

Aquinas on the Practice of Prostitution**Vincent M. Dever**

In this paper I will discuss Thomas Aquinas's view of prostitution and several issues related to this topic. The main question that arises concerns his position on the social toleration of prostitution, given his strong view on the morality of it. Aquinas's position rests upon his understanding of natural law and its relationship to civil statute. His position has influenced later generations and, interestingly enough, has a certain contemporary character. Guider notes that historically there have been three patterns of social policy toward prostitution toleration, prohibition and abolition which have in some cases been enforced simultaneously.¹ In the medieval period a shift in thinking occurred concerning the social practice of prostitution. This shift was away from the strict condemnation and uncompromising intolerance of prostitution by the early Church Fathers to a view of accommodation. Rossiaud maintains that the two major works which changed thinking about prostitution from prohibition to toleration were the second part of the Roman de la Rose and Thomas Aquinas's Summa Theologiae.² In light of such a recommendation, this study of Aquinas's position on the practice of prostitution will focus primarily on the Summa.

The majority of Aquinas's references to prostitution occur in the second part of the Summa Theologiae. There is no focused treatment of prostitution as a separate treatise. References to prostitution are scattered and occur in the context of broader discussions of other topics, in many cases as examples to illustrate another point. The only sustained analysis of prostitution and related topics occurs in the question concerning the sins of lust which arises in the broader context of the cardinal virtue of temperance.

Lust and the Morality of Prostitution

In question 153 of the second part of the second part, Aquinas discusses the nature of the vice of lust. First, he notes that though this vice focuses on physical gratification, lust "applies chiefly to venereal pleasures."³ His reason is that vene-

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real pleasures "more than anything else work the greatest havoc in a man's mind"⁴ and that they most of all "debauch a man's mind."⁵ So one can have excessive physical pleasure in other ways such as eating food and drinking alcoholic beverages but these activities are not acts of lust. Likewise, one can speak of a "lust" for power and other objects, but this is using "lust" in an extended sense of excessive desire and not in the strict sense.⁶

While Aquinas limits the vice of lust to venereal pleasures, he next qualifies his position by denying that every act of sexual intercourse is sinful. A sinful act is a human act that is contrary to the order of reason, which in itself requires that a person by the dictate of reason use certain things in a fitting manner according to the end to which they are adapted, for the sake of something truly good.⁷ He notes that the end of venereal acts is human procreation and is directed toward the good of "the preservation of the whole human race."⁸ So just as eating food is not a sin if conducted in a way that preserves the welfare of the body, so venereal acts are not a sin if performed in a way that preserves the nature of the human species. The pleasure, or what Aquinas calls "exceeding pleasure," associated with sex is not contrary to virtue if the act is in accordance with reason.⁹ An activity in accord with reason does not necessarily require a dispassionate, conscious rational process for Aquinas, since rational activity can be "sometimes interrupted for something that is done in accordance with reason," otherwise sleeping would violate virtue.¹⁰

The sin of lust that occurs in relation to venereal pleasure does not result from the nature of sexual intercourse but rather in exceeding its rational limits. He mentions that there is the other excessive relation to venereal pleasure in terms of aversion for sex, which in agreement with Aristotle, Aquinas terms "insensibility." He states that this aversion can be to such an extent that one does not pay the marriage debt.¹¹ However, he immediately notes that this opposite extreme to lust "is not found in many, since men are more inclined to pleasure."¹²

So the vice of lust, whereby human beings exceed the order of reason in the pursuit of venereal pleasure, is a mortal sin. Lust is also a capital or deadly sin, according to Aquinas. A capital sin is a sin having such a desirable end that it induces a person to commit other sins that originate from it. He mentions that an end is most desirable by "having one of the conditions of happiness, which is desirable by its very nature."¹³ One condition of happiness is pleasure.¹⁴ So lust's end of venereal pleasure has a tremendous desirability. Aquinas also notes that such pleasure is desirable because of its intensity and because we have a natural affinity for it.¹⁵

These other sins that originate from lust are called the daughters of lust which are not types of lustful acts, but derivative sins. By affecting the human power of concupiscible desire, the vice of lust influences other human powers by hindering or disordering their activities.¹⁶ The other powers that lust influences are reason and the will which Aquinas notes "are most grievously disordered by lust."¹⁷ There are four disordered or hindered activities for each human power, for a total of eight daughters of lust. Reason, he points out has four activities in regard to

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human action and so there are four disordered activities that lust brings about by hindering normal mental processes. First, there is understanding where reason "apprehends some end as good,"¹⁸ meaning good in some objective sense and not merely an apparent good. Lust hinders this apprehension of goodness to the point that there is "blindness of mind."¹⁹ Following upon apprehension of an end is deliberation about the means for an end. This second mental activity is hindered by "rashness" which Aquinas defines as an "absence of counsel."²⁰ The third hindrance is on the level of judgment concerning what one should do and is called "thoughtlessness," while the fourth activity is called "inconstancy" where the command of reason to do something is not heeded.²¹ As an example of inconstancy, Aquinas refers to a character in a work by Terence who, after declaring his intention of leaving his mistress, says, "One little false tear will undo those words."²²

The other four daughters of lust result from the disordering of two activities of the will. One activity is the desire for the end. When this will act is disordered there arises "self-love" in relation to one's desire for pleasure and "hatred of God" because God forbids one's pleasure.²³ The other activity is the desire for things connected with venereal pleasure. This involves a "love of this world" since one's desire is limited to this world and a "despair of a future world," where a person does not seek any spiritual goods because they seem "distasteful to him" on account of his inordinate desire for "carnal pleasures."²⁴

In the next question Aquinas specifies the distinct kinds of lust. He notes that all six kinds of lust are determined on the basis of the woman and not the man. His reason is that in sexual intercourse the man is active and a woman is passive and so since she is the one most affected, the species are determined by her material passivity. Reiterating that lust entails "seeking venereal pleasure not in accordance with right reason."²⁵ Aquinas notes that this discord with right reason can be of two types: the pleasure sought is "inconsistent with the end" of sexual intercourse, or the sex is consummated with the wrong person.²⁶ Given his stipulation that the end of sexual intercourse is preserving the human race,²⁷ Aquinas states that the pursuit of venereal pleasure can violate this end in two ways. One type of sex entails "hindering the begetting of children"²⁸ and pertains to every sex act which cannot result in generation. He calls this form of lust the "vice against nature" or "unnatural sins."²⁹ The other type of sex between an unmarried man and an unmarried woman hinders "the due upbringing and advancement of the child" once it is born and is called the lust of "simple fornication."³⁰ What is interesting to note is that Aquinas feels that sexual intercourse's end of preserving the human race entails not only physical procreation but also the rearing of a child.

The other form of lust consisting of sex with the wrong person is divided according to persons that one has some familial relationship with or the persons under whom a woman is placed. Where there is a relationship of "consanguinity or affinity," the lust is incest. If the woman is "under the authority of a husband," the lust is adultery; if under the care of a father and there is no violence, the sin is the lust of seduction; and if there is violence, the sin is the lust of rape.³¹

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A further specification is made by Aquinas in the case of sacrilege, where intercourse occurs with a woman who has made a vow to God to refrain from sex. Aquinas includes this case under adultery as a "spiritual adultery" since the woman had a form of marriage with God.³² Aquinas also notes that a husband "who is too ardent a lover of his wife"

and who uses her indecently may be considered an adulterer and even more so than if he were this way to a woman not his wife.³³ His reason is that even though the husband is not unfaithful to his wife in this case, nonetheless he is "breaking the marriage faith which is due between husband and wife" by the way he is treating her.³⁴ The six types of lustful acts are, then, vices against nature, simple fornication, incest, adultery, seduction and rape. Though a case can be made for including prostitution under adultery, Aquinas places prostitution, which he also refers to as whoredom and intercourse with harlots,³⁵ in the category of simple fornication.³⁶ There are few direct references to prostitution in the works of Aquinas.³⁷ He does note that prostitution is filthy and against the law of God,³⁸ that it is something unlawful,³⁹ a shameful occupation ⁴⁰ that it is venal ⁴¹ and forbidden by the sixth commandment.⁴² But Aquinas does not go into any depth concerning the evil of prostitution except in the discussion of simple fornication. What Aquinas has to say about simple fornication directly applies to prostitution and how he views the morality of the practice.

In the question on simple fornication, Aquinas notes that the Old Testament prohibits consorting with whores and that such an action should be considered a mortal and not a venial sin.⁴³ The action is not an offense against God that merely results in temporal punishment but a sin that results in the soul's loss of the state of grace and hence a sort of spiritual death. Aquinas's reasoning is that "every sin committed directly against human life is a mortal sin."⁴⁴ Simple fornication, and by implication prostitution, "tends to injure the life of the offspring to be born of this union."⁴⁵ Why so? He notes that the upbringing of offspring among species of animals requires both male and female in some cases, and only the female in other cases. But for human beings upbringing requires both parents. Aquinas maintains that rearing a human child "requires not only the mother's care for his nourishment, but much more the care of his father as guide and guardian."⁴⁶

What fornication and prostitution create is an indiscriminate sexual union that does not provide for the care of offspring. This care of offspring is the end of sexual intercourse in terms of preservation of the human race. But Aquinas also notes that care for offspring is "most necessary for the common good"⁴⁷ and so has a social and political value. Indiscriminate union results in a loss of the contribution of the male to the upbringing of children. This male contribution must be a sustained one. He states that "human nature rebels against an indeterminate union of the sexes and demands that a man should be united to a determinate woman and should abide with her a long time or even for a whole lifetime."⁴⁸ Aquinas goes on to assert that this union with a determinate woman is based on the natural law and is "directed to the common good of the whole human race."⁴⁹ Therefore, the union of the sexes should be determined by law in

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the form of matrimony. Prostitution, which consists of indiscriminate union of the sexes, is thus opposed to both the good of a child's upbringing and matrimony.⁵⁰

Public Policy Toward Prostitution

Given this strong condemnation of fornication and prostitution, it would seem obvious that Aquinas would want to engage every force against them, especially civil law. Oddly enough he does not. Instead he notes that the state should allow fornication and prostitution to exist for the sake of the common good. Relying on the well-known passage from Augustine's *De ordine*, Aquinas advocates tolerance of prostitution by noting: "Accordingly in human government also, those who are in authority rightly tolerate certain evils, lest certain goods be lost, or certain evils be incurred: thus Augustine says [*De ordine* 2.4]: If you do away with harlots, the world will be convulsed with lust."⁵¹ If these social practices were to be suppressed, the public reaction might be such as to threaten the peace of society. Remember, Aquinas already maintains (1) that prostitution is a species of lust that is one of the capital vices that wreak the greatest havoc on the human soul and leads to other sins; (2) that it is a mortal sin that threatens the proper rearing of children and by extension threatens the common good of society; and (3) that it violates the natural law and matrimonial union. How then could one tolerate such an evil, particularly a natural law thinker such as Aquinas? Is Aquinas compromising on his principles or playing utilitarian?

To answer questions such as these requires a look at Aquinas's understanding of the function of human law in society which is discussed in the "Treatise on Law" of the first part of the second part, in questions 90-108, more particularly question 96 on the power of human law. First off, Aquinas is not a theocratic thinker advocating a union of secular and ecclesial powers in one religious figure.⁵² Though human law is founded on natural law, they are not identical.

Nor is the human law an application of divine law in everyday living, since the purpose of human law is the temporal tranquility of the state, whereas the end of divine law is eternal happiness.[53](#)

Secondly, Aquinas makes a distinction between interior and exterior human acts. Exterior acts are those observable by another, while interior acts, such as intention and knowledge, are not directly observable. Human law is concerned with external actions [54](#) and so is not able to punish or forbid all evil deeds.[55](#) There are some areas of human affairs that human law cannot direct and so it should not meddle with these matters. Aquinas is not troubled by this limitation in human or civil law because the eternal law can direct what human law cannot.[56](#) So he notes that human law permits certain things to occur in society which it cannot control. However, such permission is not equivalent to approval of such behavior.[57](#)

This limitation of civil statute clearly applies to the area of personal virtues and vices. While civil law does forbid certain vicious acts such as murder and theft, and requires certain acts of virtue such as caring for one's children and paying one's debts, it cannot "forbid all vicious acts" nor can it prescribe "all acts

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of virtue."[58](#) Aside from the fact that it would supplant the need for eternal law, why cannot civil law be enacted to prohibit all vicious activities? The goal of human law is the temporal tranquility of the state and not eternal salvation. Given this goal of temporal peace and order, Aquinas notes that the mandate of human law is to prohibit "whatever destroys social intercourse" and not to "prohibit everything contrary to virtue."[59](#) The main reason for civil law's inability to prohibit all vice is that it cannot effect a full internal reform of an individual. An individual in their personal moral life is wounded by original sin and can only be restored by God's grace. Therefore the coercive and educating power of human law is inefficacious in this realm. Aquinas asserts, then, that human law cannot "exact perfect virtue from man, for such virtue belongs to few and cannot be found in so great a number of people as human law has to direct."[60](#)

Given these limitations of civil statute in regard to virtue and vice, Aquinas goes on to assert that human law leaves many sinful things unpunished and the example he uses is simple fornication, under which he has included prostitution.[61](#) He clearly wants to include fornication and prostitution under that category of vices that human law cannot control and which must be left to eternal or divine law. Yet could not a case be made that prostitution is one of those activities that destroys social intercourse and so should be prohibited by civil statute? His general principle, by which the state would tolerate prostitution without approving it, is that human laws "leave certain things unpunished on account of the condition of those who are imperfect, and who would be deprived of many advantages, if all sins were strictly forbidden and punishments appointed for them."[62](#) What Aquinas seems to suggest is that civil statute should not place too much of a moral burden on its citizens. In the disputed question on evil, Aquinas goes so far as to say that God permits evil to exist and in a similar way human law permits some evil to exist in light of the common good.[63](#) Such tolerance on the part of Aquinas is striking given his absolutist positions on other topics such as lying.[64](#)

There are, then, certain limitations to the application of law in society, according to Aquinas. Legal statute cannot punish every wrong action, but should rather concentrate on those acts that threaten the social order. In light of these limitations public authority can tolerate the existence of certain moral evils taking into account the imperfections of its citizenry and other goods or evils which may be at stake. However, such tolerance by civil authority does not constitute the commission or approval of the evil act in question.

Pastoral Recommendations

Given his general tolerance of prostitution, Aquinas goes on to make specific recommendations. In a discussion of almsgiving he forms a number of judgments about financial transactions concerning the prostitute as well as the customer. One question concerns ill-gotten gains. He states that the practice of whoredom is filthy and against the law of God. However, he notes that a woman's profit from whoredom is not unlawful by her taking money, but because it is the outcome of something unlawful. So a woman does not act unjustly in her taking

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money for her services. It is lawful for her to keep it and also to give it to charity even though it is acquired by an unlawful action.[65](#) Again, Aquinas notes that "paying a prostitute for fornication involves money given for something

unlawful, but the giving itself is not unlawful."⁶⁶ He states that "she may keep her fee" and is not obliged to give it back to the customer.⁶⁷ However, if she extorts too much money from her client, she must make restitution to him.⁶⁸

In another context Aquinas states that money can be acquired from "shameful occupations" such as prostitution and play-acting, but again one is not obliged to restore these monies to the customers.⁶⁹ Interestingly, both the play-actor and the prostitute are bound to pay tithes to the Church on their monies as personal goods. One stipulation is that the Church accept these monies only after the individuals in question have done penance, "lest she appear to have a share in their sins."⁷⁰ So while Aquinas recommends social tolerance as a public policy, he is uncompromising in the demand for individual repentance. Finally, in discussing the seven daughters of avarice, Aquinas states that one can be excessive in taking by going after base profits in making money out of the evil activities of others, such as prostitution. This judgment would seem to apply to both the prostitute and the pimp.⁷¹ One might naturally ask why go into detail concerning a practice that one finds sinful and disreputable, but given the readership that Aquinas had in mind when writing his *Summa Theologiae*, it would appear that these recommendations are geared toward clergy in their roles as confessor and pastor. Historically, prostitution was tolerated as a necessary evil throughout the Middle Ages along lines similar to Aquinas's position.⁷² Some even thought that the availability of prostitution protected the integrity of families.⁷³ The reaction of the Church was to seek the reform of prostitutes through rescue missions and convents for penitents. Pope Innocent III commended those who married a prostitute, and Gregory IX urged bachelors to marry repentant women or that they enter the cloister.⁷⁴ Gradually, systems of local regulation emerged and some cities had public brothels for revenue.⁷⁵ The legal movement to suppress prostitution is relatively recent in history.⁷⁶ It was not until the end of the fifteenth century that social opinion changed as a result of fear concerning the spread of syphilis that ravaged the populations of first southern, and then northern, Europe.⁷⁷ The Protestant and Catholic Reformation movements contributed to the push to close brothels.⁷⁸ But by the end of the seventeenth century, the suppression of prostitution changed to concerns about sanitation and hygiene.⁷⁹ Britain did not make brothels illegal until the mid-eighteenth century, while the United States did not legally abolish its infamous redlight districts until 1912 in conjunction with Congress's passing of the Mann Act prohibiting interstate transportation of women for immoral purposes. What is interesting about Aquinas's position on the practice of prostitution is the limits he puts on civil statute to legislate behavior. He is aware of the role that the moral condition of a society plays in conducting public policy. Civil statute can only demand as much as the personal morality of its citizenry can bear. In that, Aquinas is more in concert with modern and contemporary politi-

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cal views. He is also opposed to the law demanding a level of personal moral behavior beyond what is needed for the common good and in that way is opposed to many currents of political correctness that exist today. By tolerating the practice of prostitution while noting its grave sinfulness, Aquinas both recognizes the concrete condition of humanity and the need for grace that transcends any solutions from public policy technicism. He also shows a benevolent care for those caught up in the life of prostitution by acknowledging their monetary rights while at the same time stipulating conditions for possible reconciliation with the Church. In doing this, Aquinas avoids a hypermoralism by detesting the sin but loving the sinner.

[Page numbers of the printed text appear at the right in bold.]

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Notes

1. See Margaret Eletta Guider, *Daughters of Rahab: Prostitution and the Church of Liberation in Brazil* (Minneapolis, 1995), pp. 15-16.
2. Jacques Rossiaud, *Medieval Prostitution*, trans. Lydia G. Cochrane (New York, 1988), p. 72.
3. Thomas Aquinas, *Summa Theologiae*, in *Sancti Thomae Aquinatis Opera Omnia*, 25 vols. (Rome, 1852-73; repr. New York, 1948-50) [hereafter ST], 2-2.153.1.1: "Voluptates venereas maxime luxuria consideratur."
4. ST 2-2.153.1.1: "quae maxime et praecipue animum hominis resolvunt."
5. ST 2-2.153.1.
6. Aquinas, ST 2-2.153.1 refers to this sense as a secondary application: "secundario aut dicitur in quibuscumque aliis ad excessum pertinentibus."
7. ST 2-2.153.2.
8. ST 2-2.153.2.
9. ST 2-2.153.2.2: "abundantia delectationis quae est in actu venereo secundum rationem ordinato, non contrariatur medio virtutis." It is clear that Aquinas does not have a puritanical view of sex.
10. ST 2-2.153.2.2: "alioquin, quod aliquis se somno tradit, esset contra virtutem."
11. ST 2-2.153.3.3: "uxori debitum." The marriage debt was a common notion even into the early twentieth-century theological manuals. Here Aquinas clearly avoids the anti-sexualism of earlier heresies.
12. ST 2-2.153.3.3.
13. ST 2-2.148.5.
14. ST 2-2.148.5. Aquinas mentions "delectatio," not "Voluptas," and so stresses a eudaimonistic rather than a hedonistic view of happiness.

15. ST 2-2.153.4. Another rendering is "connaturality," which Jacques Maritain emphasizes in his works, particularly in regard to human knowledge. See for example his *The Degrees of Knowledge*, trans. Bernard Wall and Margot Adamson (New York, 1938), and *The Range of Reason* (New York, 1952).

16. ST 2-2.153.5.

17. ST 2-2.153.5.

18. ST 2-2.153.5.

19. ST 2-2.153.5.

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20. ST 2-2.153.5.

21. ST 2-2.153.5.

22. ST 2-2.153.5. The reference is from Terence's *Eunuch* 1.23.

23. ST 2-2.153.5.

24. ST 2-2.153.5.

25. ST 2-2.154.1. "Recta ratio" is the operative idea in Aquinas's theory of natural law.

26. ST 2-2.154.1.

27. ST 2-2.153.3: "conservatio humani generis."

28. ST 2-2.154.1. This would not include married couples that are infertile due to natural causes.

29. ST 2-2.154.1 and ST 1-1.100.11. This category refers not only to all forms of homosexual sex but also to heterosexual forms of sex such as masturbation, bestiality and contraceptive intercourse. In light of this text, it is puzzling that Rossiaud, *Medieval Prostitution*, p. 75, would claim that theologians of the time, including Aquinas, "in an attempt to help the faithful avoid fornication, adultery or other frowned-upon practices, presented conjugal relations as licit even without the end of procreation."

30. ST 2-2.154.1.

31. ST 2-2.154.1.

32. ST 2-2.154.1.3.

33. ST 2-2.154.8.2. There are sexual limits even within the marital covenant.

34. ST 2-2.154.8.2. It was a common view among moralists of the time that abandoning one's self to the pleasures of sex is a graver sin in marriage than outside it. See Rossiaud, *Medieval Prostitution*, p. 75.

35. ST 1-2.100.11.

36. ST 2-2.154.6.1.

37. There is also a lack of secondary studies on Aquinas's view of prostitution except for an article in Spanish by Gustavo E. Ponferrada, "Santo Tomas y la prostitucion," *Sapientia* 45 (1990), 225-30. For a more current approach to the general topic of medieval prostitution, see Ruth M. Karras, *Common Women: Prostitution and Sexuality in Medieval England* (New York, 1995).

38. ST 2-2.32.7.

39. ST 2.2.32.7.

40. ST 2-2.87.2.2.

41. ST 2-2.154.2. This discussion clarifies a mistaken quotation of a gloss on Deuteronomy 23.17 which asserts that prostitution is a "venial" sin, when in fact it should read "venal."

42. ST 1-2.100.11.

43. ST 2-2.154.2. There is, however, the difficult case of Rahab the harlot in Joshua 2. Housing Joshua's spies, Rahab lies to the authorities who wish to search her house. She and her family are rewarded by the Israelites after the fall of Jericho. Scriptural commentators from Augustine and Jerome to Aquinas and Bonaventure to Martin Luther struggled to justify the honor paid to Rahab for two reasons: one, she was a prostitute, and two, she lied to

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save the spies. See Guider, *Daughters of Rahab*, pp. 19-32.

44. ST 2-2.154.2.

45. ST 2-2.154.2.

46. ST 2-2.154.2. This assertion is interesting in light of recent studies showing the crucial role of fathers in building the self-esteem of children in later life, especially among daughters.

47. ST 2-2.153.3.

48. ST 2-2.154.2: "contra naturam hominis."

49. ST 2-2.154.2.

50. For a few current discussions of the morality of prostitution, see Igor Primoratz, "What's Wrong With Prostitution?," *Philosophy* 68 (1993), 159-82; Laurie J. Schrage, "Should Feminists Oppose Prostitution?," *Ethics* 99 (1989), 347-61; and the debate between Lars Ericsson, "Charges against Prostitution: An Attempt at a Philosophical Assessment," *Ethics* 90 (1980), 335-66, and Carole Pateman, "Defending Prostitution: Charges against Ericsson," *Ethics* 93 (1983), 561-65. Oddly, Primoratz attributes the view that sex is "intrinsically inferior, sinful and shameful" (p. 167) to Aquinas but without any supporting reference.

51. ST 2-2.10.11. Guider, *Daughters of Rahab*, pp. 15-16, holds that on the basis of this passage, Aquinas maintained that prostitution was "a lesser evil" and that according to Augustine it was "a necessary evil." These assertions need to be qualified. Aquinas rejects the principle of the lesser of two evils. Regardless of whether the evil is lesser or greater, no moral evil can be intentionally willed. So the social toleration of evil that Aquinas advocates is not a choice of the evil but tolerating its existence in order to avoid the loss of a good or the bringing about of another evil.

In the passage from *De ordine* Augustine is struggling to uphold God's providential order in the world when faced with certain evils, such as prostitution. Given this context, Augustine maintains that the existence of prostitution is better than its absence which would unleash lusts and greater harm: "What can be mentioned more sordid, more bereft of decency or more full of turpitude than prostitutes, procurers, and the other pests of that sort? Remove prostitutes from human affairs, and you will unsettle everything on account of lusts." To categorize this reading as "necessary evil" appears to insert a form of fatalism into Augustine's view that would preclude efforts to discourage prostitution or even condone it. Whereas in *Contra Faustum* 2.61, he notes that the divine and eternal law condemns it.

52. In regard to prostitution, the papacy was at odds with civil authorities as when it spoke out against unreasonable search by officers of the court looking for adulterers and concubines in the homes of townspeople. Pope Paul II decreed that searches of this kind be conducted on condition of a formal written request. See Rossiaud, *Medieval Prostitution*, p. 61.

53. ST 1-2.98.1: "Legis enim humanae finis est temporalis tranquillitas civitatis. . . . Finis autem legis divinae est perducere hominem ad finem felicitatis

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aeternae."

54. ST 1-2.98.1.

55. ST 1-2.91.4: "lex humana non potest omnia quae male fiunt, punire vel prohibere."

56. ST 1-2.93.3.3.

57. ST 1-2.93.3.3: "lex humana dicitur aliqua permittere, non quasi ea approbans, sed quasi ea dirigere non potens."

58. ST 1-2.96.3.1.

59. ST 2-2.77.1.1: "lex humana non potuit prohibere quidquid est contra virtutem, sed ei sufficit ut prohibeat ea quae destruunt hominum convictum." Compare Aquinas with this: "The aim of the criminal justice system is not to impose public standards of morality upon the private acts of consenting adults, immoral though they may be by widely held social standards, but rather to protect people and property from the harmful effects of others" (Richard Symanski, *The Immoral Landscape: Female Prostitution in Western Societies* [Toronto, 1981], p. 228).

60. ST 2-2.69.2.1.

61. ST 2-2.69.2.1: "multa secundum leges humanas impunita relinquuntur quae secundum divinum iudicium sunt peccata, sicut patet in simplici fornicatione."

62. ST 2-2.78.1.3.

63. Aquinas, *Quaestiones disputatae de malo* 13.4.6. This is the same argument that Aquinas employs in ST 2-2.10.11, quoted above.

64. See ST 2-2.110.3 "Whether Every Lie Is A Sin?" where Aquinas bases his position on Aristotle (*Ethics* 4.7) and Augustine (*Contra mend.* 1). While Augustine describes eight types of lies, in ST 2-2.110.2 Aquinas distinguishes between three types of lies: officious lies that help or save a person from harm, emphasizing usefulness; jocose lies, meaning jokes, which are lies that focus on pleasure; and mischievous or pernicious lies that injure another. Aquinas asserts that all types of lies, including jokes, are sinful and wrong.

65. ST 2-2.32.7.

66. ST 2-2.62.5.2. Aquinas notes two cases of unlawful giving. In simony, both the giving and receiving of money are unlawful, so no restitution is required nor may the receiver retain the fee. However in the case of prostitution, the giving is not unlawful, though the money is given for an unlawful purpose. Hence, the fee can be retained.