

QUESTION 60

Judgment

Next we have to consider judgment or the act of judging (*iudicium*). And on this topic there are six questions: (1) Is judgment an act of justice? (2) Is it permissible to judge? (3) Should one judge on the basis of his suspicions (*per suspiciones*)? (4) Should doubtful matters be construed in the best light? (5) Should judgment always be rendered on the basis of written laws? (6) Is judgment perverted by being usurped?

Article 1

Is judgment an act of justice?

It seems that judgment (*iudicium*) is not an act of justice (*actus iustitiae*):

Objection 1: In *Ethics* 1 the Philosopher says, “Everyone judges well concerning what he knows,” and so judgment seems to belong to the cognitive power. But the cognitive power is perfected by prudence. Therefore, judgment belongs to prudence rather than to justice, which, as was explained above (q. 58, a. 4), exists in the will.

Objection 2: In 1 Corinthians 2:15 the Apostle says, “The spiritual man judges all things.” But a man is made spiritual especially by the virtue of charity, which, as Romans 5:5 says, “is diffused in our hearts by the Holy Spirit, who has been given to us.” Therefore, judgment belongs to charity rather than to justice.

Objection 3: Each virtue has right judgment regarding its own subject matter, since, according to the Philosopher in the *Ethics*, “The virtuous man is in each case the rule and measure.” Therefore, judgment does not belong to justice to a greater degree than it belongs to the other moral virtues.

Objection 4: Judgment seems to belong only to judges. But acts of justice are found in all just men. Therefore, since it is not only judges who are just, it seems that judgment is not the proper act of justice.

But contrary to this: Psalm 93:15 says, “... until justice is turned into judgment.”

I respond: ‘Judgment’, properly speaking, names the act of a judge insofar as he is a judge. But ‘judge’ (*iudex*) bespeaks, as it were, one who pronounces the right (*ius dicens*). Now as was established above (q. 57, a. 1), the right is the object of justice. And so, in accord with its primary imposition, ‘judgment’ implies fixing or determining what the just is, i.e., what the right is (*iudicium importat definitionem vel determinationem iusti sive iuris*).

Now in the case of virtuous works, one’s making a good determination proceeds from the virtue’s habit; for instance, it is the chaste man who correctly determines the things that pertain to chastity. And so judgment, which involves correctly determining what is just, properly belongs to justice. It is for this reason that in *Ethics* 5 the Philosopher says, “Men have recourse to the judge as a sort of living justice.”

Reply to objection 1: The name ‘judgment’, which in accord with its primary imposition signifies the correct determination of what is just, is extended to signify correct determination in all subject matters whatsoever, both speculative and practical.

However, in all these subject matters two things are required for a correct judgment:

One of them is the *power itself* that produces the judgment (*ipsa virtus proferens iudicium*). And in this sense a judgment is an act of reason, since it belongs to reason to fix or determine something.

The other is the *disposition of the one who judges*, because of which he is fit to judge correctly. And, in this sense, in those matters that pertain to justice the judgment proceeds from justice, just as in those matters that pertain to fortitude the judgment proceeds from fortitude.

So, then, a judgment is an act of *justice* insofar as justice is inclining one to judge correctly, whereas it is an act of *prudence* insofar as prudence produces the judgment. This is why, as was

explained above (q. 51, a. 3), *synesis*, which belongs to prudence, is called good judging.

Reply to objection 2: The “spiritual man” has from the habit of charity an inclination to judge all things correctly in accord with God’s standards (*secundum regulas divinas*), on the basis of which he pronounces his judgment through the gift of wisdom (cf. q. 45), just as the just man pronounces judgment through the virtue of prudence on the basis of the standards of the right (*ex regulis iuris*).

Reply to objection 3: The other virtues order a man within himself, but, as has been explained (q. 58, a. 2), justice orders a man toward others. Now man is the master of those matters that pertain to himself, but he is not the master of those matters that pertain to others.

And so those matters that involve the other virtues are such that the virtuous man’s judgment is all that is required for them—where, as has been explained, the name ‘judgment’ is being used in an extended sense.

By contrast, the matters that pertain to justice are such that a further judgment is required on the part of some superior, who is “able to reprove both of the men, and to put his hand between them” (Job 9:33). And this is why judgment belongs more especially to justice than to any other virtue.

Reply to objection 4: Justice in the ruler is, as it were, an *architectonic* virtue in the sense that it commands and prescribes what is just (*quasi imperans et praecipiens quod iustum est*), whereas justice in the subjects *executes* and *ministers*, as it were. And so judgment, which involves the determination of what is just, belongs to justice insofar as it exists in a more important way in the one who presides.

Article 2

Is it permissible to judge?

It seems that it is not permissible to judge (*non sit licitum iudicare*):

Objection 1: Punishment is inflicted only for something that is not permissible. But there is a punishment that threatens those who judge and that is avoided by those who do not judge—this according to Matthew 7:1 (“Judge not, in order that you might not be judged”). Therefore, it is not permissible to judge.

Objection 2: Romans 14:4 says, “Who are you to judge someone else’s servant? He stands or falls before his own lord.” But God is the Lord of everyone. Therefore, no man is permitted to judge.

Objection 3: No man is without sin—this according to 1 John 1:8 (“If we say we have no sin, we deceive ourselves”). But a sinner is not permitted to judge—this according to Romans 2:1 (“You have no excuse, O man, whoever you are, when you judge; for in judging another, you condemn yourself, because you are doing the very same things that you judge”). Therefore, no one is permitted to judge.

But contrary to this: Deuteronomy 16:18 says, “You shall appoint judges and magistrates at all your gates, in order that they might judge the people with just judgment.”

I respond: Judgment is permitted to the extent that it is an act of justice. Now as is clear from what was said above (a. 1), three things are required in order for a judgment to be an act of justice: (a) that it proceed from an inclination toward justice (*ut procedat ex inclinatione iustitiae*); (b) that it proceed from the authority of one who presides (*quod procedat ex auctoritate praesidentis*); and (c) that it be produced by the right reason that belongs to prudence (*quod proferatur secundum rectam rationem prudentiae*).

When any of these things is lacking, then the judgment is vicious and impermissible:

(a) first, when it is *contrary to the rectitude of justice*, in which case it is called a *perverse* or *unjust judgment* (*iudicium perversum vel iniustum*);

(b) second, when a man *judges in matters in which he does not have authority*, in which case it is called a *usurped judgment* (*iudicium usurpatum*);

(c) third, when *the certitude of reason is lacking*, as, for instance, when someone judges in matters that are doubtful or hidden by appealing to loose conjectures (*per aliquas leves coniecturas*), in which case it is called a *judgment based on suspicions* or a *rash judgment* (*iudicium suspiciosum vel temerarium*).

Reply to objection 1: Our Lord is here prohibiting rash judgment, which, as Augustine explains in *De Sermone Domini in Monte*, has to do with the intentions of the heart or other uncertain matters.

An alternative reply is that He is prohibiting judgment concerning divine matters, which, because they lie beyond us, we ought not to judge but simply to trust, as Hilary explains in *Super Matthaicum*.

Alternatively, He is prohibiting judgment that proceeds not from benevolence but from bitterness of mind, as Chrysostom claims.

Reply to objection 2: A judge is appointed as a minister of God. Hence, Deuteronomy 1:16 says, “Judge what is just,” and later it adds, “because it is the judgment of God.”

Reply to objection 3: As Chrysostom points out in commenting on Matthew 7:1 (“Do not judge ...”), those who abide in grave sins should not be judging those who abide in the same or lesser sins. This is mainly to be understood to apply when the sins in question are public, since this generates scandal in the hearts of others.

On the other hand, if the sins in question are hidden and not public, and if the necessity for judging is impending because of one’s position, then one can rebuke or judge the other with humility and fear.

Hence, in *De Sermone Domini in Monte* Augustine says, “If we find ourselves abiding in the same vice as the other man, then we should sigh deeply and invite him to try to do the same.” Still, the man doing the judging does not thereby acquire for himself a new reason for being condemned (*novum meritum condemnationis*); instead, in condemning the other man, he shows himself to be likewise condemnable because of the same sin or a similar one.

Article 3

Is a judgment that proceeds on the basis of suspicions impermissible?

It seems that a judgment that proceeds on the basis of suspicions is not impermissible (*iudicium ex suspicione procedens non sit illicitum*):

Objection 1: A suspicion (*suspicio*) seems to be an uncertain opinion about something bad; hence, in *Ethics* 6 the Philosopher claims that a suspicion may be either true or false (*suspicio se habet et ad verum et ad falsum*). But an opinion about singular contingent things cannot help being uncertain. Therefore, since human judgment has to do with human acts, which included among singular and contingent things, it seems that no judgment would be permissible if it were not permissible to judge on the basis of suspicions.

Objection 2: An injury is done to one’s neighbor by an impermissible judgment. But a suspicion about some evil (*suspicio mala*) consists only in a man’s opinion, and so it does not seem to have anything to do with injury to another. Therefore, a judgment of suspicion is not impermissible.

Objection 3: If a judgment based on suspicions were impermissible, then this would have to be traced back to an injustice, since, as has been explained (a.1), judgment is an act of justice. But as was established above (q. 59, a. 4), injustice is by its genus always a mortal sin. Therefore, a judgment based on suspicions (*suspicionis iudicium*) would always be a mortal sin if it were impermissible. But this is false, since “we cannot avoid suspicions,” as it is put by a Gloss of Augustine’s on 1 Corinthians 4:5 (“Do not judge before the time”). Therefore, a judgment based on suspicions (*iudicium suspiciosum*) does not seem to be impermissible.

But contrary to this: In *Super Matthaicum* 7:1 (“Do not judge, etc.”) Chrysostom says, “By this

commandment our Lord does not prohibit Christians from reproving others out of benevolence; rather, He gives this commandment lest Christians come to despise Christians by boasting of their own righteousness and by hating and condemning others, most often on the basis of mere suspicions.”

I respond: As Tully explains, suspicion involves an opinion about something bad when this opinion proceeds from slight indications (*quando ex levibus indiciis procedit*).

There are three ways in which this happens:

In the first way, because *someone is bad within himself*. And by this very fact, as if conscious of his own badness, he easily thinks badly of others—this according to Ecclesiastes 10:3 (“The fool walking in the way, since he himself is a fool, thinks that everyone is a fool”).

In the second way, it arises from *someone’s having bad feelings toward another* (*aliquis male afficitur ad alterum*). For when one disdains or hates someone or is angry with him or envies him, then he thinks badly of him on the basis of the slightest indications, since everyone easily believes what he wants to believe (*quia unusquisque faciliter credit quod appetit*).

In the third way, it comes from *long experience*. Hence, in *Rhetoric 2* the Philosopher says, “Older people are especially suspicious, since they have experienced the defects of others many times.

Now the first two causes clearly involve a perversity of affection. By contrast, the third cause diminishes the character of suspicion insofar as experience contributes to certitude, which is contrary to the character of suspicion. And so suspicion involves a certain degree of vice, and the more intense the suspicion is, the more vicious it is (*quanto magis procedit suspicio, tanto magis est vitiosum*).

Now there are three degrees of suspicion:

The first degree occurs when on slight indications a man begins to doubt another’s goodness. This is a venial and slight sin, since it “pertains to a human temptation without which this life is not lived,” as a Gloss on 1 Corinthians 4:5 (“Do not judge before the time”) puts it.

The second degree occurs when one takes for certain the badness of another based on slight indications. And if this has to do with a grave matter, then it is a mortal sin, since it does not exist in the absence of contempt for one’s neighbor. Hence, the same Gloss adds, “Therefore, even if we are unable to avoid suspicions because we are men, nonetheless, we ought to refrain from judgments, i.e., from determinate and firm opinions.”

The third degree occurs when a judge proceeds on the basis of suspicions to condemn someone. And this belongs directly to injustice. Hence, it is a mortal sin.

Reply to objection 1: There is a sort of certitude in the case of human acts, not in the way there is certitude in demonstrative matters, but in a way that is appropriate for this subject matter—as when something is proved by suitable witnesses.

Reply to objection 2: By the very fact that someone has a bad opinion of another without sufficient cause, he disdains him in an inappropriate way. And so injury is done to him.

Reply to objection 3: Since, as has been explained (q. 58, aa. 8 and 10-11; q. 59, a. 1), justice and injustice have to do with exterior operations, it follows that a judgment based on suspicion (*iudicium suspiciosum*) belongs directly to injustice when it proceeds into an exterior act. And, in that case, as has been explained, it is a mortal sin.

On the other hand, an interior judgment pertains to justice because it is related to the exterior judgment in the way that interior acts are related to the corresponding exterior acts—for instance, in the way that disordered desire (*concupiscentia*) is related to fornication, or in the way that anger is related to homicide.

Article 4

Should doubtful matters be construed in the best light?

It seems that doubtful matters should not be construed in the best light (*dubia non sint in meliorem partem interpretanda*):

Objection 1: Judgment should be more about what happens in most cases (*esse debet de eo quod ut in pluribus accidit*). But in most cases it happens that someone acts badly, since, as Ecclesiastes 1:15 puts it, “The number of fools is infinite,” and as Genesis 8:21 says, “A man’s thoughts are prone to evil from his adolescence.” Therefore, we ought to construe doubtful matters in the worst light rather than in the best light (*dubia magis debemus interpretari in malum quam in bonum*).

Objection 2: Augustine says, “The one who lives piously and justly is a fair-minded evaluator (*integer aestimator*), not leaning toward either side.” But someone who construes what is doubtful in the best light leans toward one of the two sides. Therefore, this should not be done.

Objection 3: A man ought to love his neighbor as himself. But in his own case a man should construe doubtful matters in the worst light—this according to Job 9:28 (“I feared all my works”). Therefore, it seems that dubious matters concerning our neighbors should be construed in the worst light.

But contrary to this: A Gloss on Romans 14:3 (“Let him who does not eat not judge him who eats”) says, “Doubtful matters should be construed in the best light.”

I respond: As has been explained (a. 3), by the very fact that one has a bad opinion of someone else without sufficient cause, he inflicts an injury on that man and disdains him. But no one should disdain another, or inflict any sort of harm on him, without a compelling cause. And so where there are no clear indications of someone’s badness, we ought to think well of him (*debemus eum ut bonum habere*), construing what is doubtful in the best light.

Reply to objection 1: It can happen that someone who construes things in the best light is mistaken more often than not. But it is better for someone to be frequently mistaken while having a good opinion of a bad man than for him to less often be mistaken while having a bad opinion of a good man. For it is from the latter that injury comes to someone, and not from the former.

Reply to objection 2: It is one thing to make judgments about *things* and another to make judgments about *men*.

For in a judgment by which we judge about things, we do not pay attention to what is good or bad for the thing itself about which we judge and to which no harm comes, no matter how we judge it. Rather, we pay attention only to what is good for the one making the judgment if he judges truly, or to what is bad for him if he judges falsely. And so each individual ought to try to judge things as they are.

By contrast, in a judgment by we judge men, we pay attention mainly to what is good or bad for the one about whom we are judging, who is honorable by the very fact that he is judged to be good and contemptible if he is judged to be bad. And so in such judgments we ought rather to tend toward judging the man to be good, unless a clear reason for the contrary judgment is present.

As for the man himself who makes the judgment, a false judgment by which he thinks well of another is not bad for his intellect itself—just as having a true cognition of contingent singular things is irrelevant to the intellect’s perfection. Instead, this pertains to good affections.

Reply to objection 3: There are two senses in which something can be construed in a better or worse light.

In one sense, *by a presupposition*. And in this sense, when we have to apply a remedy to some evil, whether our own or someone else’s, it is expedient, in order for the remedy to be applied more confidently, to presuppose the worst, since a remedy that is effective against a greater evil will be all the more effective against a lesser evil.

In the other sense, we construe something in a good or bad light *by a definition or determination*.

And in this sense, as has been explained, in judging *things* one should try to construe everything as it is, whereas in judging *persons* one should try to construe everything in the best light.

Article 5

Should one always judge in accord with written laws?

It seems that one should not always judge in accord with written laws:

Objection 1: Unjust judgment should always be avoided. But sometimes written laws contain injustices—this according to Isaiah 10:1 (“Woe to those who make wicked laws and who, when they write, have written injustices”). Therefore, it is not always the case that one should judge in accord with written laws.

Objection 2: Judgment is necessarily about singular events. But as is clear from the Philosopher in *Ethics* 5, no written law can cover all singular events. Therefore, it seems that it is not always the case that one should judge in accord with written law.

Objection 3: Law is written down so that the decree of the lawgiver might be made clear. But it sometimes happens that if the giver of law were himself present, he would judge differently. Therefore, it is not always the case that one should judge in accord with written law.

But contrary to this: In *De Vera Religione* Augustine says, “In the case of temporal laws, even though men pass judgment on them when they institute them, nonetheless, once they have been instituted and fixed, judges will not be permitted to pass judgment on them, but only to judge in accord with them.”

I respond: As has been explained (a. 1), judging is nothing other than fixing or determining what is just.

Now as was established above (q. 57, a. 2), there are two ways in which something is made just: (a) *by the very nature of the thing*, and this is called *the natural right*; and (b) *by a sort of pact among men*, and this is called *the positive right*. Laws are written down in order to made manifest both sorts of the right, though in different ways.

For the writing of the law *contains* the natural right but does not *institute* it, since it has its strength (*robur*) not from the law but from nature. By contrast, the writing of the law both *contains* and *institutes* the positive right, giving it the strength of authority (*robur auctoritatis*).

And so it is necessary that judgment should be made in accordance with the writing of the law; otherwise, judgment would fall short of either the natural just or the positive just.

Reply to objection 1: Just as written law does not give strength to the natural right, so neither can it either diminish or augment that strength, since man’s will cannot change nature. And so if the written law (*scriptura legis*) contains anything contrary to the natural right, it is unjust and does not have the power to impose obligations (*nec habet vim obligandi*). For as was established above (q. 57, a. 2, *ad 2*), the positive right has a place in cases in which, as far as the natural right is concerned, “it does not matter whether it is done this way or some other way.” And so, as was explained above, no such writings are called laws; instead, they are called corruptions of the law. And so one should not judge in accord with them.

Reply to objection 2: Just as wicked laws are in themselves contrary to the natural right, either always or for the most part, so, in some cases even laws that are correctly posited fail in such a way that if the laws were observed in those cases, then this would be contrary to the natural right. And so in such cases one should not judge in accord with the letter of the law, but should instead have recourse to the equity or balance that the lawgiver intends. Hence, the Legal Expert says, “The liberality of equity does not allow us—and neither does any reason connected with the right—to take what is introduced beneficially for the welfare of men and turn it against their advantage by a harsh interpretation bordering

on severity.” In such cases, even the lawgiver would now judge in a different way, and, if he had taken these circumstances into account, he would have fixed this outcome by law.

Reply to objection 3: This makes clear the reply to the third objection.

Article 6

Is a judgment rendered perverse by being usurped?

It seems that a judgment is not rendered perverse by being usurped (*iudicium per usurpationem non reddatur perversum*):

Objection 1: Justice is a sort of rectitude in actions (*quaedam rectitudo in agendis*). But nothing is lost of the truth, no matter who speaks it; instead, it should be accepted from anyone. Therefore, similarly, nothing is lost of justice, no matter who determines what is just—and this determination belongs to the nature of judgment.

Objection 2: It pertains to judgment to punish sins. But we read of certain men who punished sins even though they did not have authority over those whom they punished. For instance, Moses killed an Egyptian (Exodus 2:11ff.); and Phinehas, the son of Eleazar, killed Zimri, the son of Salu (Numbers 25:7ff.), and “it was reputed to him unto justice” (Psalm 105:31). Therefore, the usurpation of judgment does not belong to injustice.

Objection 3: Spiritual powers are distinct from temporal powers. But sometimes prelates with spiritual power insert themselves into matters that pertain to the secular power. Therefore, usurped judgment is not impermissible.

Objection 4: As is clear from what was said above (aa. 1-2), just as authority is required in order to judge in an upright manner, so, too, are the justice and knowledge of the one who judges. But a judgment is not said to be unjust if the one judging does not have the habit of justice, or if he does not have knowledge of the right. Therefore, neither should it be the case that a usurped judgment, which is made with a lack of authority, will always be unjust.

But contrary to this: Romans 14:4 says, “Who are you to judge someone else’s servant?”

I respond: Since, as has been explained (a. 5), judgment should be rendered in accord with written laws, the one who passes judgment in some sense interprets what the law says, applying it to a particular matter. But given that it belongs to the same authority to interpret the law and to establish the law, just as the law can be established only by a public authority, so, too, judgment cannot be rendered except by a public authority that extends to those who are subject to the community. And so just as it would be unjust for someone to constrain others to follow a law that had not been sanctioned by a public authority, so, too, it is unjust for someone to compel another to carry out a judgment that is not rendered by a public authority.

Reply to objection 1: Pronouncing a truth does not involve compelling anyone to accept it; rather, each individual is free either to accept it or not to accept it, as he wills. By contrast, judgment involves a sort of compulsion. And so it is unjust for anyone to be judged by someone who does not have any public authority.

Reply to objection 2: Moses seems to have killed the Egyptian by divine inspiration, as it were, having acquired authority; this is apparent by what is said in Acts 7:25, viz., that “striking the Egyptian, he thought his brothers would understand that God would grant salvation to Israel by his hand.”

An alternative reply is that Moses killed the Egyptian while defending, by means of an inculpable defense, someone who had suffered an injury. Hence, in *De Officio* Ambrose says, “If someone does not stave off his friend’s injury when he can, then he is as much in the grip of vice as the one who inflicts the injury”—and he cites the example of Moses.

Alternatively, one can say, as Augustine does in *Quaestiones Exodi*, “Just as the earth, prior to useful seeds, was praised for the fertility of its unuseful plants, so this deed of Moses was vicious, but it bore a sign of great fertility, viz., insofar as it was a sign of that power by which the people would be liberated.”

Now as regards Phinehas, one should reply that he did this by divine inspiration, moved by his zeal for God.

Alternatively, even though he was not yet the high priest, he was nonetheless the son of the high priest, and this judgment belonged to him, just as to the other judges by whom this was commanded.

Reply to objection 3: Secular power is subject to spiritual power in the same way that the body is subject to the soul. And so there is no usurped judgment if a spiritual prelate inserts himself into temporal affairs to the extent that the secular power is subject to him in those affairs or insofar as the secular power has left those affairs to him.

Reply to objection 4: The habits of knowledge and justice are perfections of an individual person, and so a judgment is not said to be usurped by their absence, in the way that it *is* said to be usurped because of a lack of the public authority from which the judgment derives its power to compel.