the *thymikon* (the lion) and the *epithymetikon* (the ox). Additionally, some platonising exegetes complete the tripartite structure of the

<sup>3</sup> For a more detailed reconstruction of the history of the concept of *synderesis* see R.G. Davis, *The Weight of Love. Affect, Ecstasy, and Union in the Theology of Bonaventure*, New York, Fordham University Press, 2017, pp. 45-53. Here I summarize some points useful to remind the vivacity of the debate.

soul by positing a fourth power, ideally referred to as the eagle. Jerome explains:

The Greeks call it *syneidesin* – the spark of conscience [*scintilla conscientiae*], which, even in the sinner Cain, after he was thrown out of paradise, was not extinguished. Through it we feel ourselves to sin [*nos peccare sentimus*] when, deceived by a likeness of reason, we are conquered by pleasures and furor. And they properly consider it to be the eagle, since it is not mixed up with the other three but corrects them when they err. And meanwhile, we read in scriptures that it is called the spirit which ‘intercedes for us with ineffable groans’. For no one knows [*scit*] what is in human beings except the spirit within them, which Paul, writing to the Thessalonians, implored them to preserve together with body and soul. And yet, following what is written in Proverbs (‘The wicked one esteems it lightly when he goes to the depths of sin’), we can see that in the wicked it falls and loses its place, since they have no embarrassment or shame in their delights, and thus deserve to hear: ‘Your face has become that of a prostitute, for you do not even know that you should blush’<sup>4</sup>.

The commentators on Jerome’s writings render the Greek term as *synderesis* or *synteresis*, and it is no surprise that they consider the topic interesting to be discussed as a theoretical proposal. On one hand, this fourth ‘power’ has some peculiarities; it remains intact amid the condition of deceived nature and works as a sort of light – *scintilla* – of the conscience that shows the good without mistakes. On the other hand, there are different anthropological problems to solve about this power. Is it a sort of instinct? Is it an intuition? Is its nature intellectual or affective?

Already in the beginning of the thirteenth century, according to Alexander Neckam, there was a variety of solutions on these points. Some authors identify *synderesis* with Augustine’s *ratio*

<sup>4</sup> *Commentarii in Ezechielem*, ed. by F. Glorie (CCSL 12), Turnhout, Brepols, 1964, p. 12 (transl. in Davis, *The Weight of Love*, pp. 46-47).

*superior*, others «say that *synderesis* is a natural affect by which the mind always desires the good and tends to that good whose image it carries in itself»<sup>5</sup>. Roland of Cremona defines it as an intellectual capacity, but probably the most relevant solution in the early thirteenth century is the proposal of Philip the Chancellor, who defines *synderesis* as a *potentia habitualis*, «a capacity of the soul that is naturally informed by a disposition for a particular end»<sup>6</sup>. Following other authors, such as Alexander of Hales, he tries to explain the nature and the role of *synderesis*, always focusing on the problem of the overlapping cognitive and motive powers of the soul. One of the most interesting later solutions – together with the ideas that we can find in Thomas Aquinas' writings that I will consider next – is the one provided by Bonaventura. Bonaventura defines *synderesis* as «the weight of the will [*pondus voluntatis*] or the will that has weight, insofar as it inclines to the noble good [*bonum honestum*]»<sup>7</sup>, and in this sense, as Davis explains, «the functions of *synderesis* are to desire (*appetit*) the noble good and to flee (*refugit*) evil (that is, to feel remorse over sin)»<sup>8</sup>. Here, we somehow find the original ideas in Jerome's commentary that suggest recognising *synderesis* as a sort of *feeling of sin*.

Anyway, the topic is certainly very interesting for medieval thinkers, who provide several anthropological and moral reflections that we can usefully consider if we aim to face what occurs in that particular phase of an RJ process that is the encounter between the victim and the offender. What in fact occurs in the encounter is that the offender recognises the evil in what he/she has done, not in an abstract and aseptic way, but in an *affective* way, and this insight both gives rise to some ideas of the *good that should be done*

<sup>5</sup> *Speculum Speculationum*, ed. by R.M. Thomson (*Auctores Britannici Medii Aevi*, XI), Oxford, Oxford University Press, 1988, p. 405 (trans. in Davis, *The Weight of Love*, p. 50).

<sup>6</sup> *Philippi Cancellarii Parisiensis Summa de bono*, 2 voll., ed. by N. Wicki (*Corpus philosophorum Medii Aevi*), Bernae, Francke, 1985 (trans. in Davis, *The Weight of Love*, p. 51).

<sup>7</sup> 2 *Sent.* d. 39, a. 2, q. 1, resp. (Quaracchi II.910) (trans. in Davis, *The Weight of Love*, p. 58).

<sup>8</sup> Davis, *The Weight of Love*, p. 59.

(the «obligations», according to Zehr) and provides an *inclination* to act, as a sort of «weight of the will», if we borrow Bonaventura's expression.

To discuss the point in a more precise theoretical framework, I now leave this brief overview and consider some elements from Thomas Aquinas' proposal.

### 3. *A vision on synderesis according to Thomas Aquinas*

There are mainly three works in which we can find some of Aquinas' consistent texts on *synderesis*: the Commentary on Sentences of Peter Lombard (lib. 2 d. 24 q. 2), the *Quaestiones Disputatae De Veritate* (Quaest. 16) and the *Summa Theologiae* (I, q. 79, art. 12 and I-II, 94, art. 4, ad 2). Apparently, the references to the topic included in his major work are quite poor, but as we will see, they are probably the most interesting, due to the intersection with the theme of 'natural law' and to the original structure of the *moralis consideratio* organised by Aquinas in the *Summa Theologiae*.

As is well known, the Commentary on Sentences is not the most original work, but it remains important because here we can find Aquinas' early thoughts on different topics, one of which is the nature of *synderesis*. Here we can find two theoretical elements that remain constant in his proposal. The first is the idea that *synderesis* is not a power (*potentia*) but an innate habit (*habitus quodammodo innatus menti nostrae*). Second, this habit 'contains' the basic moral intuition, such as 'the good is to be done and evil avoided'<sup>9</sup>. In the same work, we can also find an attempt to explain

<sup>9</sup> «Sicut enim ratio in speculativis deducitur ab aliquibus principiis per se notis, quorum habitus intellectus dicitur; ita etiam oportet quod ratio practica ab aliquibus principiis per se notis deducatur, ut quod est malum non esse faciendum, praeceptis Dei obediendum fore, et sic de aliis: et horum quidem habitus est synderesis. Unde dico, quod synderesis a ratione practica distinguitur non quidem per substantiam potentiae, sed per habitum, qui est quodammodo innatus menti nostrae ex ipso lumine intellectus agentis, sicut et habitus principiorum speculativorum, ut, omne totum est majus sua parte, et hujusmodi» (Th. Aquinas, *Super Sent.*, lib. 2 d. 24 q. 2 a. 3 co.). For English translation of Aquinas's works see Aquinas Institute online edition (<https://aquinas.institute/operaomnia>).

the dynamic of moral choice, in which Aquinas assigns to *synderesis* the role of reminding us of only this general and quite formal norm:

Through the (interior) word the *synderesis* proposes this: every evil must be avoided. Upper reason assumes this: adultery is bad because it is forbidden by the law of God; the lower reason would take on the same thing, since adultery is evil, because it is unjust and dishonest. The conclusion instead, that this adultery must be avoided, belongs to the conscience and does not change if it is something present or past or future, because the conscience reproaches what has been done or contrasts what one is about to do<sup>10</sup>.

We can notice that at the time of Aquinas, a difference between *conscience* and *synderesis* was acquired, but in this early text, the role of the second concept – according to the example he provides – seems restricted to a sort of major premise in the moral syllogism and remains quite formal.

Anyway, more or less in the same period, probably two or three years later, Aquinas developed the topic in the *Quaestio 16 De Veritate* in a sensibly broader way. He recognises first of all an active debate on the nature of *synderesis*, again on the question of whether it is a power or a habit:

There are various opinions on this question. Some say that *synderesis* designates simply a power, different from, and higher than, reason. Others say that it is, indeed, simply a power which is really identical with reason, but is considered as different from it. For reason is considered as reason,

<sup>10</sup> «Verbi gratia, synderesis hanc proponit: omne malum est vitandum: ratio superior hanc assumit: adulterium est malum, quia lege Dei prohibitum: sive ratio inferior assumeret illam, quia ei est malum, quia injustum, sive inhonestum: conclusio autem, quae est, adulterium hoc esse vitandum, ad conscientiam pertinet, et indifferenter, sive sit de praesenti vel de praeterito vel futuro: quia conscientia et factis remurmurat, et faciendis contradicit» (ivi, lib. 2 d. 24 q. 2 a. 4 co.).

that is, in so far as it reasons and compares, and as such is called the reasoning power; it is also considered as a nature, that is, in so far as one knows something naturally, and thus it is called *synderesis*. Still others say that *synderesis* denotes the power of reason with a natural habit. We can see which of these is more true from what follows<sup>11</sup>.

After a long discussion, Aquinas again proposes his main argument, which assigns to *synderesis* the role of an innate and not discursive knowledge about the basic moral principles, in an analogy to the basic intuitions of speculative thought:

Thus, just as there is a natural habit of the human soul through which it knows principles of the speculative sciences, which we call understanding of principles, so, too, there is in the soul a natural habit of first principles of action, which are the universal principles of the natural law. This habit pertains to *synderesis*<sup>12</sup>.

Here, we find something more that develops the proposal of the Commentary – the direct connection to the topic of ‘natural law’ and other not minor things that will be relevant in the late synthesis that we will find in the *Summa Theologiae*.

<sup>11</sup> «Dicendum quod circa hanc quaestionem diversae inveniuntur opiniones. Quidam namque dicunt quod synderesis absolute potentiam nominat et potentiam aliam a ratione, ea superiorem; alii vero dicunt esse quidem synderesis potentiam absolute sed esse rationi eandem secundum rem sed consideratione diversam: consideratur enim ratio ut ratio, id est in quantum ratiocinatur et confert et sic nominatur vis rationalis, et ut natura, id est in quantum aliquid naturaliter cognoscit et sic dicitur synderesis; alii vero dicunt synderesis nominare ipsam potentiam rationis cum aliquo habitus naturali: quid autem horum verius sit, sic videri potest» (Id., *De Veritate* I, Quaest. 16, art. 1, res.).

<sup>12</sup> «Sicut igitur humanae animae est quidam habitus naturalis quo principia speculativarum scientiarum cognoscit, quem vocamus intellectum principiorum, ita etiam in ea est quidam habitus naturali primorum principiorum operabilium, quae sunt universalis principia iuris naturalis, qui quidem habitus ad synderesim pertinent» (*ibidem*).



First, he presents the idea that *synderesis* is not power yet works as a ‘principle of action’, and according to the words of Jerome, it works in two ways: «the act of the natural habit called *synderesis* is to warn against evil and to incline to good»<sup>13</sup>.

Second, on the position that *synderesis* cannot be extinguished in the human soul, Aquinas writes, «in so far as it is an habitual light, it is impossible for *synderesis* to be extinguished, just as it is impossible for the soul of a man to be deprived of the light of the agent intellect, through which first principles in speculative and practical matters are made known to us». No one can lose *synderesis*, except in the case of physical impediment, but «this happens in those who do not have the use of free choice or of reason because of an impediment due to an injury to the bodily organs from which our reason needs help». Of course, it could also happen that «in choice the universal judgment of *synderesis* is not applied to the particular act», but this does not mean that *synderesis* is destroyed. Aquinas concludes, «hence, absolutely speaking, we concede that *synderesis* is never destroyed»<sup>14</sup>.

I will show later why I think that these points are relevant to the discussion about RJ, but first, I have to complete the panoramic view with the text from the *Summa Theologiae*.

Do we find something new here? Apparently not.

*Synderesis* is briefly introduced in the *Quaestio 79* of the first part of the *Summa*. Presenting the ‘intellectual powers’, Aquinas discusses *whether synderesis is a special power of the soul distinct from the others*, and we find – in brief – the same position that he has already exposed in the *Quaestio De Veritate*:

[...] the first practical principles, bestowed on us by nature, do not belong to a special power, but to a special natural habit, which we call ‘*synderesis*’. Whence ‘*synderesis*’ is said to incite to good, and to murmur at evil, inasmuch as through first principles we proceed to discover, and judge of what

<sup>13</sup> «Actus utem huius habitus naturalis quem *synderesis* nominat est remurmurare malo et inclinare ad bonum» (ivi, Quaest. 16, art. 1, ad 12).

<sup>14</sup> «Simpliciter loquendo concedimus quod *synderesis* numquam extinguitur» (ivi, Quaest. 16, art. 3, co.).

we have discovered. It is therefore clear that ‘*synderesis*’ is not a power, but a natural habit<sup>15</sup>.

The constant lesson we can find is that *synderesis* is a habit, in the sense that it works as a deep, undestroyable and ‘innate’ memory of the difference between good and evil, and this sort of ‘deep memory’ keeps not simply the formal rule ‘the good is to be done and evil avoided’ but also some ‘first principles’. These are the ones of ‘natural law’, as Aquinas writes in a later section, exactly when he presents the topic of ‘*lex naturalis*’:

*Synderesis* is said to be the law of our mind, because it is a habit containing the precepts of the natural law, which are the first principles of human actions<sup>16</sup>.

Apparently, there is nothing particularly new, as I mentioned previously. However, this is only the first impression. Although the doctrine remains the same, in the *Summa Theologiae*, it is quite evident that the idea that *synderesis* is a habit generates a problem within the treatise. In the *Quaestio* 90, Aquinas asks «whether the natural law is a habit», and now he answers, «yes and no». It *is* a habit because, as he constantly affirms, it is something that arises in the conscience from *synderesis*, but it *is not* «properly and essentially» a habit «since then a habit is that by which we act, a law cannot be a habit properly and essentially»<sup>17</sup>.

Here, the problem is no more the theoretical choice between ‘power’ and ‘habit’ but the difference between ‘habits’ and ‘laws’

<sup>15</sup> «Prima autem principia speculabilium nobis naturaliter indita, non pertinent ad aliquam specialem potentiam; sed ad quendam specialem habitum, qui dicitur intellectus principiorum, ut patet in 6 Ethic. [6,2]. Unde et principia operabilium nobis naturaliter indita, non pertinent ad specialem potentiam; sed ad specialem habitum naturalem, quem dicimus synderesim» (Id., *S. Theol.*, I, q. 79, art. 12, co.).

<sup>16</sup> «Dicendum quod synderesis dicitur lex intellectus nostri, inquantum est habitus continens praecepta legis naturalis, quae sunt prima principia operum humanorum» (ivi, I-II, q. 94, a. 1, ad 2).

<sup>17</sup> «Cum igitur habitus sit quo quis agit, non potest esse quod lex aliqua sit habitus proprie et essentialiter» (ivi, I-II, q. 94, a. 1, co.).

that is mainly significant in the structure given by Aquinas to the *moralis consideratio* of the *Summa Theologiae*. This point needs more explanation because it is the key that allows us to appreciate the dynamic function of *synderesis* and in this sense, its relevance to the analysis of the typical process of RJ.

#### 4. *Habits, laws and synderesis*

Why does Aquinas feel the necessity to precisely state that ‘natural law’, connected with the figure of *synderesis*, is «not properly and essentially» a habit? What should be the problem if in the range of the laws – eternal, natural, human and divine<sup>18</sup> – we include a typology that is somehow innate, a *law* that someone can find in oneself as a *habit*? That is exactly the point; the great *psychological* intuition of the *Summa Theologiae* – that signals the main difference in comparison with other works (particularly the *Summa Contra Gentiles*) – concerns the structural contrast between habits and laws.

According to Aquinas, the structural ‘movement’ of discernment in morals is a contrasting dynamic between thoughts that come from habits (that suggest *conservation*) and thoughts that come from laws (that suggest *innovation* in actions and so, deeply, in ways of doing them). Aquinas organises this original global vision very clearly, as we can see in the summary prologues of the 6<sup>th</sup>, 49<sup>th</sup> and 90<sup>th</sup> *Quaestio*, which are the main turning points of the *Prima Secundae*:

In treating of the general principles, the points that offer themselves for our consideration are (1) human acts themselves; (2) their *principles*<sup>19</sup>.

After treating of human acts and passions, we now pass on to the consideration of the *principles* of human acts, and firstly of *intrinsic principles*, secondly of *extrinsic principles*. The

<sup>18</sup> See *ivi*, I-II, q. 91.

<sup>19</sup> «Primo quidem considerandum occurrit de ipsis actibus humanis; secundo, de principiis eorum» (*ivi*, I-II, q. 6, pr.).

intrinsic principle is power and habit; but as we have treated of powers in the FP, Question [77], seqq., it remains for us to consider them in general: in the second place we shall consider virtues and vices and other like habits, which are the principles of human acts<sup>20</sup>.

We have now to consider the *extrinsic principles* of acts. Now the extrinsic principle inclining to evil is the devil, of whose temptations we have spoken in the FP, Question [114]. But the extrinsic principle moving to good is God, Who both instructs us by means of law, and assists us by Grace: wherefore in the first place we must speak of law; in the second place, of grace<sup>21</sup>.

In the language of the *Summa*, ‘principles’ do not of course mean ‘values’ but most simply *roots*, *starting points* or better *sources* of the different thoughts that everyone finds in oneself, during every discernment process among different possible acts or problem solutions. The different thoughts – in the form of intimate suggestions or proposals – could arise from *inside* (*intrinsic principles*) or *outside* (*extrinsic principle*), and Aquinas collects these sources of ‘voices’ respectively in the forms of ‘habits’ and ‘laws’. Moreover, both these sources could be good, friendly and moving towards the best possible solution, and in this sense, we find ‘voices’ coming from *virtues* or from *laws*. On the other side, both could also be ambiguous, deceptively moving towards a bad or the worst solution, and here, we again find ‘voices’ coming from *vices* and *temptations*.

<sup>20</sup> «Post actus et passiones, considerandum est de principiis humanorum actuum. Et primo, de principiis intrinsicis; secundo, de principiis extrinsicis [q. 90]. Principium autem intrinsecum est potentia et habitus; sed quia de potentiis in prima parte [qq. 77-83] dictum est, nunc restat de habitibus considerandum. Et primo quidem, in generali; secundo vero, de virtutibus et vitiis, et aliis huiusmodi habitibus, qui sunt humanorum actuum principia [q. 55]» (ivi, I-II, q. 49, pr.).

<sup>21</sup> «Consequenter considerandum est de principiis exterioribus actuum. Principium autem exterius ad malum inclinans est diabolus, de cuius tentatione in primo [q. 114] dictum est. Principium autem exterius movens ad bonum est Deus, qui et nos instruit per legem, et iuvat per gratiam» (ivi, I-II, q. 90, pr.).

Moral discernment entails recognising in the intimate dialogue of the soul the ‘voices’ towards good acts that can be both an *invitation to confirm* and implement familiar ways of doing them, thus coming from inside (from virtues) and an *invitation to change* the approach to specific problems or situations and to introduce something new (from the perspective of ways of doing), thus coming from outside (from laws).

In this sense, we have to note that the meaning of ‘law’ in the context of the *moralis consideratio* of the *Summa Theologiae* is not restricted to the juridical sense of the term but is broader than the common sense of ‘things that should be done’. In the frame of the moral theoretical proposal of the *Prima Secundae*, the emphasis is not on the issue of ‘obligation’ but on the *inclination towards good* that should characterise every authentic law.

Aquinas’ position is very clear. Every sort of law, every sort of intimate ‘voice’ that suggests to do something better than usual, comes to the conscience from outside, exactly in the sense that it is ‘heard’ inside the soul as something new compared to existing habits. If a person chooses to act according to that concrete new suggestion and then confirms it with repetition, then he/she develops a new way of doing, a new habit (or implements an already existing habit). Of course, the same dynamic occurs in case the person follows the ‘voice’ of temptation; as the great patristic psychological tradition shows, temptations are the early sources of vices.

Thus, this brief reconstruction should be sufficient to address this problem: How can ‘natural law’ be simultaneously ‘law’ and ‘habit’? This formal contradiction forces Aquinas to explain that the principles of natural law are not exactly habits, not as virtues and vices, but they are somehow already *within* the soul, as something latent, thus something familiar yet new.

This could probably be a quite interesting way to understand *synderesis*, a surprisingly *deep memory* of good that *if activated*, would ‘incite to good and murmur at evil’. On one side, *synderesis* is a habit, which means that everyone already owns this sort of memory, this sort of compass oriented towards the good. On the other side, its interior speaking – if we can continue using the *voice* metaphor – always sounds as a call to act better. In this sense, it is a discovery

of new possibilities, an encounter with possible ways of doing that are not yet familiar but fascinating, capable of catching the person's attention.

The *activation of synderesis*, which means the activation of the intimate acknowledgement of evil (done or about to be done) and the incitation or inclination towards a possible alternative good, could perhaps describe quite precisely what occurs at the core of a restorative process and precisely *within* the offender, due to the encounter with the victim.

If we can accept this view, could RJ also show something about the activation of *synderesis*?

##### 5. *Some overlaps between the figure of synderesis and the restorative justice perspective on managing wrongdoings*

Before discussing the contribution of the experience in RJ to the understanding of the dynamic of the activation of *synderesis*, it could be useful to explain in other terms why this figure, so characteristic of classical western moral thought, has interesting overlaps with the restorative approach to injustice.

The very first point is the argument that *synderesis* is «undestroyable» (*numquam extinguitur*), that there is no situation in which the spark (*scintilla conscientiae*) could no more enlighten a soul. Aquinas recalls Jerome's text to comment on this idea:

Despair, which is a sin against the Holy Spirit, is in the lowest depths of sin. But, even in those who despair, '*synderesis* is not extinguished', as is plain from Jerome, who says of *synderesis*: 'Not even in Cain was it suppressed'<sup>22</sup>.

<sup>22</sup> «Praeterea, in peccatis profundissimum locum tenet desperatio, quae est peccatum in spiritum sanctum. Sed etiam in desperatis synderesis non extinguitur, ut patet per Hieronymum in Glossa super Ezech., qui dicit, quod synderesis nec etiam in Cain extincta est, quem tamen constat desperatum fuisse per hoc quod dixit Genes., IV, 13: maior est iniquitas mea, quam ut veniam merear. Ergo idem quod prius» (Id., *De Veritate*, Quaest. 16, art. 3, s.c. 2).

In other words, there is no human situation in which we are allowed to despair about the possibility of the offender's acknowledgement of the evil that he/she has done; the attempt to start a process of this sort is always justified, even in the most dramatic crimes, such as murders. Of course, as the author of *Genesis* writes, Cain's first reaction is to deny any responsibility, but in an encounter setting (his long dialogue with God), he recognises the evil nature of his act, and his self-accusation sounds exactly as an activation of *synderesis*, since it shows the taking of life as an offence.

Particularly in western contemporary culture, there exists the idea that a restorative approach to crimes could be purposed only in case of minor wrongdoings, and this idea rely exactly on the perception that as the severity of the injury increases, the offender's possibilities to recognise evil and turn to good decrease. After committing a crime, the offender remains forever a person captured by evil, a 'bad person'. Against this moral-anthropological statement that denies the possibility of reform and the emergence of a new moral commitment, the classical moral thought reminds society that a community looking for justice can always find in an offender an intimate 'reserve' of good, ready to enlighten the person's conscience. This perspective is confirmed by some very interesting RJ processes, such as the one collected in the *Libro dell'incontro* (*Book of the Encounter*), which presents the experience of an Italian group where the «actors and victims of [the] armed struggle in the 1970s» worked together<sup>23</sup>. The facts were terrible; nevertheless, some offenders became aware of that reality, due to their encounter with their victims. Thanks to the work done together, with the help of a group of mediators, they recognised both their own violence and their moral obligation for restoration.

The second relevant point is the idea that recognising evil and inciting to good are strictly connected. Of course, the classical moral thought is profoundly aware that understanding the *good that could/would be done* is not equivalent to doing it, but this is not the specific 'problem' of *synderesis*. Here, it is a rather interesting idea

<sup>23</sup> See G. Bertagna, A. Ceretti, C. Mazzucato, *Il libro dell'Incontro. Vittime e responsabili della lotta armata a confronto*, Milano, Il Saggiatore, 2015.

that the first step is the acknowledgement of the evil that the offender has done and that this sort of ‘contemplation’ of evil, which is accompanied by feelings of disgust and of the vacuum that was generated (we always have to remember that evil is classically conceived as *privatio boni*, as a lack), produces a re-orientation towards good, in the sense that gives rise to *new concrete ideas* (‘laws’ in the context that we considered above) about what should be done to make things right. In other words, the structural deep moral reaction to the evil that the offender recognises as having done is not ‘how I can punish myself’ but ‘what I should do to repair’, and this is again what *synderesis* provides. RJ deals exactly with this second dynamic and for a long time, has stressed the fact that punishment in itself, as an answer to wrongdoing, is meaningless, even ineffective. The logic of punishment is to render justice according to the strange idea that we can balance the evil suffered by the victim with the evil inflicted to the offender. This is a totally inconsistent equation; evil plus evil simply double the suffering in human experiences and relationships, without creating any form of good. Again, it is curious that the anthropological intuition provided by the figure of *synderesis* – the structural link between recognising evil and inciting to good – is ready to sustain a restorative approach to justice but at the same time, is neglected in western culture.

The third point is the fact that the activation of *synderesis* does not mechanically drive someone to action but instils power. With its basic moral intuitions, *synderesis inclines* to good, exactly as other forms of law, but never forces the conscience. In this sense, the distinction between *synderesis* and *conscience* that is acquired by Aquinas (but not so clearly by other authors) remains crucial. The *inclination* needs an assent by the conscience or by the person to conclude in action; nevertheless, it has a sort of early power, something insufficient to proceed yet encouraging. Again, in other words, *synderesis* shows concrete possibilities to improve (in the range of the possible) a situation, moving from evil to good, but it first needs the participation of the offender himself/herself and somehow that of others who can provide concrete help. From this point of view, significantly, Aquinas proposes that the paths towards good that law suggests – if they are affordable and not



weak-willed – are always connected to the *help* to be received; laws come from God, ‘Who both instructs, and *assists* us by His Grace’.

Thus, if we can concede that *synderesis* deals with a restorative approach to matters of justice, the further issue that I propose to discuss concerns the contribution by the experience in the restorative process – and mainly the phase of the encounter – to the understanding of the activation of *synderesis*.

## 6. *Activation of synderesis*

If we consider the particular case of natural law principles in the light of the general dynamic of the contrast between internal and external principles, we notice a sort of short circuit. According to Aquinas, habits are revealed by temptations/laws, in the sense that we become aware of our habits only through our encounters with new alternative proposals that – coming from outside – make us break our routines and start a process of discernment. This dynamic is particularly clear in the proposal of the *Summa*, where Aquinas explains the function of ‘voices’ coming from external principles:

To tempt is, properly speaking, to make trial of something. Now we make trial of something in order to know something about it: hence the immediate end of every tempter is knowledge. But sometimes another end, either good or bad, is sought to be acquired through that knowledge; a good end, when, for instance, one desires to know of someone, what sort of a man he is as to knowledge, or virtue, with a view to his promotion; a bad end, when that knowledge is sought with the purpose of deceiving or ruining him<sup>24</sup>.

<sup>24</sup> «Tentare est proprie experimentum sumere de aliquo. Experimentum autem sumitur de aliquo, ut sciatur aliquid circa ipsum, et ideo proximus finis cuiuslibet tentantis est scientia. Sed quandoque ulterius ex scientia quaeritur aliquis alius finis, vel bonus vel malus, bonus quidem, sicut cum aliquis vult scire qualis aliquis sit, vel quantum ad scientiam vel quantum ad virtutem, ut eum promoveat;

Temptations and laws are similar from one peculiar point of view, that is, exactly the function to reveal what is hidden by spontaneity or by unreflective repetitions of what habits ordinarily suggest doing. Of course, they have opposite intentions; every law shows the possibilities to grow in the good, whereas temptations show misleading perspectives that seem capable of providing a better situation but if chosen, will introduce evil.

As we have considered, we somehow *feel* the basic moral suggestion as something new, but in fact, it is grounded in a deep memory, which is more similar to a habit. In this sense, natural law principles are already present in the soul but hidden, so there remains the question of what allows them to emerge from within the conscience, revealing both the evil to avoid and the good to perform. If natural laws do not activate our reflection coming from outside, from society or from religious tradition – as positive laws or as the precepts of the Holy Scriptures – how are they manifested to the conscience? What could make them be expressed within the soul as a new perspective towards good?

We can usefully consult the experience in RJ to develop this point.

### *7. Encountering suffering: through the intuition about (and the experience in) restorative justice*

Nearly all the proposals on RJ processes assign a relevant role to the encounter with the feelings of the other part. Generally, a restorative dialogue between the victim and the offender starts with a narrative approach; starting from the victim, both parties are invited first of all to share their feelings about what has happened<sup>25</sup>.

*malus autem, quando hoc scire vult, ut eum decipiat vel subvertat* (Th. Aquinas, *S. Theol.*, I, q. 114, a. 2, co.).

<sup>25</sup> As Howard Zehr noticed, «Victims have many needs. They need chances to peak their feelings. They need to receive restitution, they need to experience justice: victims need some kind of moral statement of their blamelessness, of who is at fault, that this thing should not have happened to them» (H. Zehr, *Retributive Justice, Restorative Justice*, «New perspectives on crime and Justice», IV, 1985, p. 1).

People are asked to present the facts that have occurred, not in their 'logic', but in their effects on life. Morineau argues that this way of proceeding deeply reflects the movement of the Greek tragedy – particularly the three phases of *theoria*, *crisis* and *catharsis*<sup>26</sup> – that allows the audience to feel through the narration the dramatic condition of all the parties, leaving in the background such questions as 'Whose fault is it?' or 'Who is right?'. What facilitators often notice is that the real turning point of the dialogue between the parties is the encounter with suffering, not with the 'good' or the 'bad' reasons for what has occurred. Particularly the suffering explained by the victim seems to be what allows the offender to gain a new perspective on his/her action. On the other side, through the suffering that affects the offender, the victim also has the possibility to encounter a person, not the 'monster' who has injured him or her.

Interestingly, all the justice paradigms recognise that the teaching of suffering is necessary to transform the situation, but they vastly differ regarding how this could occur. The retributive model assumes that the offenders have to suffer, too, in order to 'understand' the evil that they have done to their victims. The restorative model assumes that what really teaches them something is not the suffering in itself but the encounter with the suffering that they generate in other people, according to the victims' genuine narrations. Suffering is really an affective access to the experience of evil that affects lives, but it produces completely different exits, depending on the path that takes its 'lesson'. The offenders who encounter suffering as a punishment generally do not rediscover a commitment to good due to this experience. In most cases, they feel the suffering as unjust, and at the end of the 'treatment', it is quite common to hear them say that they have 'paid their debts to the state'. They have encountered the evil of suffering but not the evil that they have caused, which makes the process sterile.

*Retributive Justice, Restorative Justice*, «New perspectives on crime and Justice», IV, 1985, p. 1).

<sup>26</sup> See J. Morineau, *L'esprit de la Médiation*, Raimonville Saint-Agne, Edition Erés, 1998.

Conversely, the offenders who have encountered the suffering they have caused generally more deeply recognise the evil in their own acts and therefore ask themselves (and where possible, of course, the victims, too) what they should do to restore justice. As we have already considered several times, this is the activation of *synderesis*, whose role is ‘to incite to good and to murmur at evil’.

The experience in RJ programmes shows that it is exactly the encounter with the suffering *that the offenders have generated* – mainly directly through the narrations of the persons whom they have offended – that activates the ‘reaction’ of *synderesis* and somehow extracts its ‘laws’ from the ordinary silent deep memory that preserves them in every human being.

#### 8. *A theoretical gain for the restorative justice paradigm*

RJ practices touch on deep anthropological dynamics, one of which is exactly the acknowledgement of good and evil and the connected desire to become agents of justice, starting from the position of the offender. RJ shows that this desire – usually called ‘obligation’ – arises particularly from the encounter with the evil that the offender has personally done to another person. However, is not this enough? Do we need a theory to explain this dynamic in other words? What should be the gain for RJ in rediscovering anthropological-philosophical keys, particularly of the ancient and the medieval thought?

The direct experience in mediation and generally, in RJ processes, teaches a lot, with growing evidence of their effectiveness, also due to important initiatives, such as the *European Forum for Restorative Justice*<sup>27</sup> that collects and shares good practices. Practitioners already know from experience that RJ is a good way to manage wrongdoings, but in most cases, they feel the necessity to understand why success in mediation is not episodic or casual; they need a theory. Of course, the presence of a theory does not change the output of a process, but anyway, it is more solid than a reported series of good results.

<sup>27</sup> See: <https://www.euforumrj.org>.

A well-developed anthropological theory provides a vision for the practice and helps in choosing the paths to take (or the steps to prefer). Particularly, if practitioners have to change something in their way of mediating and conducting RJ processes, it is mainly useful to know what deserves to be maintained in a complex practice and what could be modified without the risk of missing something essential. Considering the topic of this paper, for example, it may be considered that the encounter with ‘the suffering that the offender has generated’ – particularly through the victim’s narration – is essential to reinforce the offender’s commitment to the good to be done. Practitioners have to pay attention to not skipping this step, for example, by thinking that a theoretical discussion with offenders about what has occurred could in the same way provide deep acknowledgement of ‘the good to do and the evil to avoid’.

Moreover, a solid anthropological theory could broaden the meaning of the *restorative paradigm*, showing why it is deeper than an alternative and effective way to handle crimes. In this sense, a sort of ‘alliance’ with the classical tradition of philosophical thought could be quite interesting, particularly the ancient and the medieval thought that aimed to provide a global vision on human dynamics, not only a ‘regional’ knowledge on the experience in injustice. The great masters of antiquity – from Plato to Thomas Aquinas – were mainly interested in the problems of ordinary life, and the anthropological theories they constructed were oriented towards explaining deep processes of everyday human experience. Thus, the overlaps between such classical figures of moral thought as *syn-deresis* and the RJ perspective could help us understand that the restorative paradigm in relationships is not simply a theory for penal justice but much more a cultural paradigm for moral education and socialisation that fits the roots of the same western society.

## 9. Conclusion

The development of a philosophy of RJ does not necessarily mean the creation of brand-new theories but could better consist of a patient reconstruction of new good practices’ deep links with

the most comprehensive theories already developed (and of course, have never ended) that are at the disposal of anthropological-philosophical thought in a mutual enrichment between theory and practice.

In this paper, I have pointed out the attention to *synderesis*, but many other concepts and ideas of the classical ancient and medieval thought are probably deeply compatible with, and in some cases, even grounded on the RJ paradigm. This proximity could be quite interesting to be discovered, particularly to refute the objection that RJ is a way of thinking that is extraneous to the western culture. On the contrary, through the centuries, the same western thought has developed an understanding of anthropological and moral dynamics that could explain why a restorative approach to injustice works better than a retributive/punitive one. On the other side, the concrete experience in RJ processes could offer to the philosophical debate many moral and anthropological topics to be discussed because of its humanistic and non-formal approach to wrongdoing. Both paths deserve to be covered and deepened.