



The Communicative Structure of Justice: Authority, Alterity, and the Sanctioning Act in Post-Tridentine Moral Theology

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Abstract

This article offers a systematic reconstruction of the relational and communicative structure of justice in post-Tridentine moral theology, with particular reference to Ludwig Babenstuber OSB. It argues that justice in the scholastic tradition is not primarily a subjective moral disposition nor a discretionary exercise of coercion, but a normatively mediated relation ordered *ad alterum*. Justice presupposes differentiated subjects, institutional competence, and a structured asymmetry between authority and the one subject to it. The study proceeds in five movements. First, it rearticulates the Thomistic account of justice as intrinsically relational, grounded in the obligation to render to each his due within an objective juridical order. Second, it analyzes Babenstuber's doctrine of *dominium* and corporate representation, demonstrating that ownership is not absolute metaphysical possession but a mediated juridical relation embedded in communal structure. Third, it examines the limit case of self-execution, arguing that punitive justice becomes structurally incoherent when the differentiation between judge and punished collapses. Fourth, it makes explicit the communicative dimension implicit in scholastic sanction by engaging modern speech-act theory and jurisprudence, clarifying how a judicial sentence functions as a performative institutional act that creates normative status. Finally, it develops a synthetic account of restitution as communicative justice, showing that moral repair requires objective, proportionate action capable of restoring relational equilibrium and public credibility. The central claim is that justice is relational in its ontology, institutional in its juridical form, and communicative in its public expression. Authority is fiduciary rather than proprietary; sanction is not private suffering but a public act that rearticulates communal norms; restitution is not symbolic narrative but the removal of objective inequality. By integrating scholastic categories with contemporary philosophical analysis, the article argues that early modern moral theology provides a coherent conceptual framework for clarifying modern debates on punishment, autonomy, legitimacy, and credibility in public life.

Keywords: relational justice; communicative justice; Ludwig Babenstuber; post-Tridentine moral theology; normative order.

Introduction

The present study investigates the relational and communicative structure of justice in post-Tridentine moral theology, with particular reference to Ludwig Babenstuber OSB. Its central thesis is that justice, especially in its punitive and restitutive dimensions, is neither a subjective moral disposition nor a mere instrument of coercive force, but a normatively mediated, institutionally grounded, and communicatively structured act ordered *ad alterum*. Justice is intelligible only within a differentiated relational order in which authority and subject, office and private will, declaration and reception remain structurally distinct.

This article adopts a conceptual and normative reconstructive approach rather than a strictly historical or genealogical one. While it draws on early modern moral theology, especially the work of Ludwig Babenstuber, its primary aim is not to trace the historical evolution of concepts but to reconstruct the underlying normative logic of justice as a relational and communicative structure. In this sense, the study also incorporates elements of comparative intellectual history, bringing scholastic categories into dialogue with contemporary philosophical and communication-theoretical frameworks.

The point of departure lies in the Thomistic definition of justice as the constant and perpetual will to render to each his due. In the classical scholastic synthesis, this definition is not reducible to internal virtue-ethics; it presupposes plurality, asymmetry, and juridical ordering. Justice concerns external relations regulated by ius, and thus necessarily presupposes alterity. Post-Tridentine moral theology does not abandon this ontology but deepens it, particularly in its treatment of law, jurisdiction, restitution, and punishment. The act of sanction, when properly understood, is not the infliction of harm but the public reaffirmation of normative order through office-bound authority.

For the purposes of this study, “relational justice” is understood as a form of justice that is not reducible to a subjective moral disposition nor to an external system of coercion, but rather emerges within a structured network of relations ordered *ad alterum*. It presupposes differentiated subjects, institutional competence, and a normative asymmetry between authority and the one subject to it. Justice, in this sense, is intrinsically communicative: it is enacted through acts that declare, recognize, and restore the proper order between persons within a shared normative framework.

Closely related to this is the notion of the “relational good,” which denotes not merely an individual benefit but a good constituted within and through relationships. Harm to reputation, therefore, is not simply a private injury but a disturbance of a relational equilibrium that calls for restitution. The restoration of justice thus takes on a communicative character, insofar as it reaffirms the normative order and re-establishes credibility within a community. In this sense, relational good functions as a normative condition of intelligibility for justice rather than as an empirical or sociological category.

The article advances this thesis in five interrelated movements. First, it reconstructs the Thomistic and early modern scholastic account of justice as structurally *ad alterum*. Second, it examines Babenstuber’s doctrine of dominium and corporate representation, demonstrating that ownership is not absolute metaphysical possession but a mediated juridical relation embedded within institutional order. Third, it analyzes the limit case of self-execution, arguing that the collapse of role differentiation between punishing authority and punished subject renders punitive justice structurally incoherent. Fourth, it makes explicit the communicative dimension implicit in scholastic sanction by drawing on modern speech-act theory and jurisprudence to clarify how a sentence functions as a performative institutional act. Finally, it develops a synthetic account of restitution and credibility as forms of communicative justice, showing how scholastic categories illuminate contemporary debates on authority, legitimacy, and moral repair.

Throughout, Ludwig Babenstuber’s *Tractatus VII* functions as a focal lens. His analysis of restitution and religious property, as well as his rejection of self-execution, reveals a remarkably coherent model of relational justice. Injustice generates objective inequality; restoration requires proportionate and publicly intelligible action; authority is representative rather than proprietary; and sanction is meaningful only within a differentiated institutional framework. Far from being an antiquated casuistic exercise, this theology offers a conceptual grammar

capable of clarifying modern tensions surrounding autonomy, sovereignty, credibility, and the limits of punitive power. By integrating scholastic ontology with contemporary communicative analysis, the study argues that justice is not completed in interior sincerity nor exhausted by procedural legality. It becomes fully intelligible only when relational asymmetry, institutional mediation, and public meaning converge in an act that restores normative order. In this convergence, justice reveals itself not merely as rule or reaction, but as structured, responsible, and communicative authority.

In this article, “relational good” is understood not as a subjective value or a sociological resource, but as an objective normative quality of relations structured within a juridical and institutional order. It denotes the intelligible order that arises between subjects when their relations are rightly constituted according to justice. In this sense, it differs from social capital, which refers to networks of trust and cooperation, and from dignity or honour, which designate moral or symbolic attributes of persons. Rather, relational good concerns the right ordering of relations themselves, not the qualities of the agents considered in isolation. It is also distinct from restitution understood as a perceived restoration of balance, since restitution, in the present account, functions as a communicative act that re-establishes an objectively disturbed relational order. Thus, relational good serves as the normative horizon within which justice operates as a practice of restoring right relations between subjects.

This article adopts a conceptual and interpretive methodology situated at the intersection of moral theology, legal philosophy, and communication theory. It proceeds by means of a systematic reconstruction of key scholastic categories, particularly those developed in post-Tridentine moral theology, with special attention to the work of Ludwig Babenstuber. Rather than offering a purely historical or descriptive account, the study advances a normative conceptual analysis that seeks to identify structural continuities in the understanding of justice as a relational and communicative practice. The analysis is guided by the assumption that theological concepts may function as enduring frameworks of intelligibility that retain explanatory power beyond their original historical context. In this sense, the article combines elements of conceptual genealogy with a form of normative reconstruction. It traces how specific categories—such as *ad alterum*, authority, sanction, and restitution—are reconfigured within an institutional and communicative order. At the same time, it refrains from positing direct doctrinal continuity, instead focusing on structural and functional analogies at the level of normative logic. The methodological approach is therefore neither purely historical nor strictly analytical, but integrative and interpretive in character. It aims to show how early modern theological frameworks can illuminate contemporary debates on authority, legitimacy, credibility, and reputational harm. By situating scholastic thought within a broader conceptual horizon, the study contributes to an interdisciplinary dialogue between theology, jurisprudence, and communication theory. Ultimately, the method serves to clarify how justice operates not only as a rule or virtue, but as a structured communicative practice embedded in normative relations.

Methods

Justice as *Ad Alterum*: The Relational Ontology of Punitive Authority

Justice has often been discussed in moral theology in terms of rights, equality, and obligation. Yet within the classical scholastic tradition, justice is first and foremost a relational virtue. Thomas Aquinas’ insistence that justice is ordered *ad alterum* - toward another, establishes a structural principle that reverberates throughout post-Tridentine moral theology. Justice is not merely a quality of the individual agent; it presupposes differentiated subjects situated within an ordered community.

In contemporary theological and ethical debates, questions of authority, moral responsibility, and the legitimacy of coercion have re-emerged with renewed urgency. Discussions surrounding abuse of power, state violence, capital punishment, restorative justice, and the limits of institutional competence reveal a persistent tension between authority and accountability. When punitive action is detached from its relational and communicative foundations, it risks degenerating into domination or procedural formalism. A retrieval of the scholastic account of justice as structurally ordered *ad alterum* offers not merely historical insight but conceptual clarity for evaluating modern exercises of authority. It reminds contemporary theology that punishment is not an isolated act of force but a normatively mediated event grounded in relational asymmetry and responsibility toward the common good¹.

This relational premise becomes particularly significant when justice assumes its punitive form. Punishment cannot be reduced to coercion or retribution understood as private retaliation. In the scholastic framework, it is a juridical act exercised by legitimate authority and ordered to the common good. The punishing subject and the punished subject must remain distinct, for the normative structure of the act depends upon this differentiation.

The aim of this section is to reconstruct the relational ontology that underlies this understanding of punitive authority. Beginning with Aquinas and moving through early modern scholastic developments, the analysis shows that justice is structurally dependent upon alterity, role differentiation, and institutional competence. The sanctioning act emerges not merely as a moral reaction but as a normative event grounded in authority.

This structural reading also opens the way to a communicative interpretation of justice. While scholastic authors did not formulate a theory of speech acts, their account of judicial pronouncement presupposes that a sentence does not merely describe guilt but establishes a new normative status. Authority speaks in the name of the community, and this speech has constitutive force. The central thesis advanced here is that punitive justice in the scholastic tradition is both relational and communicative. It presupposes an ordered asymmetry between authority and subject, and it functions through a normative act that cannot be reflexively directed toward oneself without logical and moral incoherence.

This framework will prepare the ground for the subsequent examination of Ludwig Babenstuber's treatment of self-execution. His argument, situated within seventeenth-century moral theology, does not merely reiterate the prohibition of suicide. Rather, it unfolds the structural impossibility of collapsing punitive authority into the very subject upon whom it is exercised.

The following sections therefore examine: the Thomistic foundations of justice as *ad alterum*; the development of this thesis in early modern scholasticism and the communicative dimension implicit in juridical sanction.

Classical foundations: Aquinas and the relational nature of justice

The classical scholastic understanding of justice rests upon a decisively relational premise. Thomas Aquinas defines justice as a stable habit whereby one renders to each what is due:

¹ John Braithwaite, *Restorative Justice and Responsive Regulation*, Oxford: Oxford University Press, 2002, ch. 1 ("The Fall and Rise of Restorative Justice") i ch. 2 ("Responsive Regulation"); Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg, Cambridge, MA: MIT Press, 1996, ch. 1-2.

*iustitia est habitus secundum quem aliquis constanti et perpetua voluntate ius suum unicuique tribuit*². The formal object of justice is not the perfection of the agent in isolation but the ordering of relations between persons. Justice is therefore intrinsically directed *ad alterum*³.

In *Summa Theologiae* II-II, q. 58, a. 2, Aquinas explicitly distinguishes justice from other moral virtues precisely on this ground: justice concerns another (*proprie est ad alterum*)⁴. Temperance and fortitude regulate internal passions; justice regulates external relations structured by right (*ius*). The concept of *ius* presupposes plurality, reciprocity, and normative differentiation. This relational structure becomes even more pronounced in Aquinas's treatment of punishment. In II-II, q. 64, a. 2, he argues that the execution of a malefactor can be licit only when carried out by legitimate authority and ordered to the common good⁵. The act is not reducible to the physical deprivation of life; it is intelligible only within a juridical framework. The authority who punishes must occupy a distinct role in relation to the offender.

Modern Thomistic scholarship confirms this structural reading. John Finnis notes that Aquinas's conception of justice is inseparable from institutional competence and the orientation toward the common good⁶. Jean Porter likewise emphasizes that Thomistic natural law theory is embedded in a social ontology rather than an individualistic ethic⁷.

In Polish ethics, Tadeusz Ślipko's SJ analysis of the classical division of justice (commutative, distributive, and legal) demonstrates that each form presupposes relational ordering between subjects⁸. Justice is never self-referential; it is constituted within a network of interpersonal obligations⁹. Similarly, Stanisław Lis, in his study of Thomistic categories of justice, underlines that the Thomistic concept of *ius* implies an external relational structure rather than purely subjective moral rectitude¹⁰.

Thus, in the classical Thomistic synthesis, justice cannot be exercised in abstraction from alterity. It is structurally relational both in metaphysical grounding and juridical execution. This analysis is grounded in the fundamental assumption that justice is intrinsically relational (*ad alterum*) and intelligible only within a structured normative order.

Early Modern Scholastic Developments

Post-Tridentine moral theology deepened and systematized this relational ontology. Francisco Suárez, in *De Legibus ac Deo Legislatore*, articulates a theory of law as an act of legitimate

² Thomas Aquinas, *Summa Theologiae*, II-II, q. 58, a. 1.

³ Stefan Karolak, *Sprawiedliwość. Sens prawa*, Kraków: Petrus, 2015, p. 16.

⁴ Thomas Aquinas, *Summa Theologiae*, II-II, q. 58, a. 2.

⁵ Thomas Aquinas, *Summa Theologiae*, II-II, q. 64, a. 2.

⁶ John Finnis, *Aquinas: Moral, Political, and Legal Theory*, Oxford: Oxford University Press, 1998, ch. 1-2 (foundational exposition of Aquinas's legal and moral theory).

⁷ Jean Porter, *Natural and Divine Law: Reclaiming the Tradition for Christian Ethics*, Grand Rapids: Wm. B. Eerdmans Publishing Company, 1999, intro. i ch. 1-2 (natural and divine law foundations).

⁸ Tadeusz Ślipko SJ, „Współczesne pojęcie sprawiedliwości społecznej a tradycyjny podział sprawiedliwości”, *Studia Philosophiae Christianae* 2(2) (1966), pp. 55-101.

⁹ Tadeusz Ślipko SJ, *Spacerem po etyce*, Kraków: Petrus, 2021, pp. 317-318.

¹⁰ Stanisław Lis, „Kategorie sprawiedliwości według św. Tomasza z Akwinu”, *Resovia Sacra* 3 (1996), p. 221-236.

authority directed toward subjects within a community¹¹. Law, as a rational ordinance, presupposes a legislator and those governed; it is irreducibly relational.

Suárez's account reinforces the Thomistic claim that normativity depends upon structured asymmetry. The legislator stands in a differentiated position relative to the subject. The juridical act is intelligible only within that distinction.

Cardinal Juan de Lugo, in *De Iustitia et Iure*, develops an extensive analysis of vindicative justice¹². He insists that punitive authority derives from jurisdictional competence and cannot be reduced to private initiative. The right to punish belongs to one who bears responsibility for the common good and occupies a distinct relational position vis-à-vis the offender.

The early modern scholastic tradition thus consolidates a structural thesis; justice, particularly punitive justice (*iustitia punitiva*), presupposes alterity as a formal condition. The punishing authority cannot collapse into the punished subject without dissolving the very form of justice. This development does not introduce a new ontology but clarifies the implications of the Thomistic premise. Justice remains essentially *ad alterum*, and punitive authority is a function of relational order rather than autonomous self-assertion.

Justice as an Inherently Communicative Act

Although scholastic theologians did not formulate an explicit theory of speech acts, their account of law and punishment contains an implicit communicative dimension. A judicial sentence does not merely describe wrongdoing; it performs a normative act. It declares guilt, establishes liability, and authorizes sanction within a structured relational framework.

Modern philosophy of language provides conceptual tools to articulate this dimension. John L. Austin's theory of performative utterances demonstrates that certain statements do not merely report facts but enact normative realities¹³. A sentence pronounced by a competent authority is not descriptive but constitutive.

John Searle's analysis of institutional facts further clarifies that normative statuses depend upon collectively recognized role structures¹⁴. A judge's declaration has force only within an institutional matrix that differentiates roles and competencies. When read against this background, the scholastic conception of punitive justice appears as a proto-theory of communicative normativity. The sentence presupposes differentiated roles: judge, offender, community, executor. If these roles collapse into a single subject, the communicative structure disintegrates.

Justice, therefore, is not only relational in metaphysical terms; it is structurally communicative. Its intelligibility depends upon alterity and institutional differentiation.

This structural insight becomes particularly significant in the moral theology of the seventeenth century. In his *Ethica supernaturalis Salisburgensis sive cursus theologiae moralis*. Ludwig

¹¹ Francisco Suárez, *De Legibus ac Deo Legislatore*, lib. I. cap. 1, 3-5.

¹² Juan de Lugo, *De Iustitia et Iure*, Paris: Vivès, 1869, disp. X., sect. 1-3; disp. 18, disp. 19, sect. 2-5.

¹³ John L. Austin, *How to Do Things with Words*, Oxford: Oxford University Press, 1962, Lectures I-XII, pp. 1-11; 52-66; 94-108.

¹⁴ John R. Searle, *The Construction of Social Reality*, New York: Free Press, 1995, ch. 1, pp. 1-30; ch. 2, pp. 31-58 (institutional facts and the linguistic foundation of social reality).

Babenstuber explicitly confronts the question whether a judge may command a condemned person to execute the sentence upon himself. His negative answer is grounded not merely in the prohibition of suicide but in the relational impossibility of exercising punitive justice toward oneself.

The argument presupposes precisely the framework established above: justice is *ad alterum*, authority is relational, and sanction is a structured normative act. The detailed reconstruction of Babenstuber's reasoning will form the subject of the next chapter.

Dominium, Corporate Representation, and the Limits of Dispositional Authority in Ludwig Babenstuber

The relational ontology of justice reconstructed in the previous chapter finds a concrete and technically refined expression in the moral theology of Ludwig Babenstuber. In *Theologia moralis universa*, Tractatus VII, Disputatio III, Babenstuber addresses the question of religious poverty and communal ownership not merely as a matter of ascetical discipline, but as a juridical and theological problem concerning the structure of authority and the nature of dominium.

At first glance, the discussion appears narrowly canonical: who owns goods acquired by a religious? What is the status of inherited property? Under what conditions may a superior authorize use or disposition? Yet beneath these technical questions lies a deeper structural concern. Babenstuber's treatment presupposes a carefully articulated theory of corporate personality, mediated authority, and non-independent possession. His analysis reveals that ownership is not a purely material or psychological fact but a normatively constituted relation embedded within communal order.

The vow of poverty, in this framework, does not simply negate possession. It restructures the relation between subject, community, and authority. The religious person does not cease to act; rather, his capacity to acquire and dispose becomes relationally mediated. Acquisition occurs through representation; use occurs through authorization; violation occurs through disruption of structured dependence. The monastery emerges as a juridical subject, while the superior functions not as proprietor but as fiduciary administrator.

This section therefore examines Babenstuber's doctrine of dominium and licentia as a test case for the broader thesis advanced in this article: that justice and authority in the scholastic tradition are fundamentally relational and communicative. By analyzing the logic of corporate ownership, authorized use, and mediated governance, we uncover a sophisticated model of normative order that anticipates modern discussions of institutional authority and fiduciary responsibility.

The analysis proceeds in four stages. First, it reconstructs Babenstuber's account of monastic dominium and corporate representation. Second, it examines the vow of poverty as structural exclusion of independent dominion. Third, it analyzes licentia as a communicative act of authorization. Finally, it evaluates the role of the prelate as dispensator and the implications of this mediatory authority for the preservation of relational justice. Through this lens, what might seem a technical treatment of monastic property emerges as a systematic reflection on the limits of power, the nature of representation, and the conditions under which authority remains normatively coherent.

Monastic Dominion and Corporate Personality

In *Ethica supernaturalis Salisburgensis sive cursus theologiae moralis*, Tractatus VII, Disputatio III, Ludwig Babenstuber articulates a doctrine of religious property in which

dominium is neither abolished nor individualized but juridically relocated. The decisive thesis reads: *Quidquid acquirit Religiosus, Monasterium acquirit*¹⁵.

Ownership is attributed not to the individual religious but to the monastery as a corporate subject. In the case of inheritance, Babenstuber specifies: *Monasterium eatenus acquirit jus adendam haereditatem, quatenus tempore delatae haereditatis repraesentat Religiosum*¹⁶.

Representation (*repraesentatio*) functions here as the juridical bridge between individual capacity and corporate dominium. The monastery acts as a moral person capable of acquiring rights. This aligns with the late medieval development of corporate personality explored by Brian Tierney, who demonstrates that juristic notions of collective ownership and representation were fully elaborated before the early modern period¹⁷.

Babenstuber's position presupposes precisely this mature theory of corporate subjectivity. The religious does not hold independent proprietorship; rather, he participates in a relational structure of mediated acquisition.

Poverty as the Exclusion of Independent Dominion

Babenstuber defines religious poverty not as mere absence of goods but as absence of independent control: *Religiosam paupertatem capiat in hoc sitam esse, ut quis careat omni usu activo, & possessione rei temporalis independente à licentia Superioris*¹⁸.

Independence (*independenter à nutu Superioris*) is the decisive element. Proprietorship is implicitly defined as autonomous disposal. Where autonomy is removed, *proprietas* ceases. This reasoning resonates with Thomas Aquinas's distinction between use and dominion in *Summa Theologiae* II-II, q. 66, a. 2, where ownership is differentiated from the moral use of goods¹⁹. Aquinas allows for communal ordering of property while preserving moral accountability. James Gordley, in his historical analysis of the moral foundations of private law, notes that scholastic theories of ownership were inseparable from questions of moral authority and rightful control²⁰. Babenstuber's text confirms this integration: ownership is not a purely material condition but a normatively structured relation.

Licentia and the Communicative Structure of Authorization

Babenstuber distinguishes three forms of authorization: *Licentia potest esse triplex: expressa, tacita, & praesumpta*²¹. Tacit consent is grounded in the classical maxim: *Qui tacet, consentire videtur*²².

¹⁵ Ludovicus Babenstuber, *Ethica supernaturalis Salisburgensis sive cursus theologiae moralis*, Augsburg: Sumptibus Georgii Schluter and Martin Happach 1718, p. 599.

¹⁶ Ibid., 198.

¹⁷ Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law 1150-1625*, Grand Rapids, MI: Eerdmans, 1997, pp. 54-72.

¹⁸ Babenstuber, 599-600

¹⁹ Thomas Aquinas, *Summa Theologiae*, II-II, q. 66, a. 2.

²⁰ James Gordley, *The Philosophical Origins of Modern Contract Doctrine*, Cambridge: Cambridge University Press, 1991, pp. 46-63.

²¹ Babenstuber, 600.

²² Ibid.

Authorization therefore operates communicatively. Moral legitimacy arises from acknowledged relational structure, not mere possession. The absence of license transforms use into theft: *Committitur etiam peccatum furti, dum illa res ex bonis communitalis seu Monasterii furatur*²³.

Here justice is relational equilibrium. Violation occurs when structured dependence is bypassed. Annabel Brett has shown that early modern scholastic thought treated political and juridical authority as mediated and representative rather than absolute²⁴. Babenstuber's theory of *licentia* exemplifies this mediated authority: power operates through communicative authorization within institutional order.

The Prelate as Dispensator: Mediated, Not Proprietary Authority

Babenstuber insists: *Praelatus non est dominus bonorum communium, sed dispensator*²⁵. The prelate is administrator, not owner. Consequently: *Praelatus non potest ex bonis Monasterii facere donationes solo titulo liberalitatis*²⁶.

Authority is fiduciary. It must conform to prudence and communal utility: *Illud relinquendum est arbitrio prudentis, consideratis Religione, opulentia Monasterii...*²⁷.

John Finnis emphasizes that for Aquinas and his successors, authority derives from orientation to the common good rather than personal mastery²⁸. Babenstuber's prelate is precisely such an authority: representative, limited, accountable.

This also reflects Suarez's account of jurisdiction in *De Legibus*, where legislative authority is defined as rational ordinance for the common good enacted by one who has care of the community²⁹. The prelate's power is structurally analogous.

Relational Justice and the Preservation of Normative Order

Across these sections, a coherent ontology emerges:

- Dominium is corporate, not individual.
- Poverty excludes independent disposal.
- Authorization is communicative.
- Violation is relational disruption.
- Authority is mediated, not absolute.

Justice thus appears as maintenance of structured relational order. This structure anticipates the broader scholastic conviction that rights are relational claims embedded within communal order, a development traced historically by Tierney and Brett³⁰.

²³ Ibid. 601.

²⁴ Annabel S. Brett, *Changes of State: Nature and the Limits of the City in Early Modern Natural Law*, Princeton: Princeton University Press, 2011, pp. 82-110.

²⁵ Babenstuber, 604.

²⁶ Ibid.

²⁷ Ibid., 606.

²⁸ John Finnis, *Aquinas: Moral, Political, and Legal Theory*, Oxford: Oxford University Press, 1998, pp. 227-245.

²⁹ Francisco Suárez, *De Legibus ac Deo Legislatore*, lib. I, cap. 12.

³⁰ Tierney, *The Idea of Natural Rights*, 189-214; Brett, *Changes of State*, pp. 131-150.

Babenstuber's moral theology therefore stands not as an isolated casuistic exercise but as a mature articulation of relational justice within a corporate ecclesial framework.

Punitive Authority, Self-Execution, and the Relational Limits of Dominion

The previous chapters established two fundamental theses. First, justice in the scholastic tradition is structurally relational (*ad alterum*). Second, dominium is not an absolute metaphysical possession but a normatively mediated relation embedded within institutional order.

This section advances the argument by examining a limit case: whether punitive authority can be exercised by a subject upon himself. The question is not merely moral (is suicide permitted?) but structural: can justice, understood as a relational act of authority directed toward another, collapse into identity between judge and punished?

The problem emerges with particular clarity in seventeenth- and eighteenth-century moral theology. Ludwig Babenstuber, in *Ethica supernaturalis Salisburgensis sive cursus theologiae moralis*, Tractatus VII, when analyzing restitution and justice, presupposes that injustice creates an objective inequality requiring restoration³¹. This presupposes alterity: there must be a creditor and a debtor, a harmed and a responsible party.

Punishment as a Relational Act of Justice

Within the classical tradition of moral theology, punishment is not understood primarily as an expression of subjective indignation nor as a psychological consequence of guilt, but as an act embedded in the order of justice. Justice itself is defined by Thomas Aquinas as the constant and perpetual will to render to each his due, a definition that structurally presupposes alterity³². The phrase *unicuique suum* implies a differentiation between the one who owes and the one to whom something is owed. Justice cannot be reduced to an internal state of moral coherence; it requires relational asymmetry.

When Aquinas turns to restitution, he makes this relational structure even more explicit. Restitution is an act of justice because it restores equality between persons after injustice has produced inequality³³. The disturbance is objective, not merely psychological, and therefore demands an objective act capable of re-establishing proportion. Justice thus concerns real relations in the order of being, and restitution restores those relations by re-establishing equality.

Ludwig Babenstuber adopts this logic in *Theologia moralis universa*, where he insists that injustice creates a real inequality that endures until it is removed by restitution³⁴. While alternative accounts may interpret inequality primarily in normative terms - as a violation of a rule or right - the present analysis follows a Thomistic framework in which such inequality reflects a disturbance within an objective relational order. Restitution is not an optional supplement to repentance but an act of justice that reconstitutes relational equilibrium.

Punishment belongs to the same normative order. It presupposes the existence of a law, a community within which that law binds, and a competent authority capable of acting in

³¹ Babenstuber, pp. 566-570.

³² Thomas Aquinas, *Summa Theologiae*, II-II, q. 61, a. 1, in: *Summa Theologica*, trans. Fathers of the English Dominican Province, vol. 3, Benziger Brothers, New York 1947, pp. 1463-1465.

³³ Ibid., II-II, q. 62, a. 1-2, pp. 1471-1473.

³⁴ Babenstuber, 566-570.

the name of the common good. In this sense, punishment is not reducible to inflicted suffering; it is a public act confirming that the normative structure has not been annulled by transgression. The sanction manifests the continuing authority of the legal and moral order.

The communicative dimension of punishment clarifies this further. As John L. Austin demonstrated, certain utterances are performative; they do not merely describe reality but enact normative states of affairs³⁵. A judicial sentence pronounced by a competent authority does not report guilt; it constitutes a new juridical status. John Searle later explained that institutional facts depend upon collectively recognized role structures and rule-governed competencies³⁶. A judge's declaration has force only within an institutional matrix differentiating authority from subjection.

Read against this framework, punishment appears as a relational and institutional act whose intelligibility depends upon differentiated roles. If the differentiation between authority and offender collapses, the act loses its normative structure. Punishment, therefore, is not simply a moral reaction to wrongdoing; it is a relational act of justice enacted within an institutional order and directed toward another.

The Theological Limits of Dominion over Life

The question of punishment intersects with a deeper issue concerning dominion over life. In the scholastic and broader Christian moral tradition, human beings do not possess absolute dominion over their own existence. Life is understood as ultimately grounded in divine sovereignty. Aquinas affirms that man does not have authority to kill himself because life belongs to God as its ultimate source and end³⁷. The prohibition of suicide is thus not merely prudential but metaphysical: the human person is not absolute proprietor of his own being. While modern accounts of moral agency often ground responsibility in self-legislation and individual sovereignty, the present analysis follows a Thomistic framework in which such autonomy is not absolute but remains situated within a prior normative and relational order that limits dominion over life.

This limitation does not eliminate all forms of lethal force. The tradition allows for legitimate self-defense and, under strict conditions, for capital punishment exercised by public authority³⁸. Yet even here, the power to take life is not proprietary but jurisdictional. It derives from responsibility for the common good and must remain proportionate and necessary. John Paul II, in *Evangelium vitae*, reiterates that capital punishment may be justified only when it is the sole practicable means of defending society, and he stresses the growing moral consensus toward its restriction³⁹.

The distinction is crucial. Authority over life is not ownership in the private sense. It is a derivative, fiduciary competence exercised within a normative framework. The one who executes punishment does so not as a master disposing of property but as a minister acting on behalf of a public order. This logic parallels Babenstuber's treatment of ecclesial authority,

³⁵ John L. Austin, *How to Do Things with Words*, Oxford University Press, Oxford 1962, pp. 5-6, 98-100.

³⁶ John R. Searle, *The Construction of Social Reality*, Free Press, New York 1995, pp. 27-29, 43-46.

³⁷ Thomas Aquinas, *Summa Theologiae*, II-II, q. 64, a. 5, in: *Summa Theologica*, vol. 3, pp. 1502-1504.

³⁸ Ibid., II-II, q. 64, a. 7, pp. 1506-1508.

³⁹ John Paul II, *Evangelium vitae*, Vatican: Editrice Vaticana 1995, no. 56.

where the superior is described not as dominus but as dispensator. Authority is representative and limited, not absolute.

The theological limit of dominion thus preserves the relational structure of justice. Because life is not privately owned in an absolute sense, no individual can claim full proprietorship over its termination. Punitive authority, where legitimate, remains embedded in communal and institutional mediation.

The Modern Doctrine of Self-Ownership and Its Tensions

The modern doctrine of self-ownership introduces a radically different conceptual landscape. John Locke famously declared that every man has *property in his own person*⁴⁰. In the Polish edition of the *Two Treatises of Government*, this claim appears in Book II, §27, where Locke affirms that each individual has exclusive ownership over his body and labor⁴¹. From this premise, later libertarian thinkers developed an axiomatic conception of self-ownership. Murray Rothbard, for example, states that each person is the owner of his own person and therefore possesses exclusive control rights over his body⁴². This libertarian conception of self-ownership represents a distinct theoretical perspective, which the present article contrasts with the Thomistic understanding of relational justice.

This doctrine appears to ground autonomy in proprietary language. If the individual is absolute owner of himself, then authority over life would seem to follow from that ownership. Punishment could be interpreted as a form of self-disposal, and even self-execution might be conceptualized as an exercise of ultimate ownership rights.

Yet tensions quickly emerge. Critics have argued that self-ownership is conceptually unstable because ownership typically presupposes relations among distinct subjects. Kasper Lippert-Rasmussen, for instance, questions whether fact-insensitive ownership rights over one's body can be coherently maintained without collapsing into contradictions regarding equality and moral status⁴³. The language of property, when applied to the self, risks obscuring rather than clarifying normative relations.

From the standpoint of the relational ontology of justice, the difficulty is structural. Ownership is intelligible within a framework of mutual recognition and institutional order. If the self is both proprietor and object of proprietorship, relational asymmetry disappears. Justice becomes self-referential rather than relational. In such a configuration, the distinction between authority and subjection collapses, undermining the communicative and institutional structure that makes punishment meaningful as an act of justice.

Babenstuber's Rejection of Self-Execution as a Structural Impossibility

Within this broader framework, Babenstuber's position can be read not merely as a moral prohibition but as a structural judgment about the nature of justice. In his analysis of restitution, he repeatedly emphasizes that injustice generates an objective inequality that

⁴⁰ John Locke, *Two Treatises of Government*, II, §27.

⁴¹ John Locke, *Dwa traktaty o rządzie*, trans. Z. Rau, Warszawa: PWN 1992, pp. 181-182.

⁴² Murray N. Rothbard, *The Ethics of Liberty*, New York: University Press 1998, p. 41.

⁴³ Kasper Lippert-Rasmussen, "Against Self-Ownership: There Are No Fact-Insensitive Ownership Rights over One's Body," *Philosophy and Public Affairs* 36 (2008), pp. 86-118.

persists until restored⁴⁴. The obligation arises toward another; it cannot be dissolved by inward intention alone. This relational asymmetry underlies his entire account of justice.

If punitive justice belongs to the same normative order, it too requires differentiation between roles. A judge may impose a sentence because he acts within an institutional competence oriented toward the common good. The condemned, by contrast, stands as subject of that authority. If the condemned were to execute himself in fulfillment of a sentence, the structural asymmetry necessary for punishment would be nullified. The act would no longer be an institutional manifestation of justice but a private act of self-disposal.

Here the communicative analysis again proves illuminating. A judicial sentence is a performative institutional act; its meaning depends upon role differentiation and recognized authority⁴⁵. If the same individual occupies both roles simultaneously without mediation, the performative structure disintegrates. The sanction ceases to function as a public confirmation of normative order.

Babenstuber's rejection of self-execution thus reflects more than a condemnation of suicide. It expresses the conviction that justice is structurally relational and institutionally mediated. Punishment must remain an act directed toward another within a framework of recognized authority. When alterity disappears, justice collapses into private action, and the normative meaning of punishment dissolves.

In this way, the limit case of self-execution exposes the deeper architecture of scholastic justice. Authority is not ownership. Dominion is not absolute. Punishment is not private suffering but a relational act embedded in communal order. Where these structures are preserved, justice remains intelligible. Where they are erased, it ceases to be justice at all.

Authority, Public Meaning, and the Communicative Form of Sanction

The preceding chapters argued that punitive justice in post-Tridentine moral theology is structurally relational: it presupposes alterity, role differentiation, and an institutional locus of competence. They also showed that dominium is best read not as metaphysical possession but as a normatively mediated relation, the meaning of which is determined by the architecture of law, community, and office. Chapter III sharpened the argument through a limit case: the proposed collapse of punitive authority into identity (self-execution) and the consequent disintegration of the act's juridical form.

This section develops a further claim: punishment, precisely because it is an act of public authority, is also irreducibly communicative. It does not merely inflict, a deprivation; it states, authoritatively, what has occurred (wrongdoing), what follows (liability), and what is now the subject's new normative status (condemnation, penalty, restitutionary obligation). In this sense, punitive justice functions as a public "speech" of the community through the voice of office. The chapter therefore examines how scholastic models of authority and jurisdiction imply a communicative structure, and how that structure can be made explicit through modern accounts of institutional performativity. It then connects this to contemporary debates over authority, property, and life, where public discourse often re-casts moral limits as proprietary rights, and where the communicative framing of acts (including self-destructive acts) increasingly shapes their social meaning.

⁴⁴ Babenstuber, 566-570.

⁴⁵ Austin, 5-6, 98-100; Searle, 27-29, 43-46.

Finally, the section returns to the Babenstuber case study as a controlling example. If the sanctioning act is communicative and office-bound, then self-execution is not merely morally illicit; it is conceptually and institutionally incoherent, because it attempts to perform, in one and the same subject, the public speech of authority and the receptive position of the condemned.

Punitive authority as public office and institutional voice

Classical and early modern moral theology treats punishment as an act of jurisdiction: it belongs not to private agents as such, but to public authority acting for the common good. The internal logic of this position can be clarified by distinguishing *force* from *office*. Force is a capacity to cause effects; office is a socially and normatively constituted competence to act in a determinate role, according to publicly intelligible reasons. The right to punish, in this framework, is never a mere extension of physical power. It is the competence of a public person (*persona publica*) to make binding determinations within a community.

A central advantage of Finnis's reconstruction of the natural law tradition is that it makes this institutional structure analytically explicit. Authority is needed, he argues, because common action requires coordination that cannot be reduced to private judgment; authority supplies *binding determinatio* within a framework that is intelligible as law. In Finnis's architecture, the analysis of authority (chapter IX) and law's main features (chapter X) is inseparable from the claim that legal order settles disputes through institutions whose determinations are binding precisely as institutional acts, not as private preferences⁴⁶. This *bindingness* is not a mysterious moral aura; it is the publicly constituted meaning of acts performed by recognized roles within a system of rules.

The implication for punitive justice is immediate. Punishment is not simply harm added to wrongdoing. It is the public act by which the community's normative order reasserts itself against transgression. Even when punishment has a retributive aspect, it is not private retaliation; it is an act whose intelligibility presupposes institutional voice. The sentencing authority does not speak merely in its own name; it speaks in the name of law, and therefore in the name of a public order that transcends the private subjectivity of any individual office-holder.

This institutional logic is also visible in more recent Polish philosophical discussions of justice, even where the authors do not explicitly adopt a jurisprudential vocabulary. Karolak's attempt to articulate justice as *the sense of law* presupposes that law's sense is not reducible to individual conscience or private valuation, but is mediated through forms of objectivity that appear precisely in the public dimension of normative life⁴⁷. Likewise, Dominiak and Perlikowski emphasize that moral-political notions such as justice and rationality become socially intelligible only within communicative conditions that allow claims to be evaluated, contested, and stabilized⁴⁸. What emerges across these approaches is a shared intuition: justice is not an inward property, but a public relation that necessarily takes institutional and communicative form.

This brings the scholastic thesis into sharper focus. If punitive justice is structurally *ad alterum*, then its *otherness* is not only interpersonal (judge and offender are distinct), but also

⁴⁶ John Finnis, *Natural Law and Natural Rights*, 2nd ed., Oxford: Oxford University Press, 2011, pp. 231-233; 266-270.

⁴⁷ Stefan J. Karolak, *Sprawiedliwość. Sens prawa*, Kraków: Petrus, 2015, pp. 41-44; 189-193.

⁴⁸ Łukasz Dominiak, Łukasz Perlikowski, *Sprawiedliwość - tożsamość - racjonalność. Debata nad teorią sprawiedliwości*, Toruń: Wydawnictwo Adam Marsza, pp. 96-109.

institutional (the judge's act is an office-act, a public determination). The authority to punish is thus not a possession but a constituted competence, and the sanction is not merely an event but a meaning-bearing act within a public order.

The sentence as performative act: sanction, declaration, and normative status

Once punishment is understood as office-act, it becomes clear why sanction is intrinsically communicative. A judicial sentence does not merely describe facts; it performs a transformation in normative status. It is here that modern speech-act theory becomes a useful conceptual aid. Austin's foundational insight is that certain utterances are performatives: in saying something under appropriate conventions, one does something. The act is not exhausted by its propositional content; it depends on felicity conditions - recognized roles, accepted procedures, and appropriate circumstances⁴⁹. In Austin's own examples, explicit performatives such as *I order you...* display how authority is embedded in linguistic form; the utterance functions as an act only because it is issued from a position recognized as competent to generate obligations⁵⁰.

This is not a foreign overlay upon scholastic moral theology; rather, it names what scholastic authors presuppose whenever they speak of law, sentence, obligation, and jurisdiction. The sentence is an authoritative declaration that binds because it is issued within a system of roles and norms. It does not merely *report* guilt; it institutes a juridical consequence. That consequence can include liability to penalty, obligation to restitution, loss of standing, or exclusion from certain communal goods. All of these are social realities whose existence is inseparable from the public communicative act by which they are declared.

Finnis's jurisprudential analysis again clarifies the point. A legal system, he argues, differs fundamentally from a discretionary regime because its norms guide both institutions and subjects, and because the system claims authority to regulate conduct and settle disputes by binding determinations⁵¹. These binding determinations are, in effect, public speech acts; they create legal and moral positions by declaring them within recognized procedures. That is why unjust punishment is not simply *too much suffering*; it is a defective public act that misuses office, and thereby corrupts the communicative integrity of law's voice.

Polish work on justice and the communicative constitution of social meaning makes the same structure visible from a different angle. Dominiak and Perlikowski, when discussing rationality and community, foreground the dependence of normativity upon communicative conditions of mutual recognition and contestability⁵². A sanction that cannot be publicly justified, publicly heard, and publicly recognized as an office-act risks collapsing into sheer domination, because it no longer functions as communicative confirmation of a shared normative order.

This is the decisive conceptual bridge to the Babenstuber problem. If sentence and sanction are communicative acts of office, then the coherence of punishment depends not only on the separation between offender and judge, but also on the stability of role differentiation that makes the sentence intelligible as a public act. A sanction enacted without that differentiation is not merely morally suspicious; it is structurally deformed, because the performative conditions of the act are undermined.

⁴⁹ J. L. Austin, *How to Do Things with Words*, Oxford: Clarendon Press, 1962, pp. 5-6 (on *performative utterances* and felicity condit).

⁵⁰ Austin, 32-24.

⁵¹ Finnis, *Natural Law and Natural Rights*, 2nd ed., 2011, pp. 266-270.

⁵² *Ibid.*, pp. 143-146.

Dominion, life, and the modern re-coding of limits as property

The communicative structure of punitive justice becomes particularly contested in modern discourse when authority over life is re-described in the idiom of property. Contemporary debates often translate moral limits into proprietary rights: autonomy is framed as ownership, and moral prohibitions are treated as restrictions upon self-disposal. This shift is not merely semantic; it re-codes the meaning of authority, responsibility, and legitimacy.

A significant feature of Piotrowski's analysis of social encyclicals is that it reconstructs a Catholic defense of private property that is neither socialist nor libertarian: property is affirmed, yet placed within a normative horizon that includes the common good, justice, and the ethical orientation of economic activity⁵³. The encyclical tradition, as Piotrowski presents it, treats ownership not as absolute dominion but as a right whose sense is determined by its relation to human dignity and communal order. This is directly relevant to the present argument. When dominion is interpreted as absolute property, it tends to dissolve the relational and fiduciary structure that makes authority intelligible. When dominion is interpreted as a mediated competence within order, it preserves the conceptual space in which office-acts - including punitive acts, can be justified as public responsibility rather than private mastery.

Here the early modern scholastic insistence on jurisdictional competence rather than proprietary power becomes newly legible. Babenstuber's treatment of justice and restitution is a sustained attempt to show that wrongdoing creates an objective inequality that endures until restored, and that this restoration is owed to another, not merely to one's own conscience⁵⁴. The same logic applies to punishment, insofar as it is a public act ordered to restoring normative order. To re-cast the right over life as absolute self-property is therefore to risk erasing precisely the relational asymmetry that makes justice - especially punitive justice, conceptually coherent.

Modern communicative conditions intensify this risk, because public narratives can transform moral realities by framing them as rights-claims or as symbolic acts. For example, an act of self-harm may be publicly framed as an expression of autonomy or protest, thereby transforming a structurally private act into a socially meaningful claim. In such cases, media narratives can implicitly attribute normative weight to the act, pressuring institutions to respond as if it carried public authority. This illustrates how communicative mediation can blur the boundary between private agency and public normativity. The meaning of acts, including destructive acts, becomes increasingly mediated through discourse, media representation, and social reception. In this environment, the distinction between *private decision* and *public act* becomes unstable. A self-destructive act may be narrated as autonomous self-ownership, or as protest, or as sacrificial gesture; and these narratives can pressure institutional actors to treat what is structurally private as if it carried public normative authority.

This is precisely why the communicative account of sanction matters. If punishment is a public speech of law, then it requires clear boundaries between private action and office-act. Where those boundaries blur, coercion can be romanticized as authenticity, or moral limits can be portrayed as unjust repression. The scholastic insistence on role differentiation becomes, under modern communicative conditions, not a merely technical claim but a safeguard against conceptual confusion that can have grave ethical and political consequences.

Babenstuber revisited: self-execution and the collapse of performative conditions

⁵³ Paweł Piotrowski, "Praca i przedsiębiorczość w wybranych encyklikach papieskich od Leona XIII do Jana Pawła II," *Homo et Societas* 6/2021, Kraków (2021), 158-172, esp. pp. 158-160.

⁵⁴ Babenstuber, pp. 566-570.

Against the background of authority as office-act and sanction as performative declaration, Babenstuber's rejection of self-execution can be stated in its strongest form. The problem is not exhausted by the moral evaluation of suicide. Rather, self-execution attempts to collapse the structural and performative conditions that constitute punishment as an act of justice.

Babenstuber's own starting point is the objectivity of injustice: wrongdoing generates a real inequality that persists until it is removed by restitution⁵⁵. Such inequality presupposes alterity. There is a creditor and a debtor, the harmed and the responsible, the community and the offender. The obligation is irreducibly *toward another*. Once this is granted, punitive justice cannot be redescribed as a private act of self-disposal without changing its kind. The condemned who kills himself does not enact a public sentence; he performs a private act, whatever its psychological motives may be.

If, however, punishment is an institutional speech act, then self-execution becomes not merely morally forbidden but structurally unintelligible as punishment. The sentence is a performative act whose felicity conditions include role differentiation: a competent authority must declare, and the subject must receive the declaration as binding. Austin's analysis makes the logic plain: performatives misfire when conventional procedures, roles, or circumstances are absent⁵⁶. A sentence that *orders* the condemned to execute himself removes precisely the role differentiation that makes the utterance a public act rather than a private counsel. The condemned is made simultaneously executor and executed, agent of public authority and object of sanction, and thereby the act loses the form of punishment as a public manifestation of justice.

Finnis's account of binding determinations helps locate the institutional failure. A legal and moral order claims authority precisely by providing binding determinations through institutions; when the act is re-localized into the private will of the condemned, the institutional *voice* of law is replaced by self-disposal⁵⁷. Even if the condemned intends to comply with authority, the act's public meaning is transformed, because the community no longer speaks through office; the individual speaks through self-termination.

This is the deepest reason why Babenstuber's argument functions as a revealing test case for the relational ontology of justice. It shows that punitive justice is not a quantity of suffering added to guilt, but a structured public act that depends upon alterity, office, and communicative form. Where these conditions are preserved, punishment can function - however imperfectly, as juridical restoration of order. Where they are erased, the act ceases to be punishment in the strict sense and becomes a private event, incapable of bearing the public normative meaning that belongs to justice.

The argument of Chapter IV has shown that punitive justice, when properly understood, is not reducible either to inflicted harm or to private moral reaction. It is a structured public act grounded in office, institutional mediation, and communicative form. Authority does not operate as proprietary domination; it functions as fiduciary competence exercised within a normative order oriented toward the common good. The sentence is therefore not a mere description of wrongdoing but a performative declaration that re-articulates communal norms in response to their violation.

This reconstruction carries decisive implications for the central thesis of the study. If justice is relational in its metaphysical grounding and communicative in its juridical expression, then alterity is not an accidental feature but the structural condition of normative intelligibility. The

⁵⁵ Ibid., pp. 573-578.

⁵⁶ Austin, pp. 14-16 (on *misfires* and defective perfor).

⁵⁷ Finnis, pp. 231-233; 266-270.

differentiation between authority and subject, between office and private will, between public declaration and personal act, constitutes the very form of punitive justice. Where this differentiation collapses, justice does not simply become defective; it ceases to be justice in the strict sense.

The case of self-execution, examined through Babenstuber's analysis, has functioned as a diagnostic test for this structure. It revealed that the impossibility of self-execution as punishment does not arise solely from a moral prohibition of suicide, but from the structural incoherence that results when the communicative and institutional conditions of sanction are dissolved. The public voice of law cannot be internalized into private self-disposal without destroying the performative architecture that gives punishment its juridical meaning.

Chapter V will extend this insight by integrating the relational and communicative dimensions of justice into a broader theological and philosophical account of authority. It will examine how the categories of alteritas, office, and public speech converge in the concept of sanction, and how this convergence illuminates both early modern moral theology and contemporary debates on legitimacy, coercion, and moral accountability. In doing so, it will argue that the scholastic tradition offers not merely historical doctrine but a conceptual framework capable of clarifying modern tensions surrounding autonomy, sovereignty, and the limits of punitive power.

Restitution, Credibility, and Communicative Justice: From Scholastic *Actus Iustitiae* to Contemporary Public Reason

The previous chapters argued that justice in the scholastic tradition is structurally relational (*ad alterum*) and that dominium should be read not as an absolute metaphysical possession, but as a normatively mediated relation sustained within institutional order. Chapter 5. draws these two theses into a single focal question that is simultaneously theological, philosophical, and communicative: how does justice restore a damaged relational order in a way that is publicly intelligible, socially credible, and normatively binding?

In contemporary discourse, the repair of moral injury is often described in the vocabulary of *trust*, *credibility*, *reputation*, and *restorative practices*. Contemporary legal scholarship on defamation increasingly highlights how digital communication environments amplify reputational harm by enabling rapid, wide-scale dissemination, algorithmic visibility, and the persistence of injurious content across platforms. Unlike traditional contexts, where reputational harm was more localized and temporally bounded, online defamation acquires a cumulative and enduring character, shaped by searchability, repetition, and networked circulation. As Daniel J. Solove has argued, digital information practices create enduring and widely accessible records that significantly transform the conditions under which reputational judgments are formed.⁵⁸ Moreover, digital environments intensify the scale and impact of reputational harm through amplification dynamics, anonymity, and the architecture of platforms. Danielle Keats Citron has shown that online harassment and defamation can produce sustained reputational damage that not only affects individual dignity but also restricts participation in public discourse.⁵⁹ This transformation complicates the distinction between private injury and public harm, as reputational damage becomes embedded within communicative structures that mediate social recognition. As a result, harm to reputation cannot be adequately understood merely as an individual loss but must be interpreted as a disturbance of relational standing within a publicly mediated normative order. Contemporary legal analyses increasingly emphasize that factors such as persistence, accessibility, and

⁵⁸ Daniel J. Solove, *The Future of Reputation: Gossip, Rumor, and Privacy on the Internet*, New Haven: Yale University Press, 2007, pp. 5-30.

⁵⁹ Danielle Keats Citron, *Hate Crimes in Cyberspace*, Cambridge, MA: Harvard University Press, 2014, pp. 3-15.

scale of dissemination are not incidental but constitutive of reputational harm in the digital age.⁶⁰

Yet, as the uploaded study on Babenstuber already demonstrates, the post-Tridentine tradition possesses an internal conceptual grammar that anticipates precisely this communicative dimension. Restitution is not only a private moral correction; it is a public act that reconstitutes the standing of persons within a community by removing an objective inequality created by injustice. In that sense, restitution is a paradigmatic case of what may be called communicative justice: an act that does not merely signify amendment but performs it by restoring the relation that injustice had distorted⁶¹.

The chapter proceeds synthetically, but with philosophical and theological depth. It first reconstructs restitution as a communicative act within scholastic justice. It then clarifies the distinction between representative authority and private disposal, showing why moral repair cannot be reduced to narrative or sentiment without collapsing into domination or *mere talk*. Finally, it places the scholastic model in a careful dialogue with modern accounts of public normativity and credibility, using open-access scholarly literature where pagination can be verified.

Restitution as communicative act: justice that *speaks* through deed

The central scholastic premise is stark: wrongdoing creates not merely guilt *inside* the agent but an objective disorder *between* persons. The obligation of restitution therefore does not arise from subjective feeling; it arises from the structure of justice itself. The uploaded study on Babenstuber formulates this with particular clarity: *restitutio* is presented as an *actus iustitiae* whose purpose is to abolish the objective inequality produced by an unjust act, and this requirement does not depend on social recognition or the perpetrator's private assessment⁶². What matters is the real asymmetry created by injustice - something taken, damaged, withheld, or reputationally violated, and the corresponding necessity of repair. It should be noted that certain liberal free speech traditions, particularly in the Anglo-American context, tend to prioritize freedom of expression over the protection of reputation, treating reputational harm as a secondary concern. From the perspective adopted here, however, such approaches risk obscuring the relational and normative dimensions of reputational injury by reducing it to a merely individual or expressive conflict.

In this logic, restitution is inherently communicative, not because it is *messaging*, but because it re-establishes a shareable normative reality. Restitution communicates to the community that the violated norm has been acknowledged as binding, the breach has been named as a breach, and the relational order has been restored as far as possible. The study explicitly states that restitution *speaks* to the community in this manner: it signifies recognition of the norm, the naming of the violation, and the restoration of order; and it insists on the distinction between inward contrition and the objective abolition of injustice, arguing that the former without the latter remains morally and socially incomplete⁶³.

⁶⁰ Lyrissa Barnett Lidsky, "Silencing John Doe: Defamation and Discourse in Cyberspace," *Duke Law Journal* 49, no. 4 (2000): 855-945.

⁶¹ Paweł Piotrowski, "Przywracanie wiarygodności jako akt komunikacyjny. Tractatus VII Ludwika Babenstuber OSB wobec współczesnych teorii reputacji i public relations", *Homo et Societas*, Vol. 10, pp. 139-156.

⁶² *Ibid.*

⁶³ *Ibid.* 142-156.

This scholastic structure also clarifies why restitution is not merely an *add-on* to repentance. Where injustice persists as an objective inequality, the moral order remains fractured regardless of internal dispositions. That is why the tradition formulates the classical maxim (attributed within the medieval penitential tradition) that sin is not remitted unless what has been taken is restored; and the uploaded study anchors this principle in Aquinas' treatment of restitution, citing the English Dominican translation with precise pagination⁶⁴. In short: justice is not completed by interior sincerity alone. Justice is completed when the relational imbalance is removed by an act proportionate to the harm.

Once this premise is in view, the communicative character of restitution becomes philosophically legible. J. L. Austin's analysis of performative utterances offers a conceptual analogy: there are acts whose meaning is not exhausted by description, because the act itself brings about a normative status - provided the institutional and procedural conditions are satisfied. In Austin's account, the *happiness* of such acts depends on role-appropriateness, correct procedure, and the existence of an accepted conventional framework; when those conditions fail, the act misfires⁶⁵. Restitution in the scholastic framework functions comparably, though in a different register: it is an act that aims to *bring about* the re-equalization of persons by an objective deed, and it misfires when it is merely verbal, merely symbolic, or institutionally evasive. Its credibility is not psychological. It is normative.

This is why the chapter's core claim can be stated sharply: restitution is the form of moral action in which justice becomes publicly readable without becoming theatrical. The deed is not a substitute for speech; rather, it is the condition that makes speech credible. Where injustice is objective, repair must also be objective, or the community is left only with narrative - precisely the situation in which communicative space becomes vulnerable to manipulation, domination, and reputational *management* detached from truth.

Theological conditions of moral repair: life, office, and the non-proprietary structure of authority

A theological account is necessary here, because the scholastic framework presupposes that not all goods are subject to private disposal in the same manner. The chapters on dominium and punitive authority have already shown that authority is not identical with ownership: it is representative, fiduciary, and bounded by the common good. Chapter V adds a complementary point: moral repair presupposes a moral ontology in which certain forms of control over persons (especially over life, reputation, and communal standing) cannot be construed as purely private property without distorting the nature of justice.

This is one reason the Babenstuber material is so important for the article as a whole. In the uploaded study, Babenstuber is presented as developing a rigorously normed and operational account of commutative justice, insisting that justice concerns concrete persons and goods, and that every violation generates a demand for repair that is not discretionary⁶⁶.

If reputation can be harmed objectively, then its repair is not merely *image work*. It is the reconstitution of standing within a shared social world. In simpler terms, the argument is that harm to reputation is not merely about how someone feels or is perceived, but about a real

⁶⁴ Thomas Aquinas, *Summa Theologiae*, II-II, q. 62, a. 2, ad 1, in *Summa Theologica*, trans. Fathers of the English Dominican Province, vol. 3 (New York: Benziger Brothers, 1947), p. 1473, cited in Piotrowski, "Przywracanie wiarygodności...", p. 146-148.

⁶⁵ J. L. Austin, *How to Do Things with Words* (excerpted lectures), pp. 58-61 (on felicity conditions and *infelicities*, including role-appropriateness and procedural correctness).

⁶⁶ Piotrowski, 139-155.

change in their standing within a shared social and normative order. Repairing such harm, therefore, requires more than symbolic gestures or statements; it involves restoring the disrupted relation. For example, if a person is publicly accused of misconduct, the harm lies not only in subjective offense but in the loss of trust and credibility within a community. Even if the accusation is later withdrawn, the damage persists unless there is a public act that restores the person's standing - such as a formal retraction or institutional acknowledgment of wrongdoing.

The theological point is not a mere doctrinal ornament; it safeguards the relational logic of justice against two reductions that are pervasive in modernity. The first reduction is privatization: the idea that moral repair is fundamentally an inward change (sincerity, therapy, intention) whose outward form is optional. The scholastic claim rejects this: objective injustice requires objective repair. The second reduction is managerialization: the idea that repair is fundamentally a matter of controlling perceptions. The uploaded study directly resists this by emphasizing that credibility is rebuilt not by declarations alone but by real, proportionate acts that reduce the effects of the wrong⁶⁷.

To see why this matters for authority, it is helpful to recover a further historical point from contemporary legal scholarship. Charles J. Reid Jr., writing on the canonistic contribution to the Western rights tradition, shows that medieval canonists employed a sophisticated rights vocabulary earlier than many modern genealogies assume, and he frames this vocabulary in explicitly relational terms, shaped by institutional contexts and role-defined entitlements⁶⁸. This supports the deeper thesis: normativity becomes stable and publicly intelligible when it is mediated by recognized roles and procedures rather than collapsing into private assertion. This claim does not deny the possibility of moral wrongs outside institutional frameworks, but argues that their stable recognition and public intelligibility depend on socially mediated structures. Moral repair belongs to the same architecture. It requires a framework in which the wrong and its remedy can be publicly identified as wrong and remedy, not merely as competing self-descriptions.

This is also the point at which the communication accent is not optional but structurally necessary. A community is not repaired by silence, nor by rhetoric detached from repair, but by acts whose meaning can be recognized as repair. If authority is representative and justice is relational, then moral repair is necessarily *addressed* to others - even when it is not verbally performed. Restitution is a public act in the strict sense that it reorders what is public: the relation between persons as members of a shared normative world.

Modern credibility, public reason, and the limits of *mere narrative*

The contemporary significance of this scholastic structure becomes especially visible when one considers how credibility operates in modern societies. Credibility is not merely a private opinion about a speaker; it is a socially distributed judgment that depends on publicly accessible reasons and, crucially, on the alignment between claims and acts. The uploaded study's thesis can therefore be restated in a form suitable for interdisciplinary readers: acts of repair function as communicative acts with the highest persuasive force because they instantiate the norm rather than merely describing adherence to it⁶⁹.

⁶⁷ Ibid.

⁶⁸ Charles J. Reid Jr., "The Canonistic Contribution to the Western Rights Tradition: An Historical Inquiry," *Boston College Law Review* 33 (1991): pp. 37-41.

⁶⁹ Piotrowski, 142-156.

Austin's framework helps clarify why credibility cannot be reduced to sincerity. A promise can be *infelicitous* not because it is false in the descriptive sense, but because it is a misuse or abuse of a recognized procedure; conversely, a performative act can be formally achieved yet morally defective when uttered without the requisite seriousness or intention⁷⁰. In the domain of moral repair, this means that a verbal apology or public statement may be formally intelligible yet fail to restore trust when the community perceives it as an *abuse* of communicative form - speech that aims at reputational effect without normative cost.

At the same time, modern discourse contains a strong counter-pressure: the language of self-ownership and private control encourages the idea that one's moral standing can be *managed* as one manages property. The critical literature on self-ownership shows why this is conceptually unstable. In his philosophical discussion of self-ownership, Kasper Lippert-Rasmussen highlights tensions in treating the person as both owner and owned, especially when ownership language is expected to generate robust moral conclusions without smuggling in further premises about equality, status, and recognition⁷¹. In this framework, moral repair is no longer understood as restoring a relation between persons, but as an internal or strategic act of self-management. As a result, the relational asymmetry that grounds justice is obscured, and responsibility risks being reduced to private control rather than publicly accountable action. This critique aligns with the scholastic intuition, though from a different direction: normativity is not well explained when it is reduced to proprietary control of the self. Justice is not self-referential ownership; it is relational order.

The communicative implication is decisive. If moral repair is reduced to private control - whether therapeutic interiority or reputational strategy, then justice loses the structure that makes it publicly binding. Restitution, by contrast, preserves public normativity precisely by being costly, proportionate, and addressed to the relational harm. This is why the uploaded study can plausibly describe Babenstuber's Tractatus VII as a prefiguration of modern reputation models only under a strict condition: that *reputation management* is not treated as impression management, but as norm-guided restoration in which deed precedes word and justice becomes a condition of durable communication⁷².

In that sense, Chapter V completes a bridge that the article has been building from the beginning. Scholastic justice provides more than historical curiosity. It supplies a conceptual criterion: credibility is not produced by speech alone; it is produced when speech is warranted by acts that restore objective disorder. The criterion is at once theological (because it presupposes a moral order not reducible to private ownership), philosophical (because it clarifies the structure of normativity as relational and role-mediated), and communicative (because it shows that repair is publicly readable only when it is publicly real).

The scholastic account of restitution, especially as reconstructed through Babenstuber's Tractatus VII, yields a rigorous model of communicative justice. Injustice creates an objective inequality that does not vanish through inward intention, narrative coherence, or reputational technique. Repair must therefore be objective, proportionate, and relationally addressed. This is why restitution functions as a communicative act in the strong sense: it does not merely express repentance; it performs the reconstitution of normative order.

The sections contribution is to show that the communicative dimension of justice is not an external *application* imposed by modern theory. It is already implicit in the scholastic structure once justice is taken seriously as *ad alterum*, once authority is understood as representative rather than proprietary, and once moral repair is treated as the removal of objective disorder

⁷⁰ Austun, 58-61.

⁷¹ Lippert-Rasmussen, 86-88.

⁷² Piotrowski, 139-156.

rather than the management of perception. In that way, the scholastic tradition can illuminate a central vulnerability of contemporary public life: where communication is detached from repair, credibility becomes a commodity; where repair precedes and grounds communication, credibility becomes a social achievement sustained by justice.

Conclusion

The foregoing analysis has argued that post-Tridentine moral theology, when read with structural precision, offers a robust relational ontology of justice whose contemporary relevance is considerable. Justice, in this framework, is neither self-referential moral coherence nor discretionary imposition of force. It is a normatively constituted relation ordered *ad alterum*, enacted through differentiated roles, and sustained by institutional competence. Its punitive and restitutive forms are intelligible only within a communicative architecture in which authority speaks through office and obligation arises toward another.

The reconstruction of dominium in Babenstuber's moral theology has shown that ownership is not an absolute metaphysical control but a juridically mediated participation within corporate and communal order. Authority, whether over goods or over persons, is fiduciary and representative, not proprietary. This insight provides the conceptual foundation for understanding why punitive justice cannot collapse into private self-disposal without destroying its own form. The case of self-execution revealed that the impossibility of such an act is not grounded solely in a prohibition of suicide, but in the structural disintegration of the performative and relational conditions that constitute punishment as justice.

The communicative dimension of sanction, clarified through dialogue with speech-act theory and jurisprudential analysis, has made explicit what scholastic authors presupposed: a judicial sentence is not merely descriptive but constitutive. It creates normative status within a recognized institutional framework. When unjustly exercised, punishment is not simply excessive suffering; it is a corrupted public act that misuses office and fractures the communicative integrity of law's voice.

The final movement of the article extended this relational-communicative structure to the problem of restitution and credibility. Injustice produces objective inequality; therefore, restoration must likewise be objective and proportionate. Restitution is not theatrical signalling but the removal of real disorder. Only where repair precedes and grounds speech does communication regain normative force. In this respect, the scholastic account anticipates contemporary concerns about trust, legitimacy, and public reason: credibility is not manufactured by narrative control but achieved through justice enacted.

The cumulative argument therefore yields a coherent synthesis. Justice is relational in its metaphysical grounding, institutional in its juridical form, and communicative in its public expression. Authority is not ownership; dominion is not absolute; sanction is not private suffering; and moral repair is not mere rhetoric. Where alterity, office, and public meaning are preserved, justice remains intelligible and socially binding. Where these conditions are dissolved, authority degenerates into domination, and communication into manipulation.

The study thus proposes that early modern moral theology, far from being conceptually obsolete, offers a disciplined account of normative order capable of illuminating contemporary debates about autonomy, sovereignty, punishment, and credibility. By recovering justice as a structured act addressed to another within an institutional and communicative framework, it restores to moral theology and political philosophy alike a grammar of responsibility that resists both privatized autonomy and performative domination.



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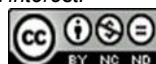
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Conflict of Interest Statement: The authors declare that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.



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