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# PICENUM SERAPHICUM

RIVISTA DI STUDI STORICI E FRANCESCANI

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ANNO XXXVII (2023)

NUOVA SERIE

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PROVINCIA PICENA "S. GIACOMO DELLA MARCA" DEI FRATI MINORI

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# PICENUM SERAPHICUM

## RIVISTA DI STUDI STORICI E FRANCESCANI

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Studi

# Measures of Faith. Forms and Sizes of Equilibrium from Augustine to the Franciscan Textuality

Paolo Evangelisti\*

## *Abstract*

Il cristianesimo è una religione monoteista, basata sulla teologia della redenzione e chi segue questa religione deve dimostrare di essere un fedele credente, cogliendo le ragioni e i modi che gli permettono di entrare nella comunità dei redenti. I testi patristici, avendo questo obiettivo, definiscono le nuove forme di vita sociale. L'identità cristiana, la sua etica economica, si declinano nel "laboratorio" terrestre dell'amministrazione e della calcolabilità, permettendo la conquista delle dimensioni cognitive, razionali e operative. L'analisi si basa sull'esegesi iconografica dell'Epifania, su alcuni passi agostiniani e sulla *Regula Pastoralis* di Gregorio Magno. Considerando queste fonti antiche, la doppia e più famosa conquista analitica francescana dei secoli XIII-XIV - il concetto di *latitudo* e quello di *aequalitas* applicato alla formazione dei prezzi -, appare in tutta la sua importanza storica. L'attenzione non si concentra sulle note opere francescane (Olivi e Scoto), ma su due importanti testi precedenti, redatti da Matteo di Acquasparta e Riccardo di Middletown, in cui si discute dell'atto economico umano nel mercato. Nei loro testi emerge una concezione flessibile dell'equilibrio del profitto, una sorta di utile contabilizzabile, raggiunta tra i mercanti intesi come comunità civica e cristiana, in definitiva come corpo politico.

The Christianity is a monotheistic religion, based on redemptive theology. Whosoever chooses this *religio* has to demonstrate to be a faithful believer

\* This contribution is related to the research project "Identidades colectivas y solidaridades de grupo en la baja edad media" - Ministerio de investigación España PID2022-13657NB - I00.

grasping the reasons and the ways that allow him to enter into the community of the redeemed. Patristic texts, having this goal, define the new forms of social life. The Christian identity, its economic ethics, are declined in the terrestrial hothouse of the administration and calculability, allowing the further conquering of cognitive, rational and operational dimensions. The analysis is based on the iconographical exegesis of the Epiphany, some Augustinian passages and Gregory the Great's *Regula Pastoralis*. Considering these ancient sources the double, most famous Franciscan analytical conquest of 13th-14th centuries - the concept of *latitudo* (extent) and that of the calculable *aequalitas* (equivalence) applied to price formation -, appears in entirely its historical importance. The focus is not on the well-known Franciscan works (Olivi and Scotus), but on two important previous texts prepared by Matthew of Acquasparta and Richard of Middletown, where they discuss the human economic act in the markets. In their texts arises a plastic conception of the profitable equilibrium, a kind of countable utility achieved among the merchants taken as a civic and Christian community, ultimately as a body politic.

1. « *The holiness of Christian man consists in his full capacity of sizing and estimating*»<sup>1</sup>

Vide enim si non iustus est: "Dimitte, et dimitto"; da, et do. Vide si non iustus est: "In qua mensura mensi fueritis, in ea remetietur vobis". Ad hoc enim: "In qua mensura": non enim mensura eiusdem generis est; sed ad hoc eadem mensura: Ignosce, et ignosco. Est apud te mensura veniae dandae; invenies apud me mensuram veniae accipiendae: est apud te mensura tribuendi quod habes; invenies apud me mensuram accipiendi quod non habes. (Augustine, *Enarrationes in Psalmos* 143,8)

The statute of Christianity, as a monotheistic religion with its specific and exclusive identity, is based on redemptive theology. Anybody who converts to this *religio* has to demonstrate the belief in this theology, what it is to be a true and faithful believer (*fidelis*) having well understood the soteriological meaning of redemption, grasping the reasons and the ways that allow each man and each woman to enter into the community of the redeemed. Three main examples are well known: the condemnation of

<sup>1</sup> Augustine, *De Doctrina Christiana*, I.27.28 in Id., *L'istruzione cristiana*, a cura di M. Simonetti, Roma 2000, p. 50.

Simon the Magician (Acts 8, 9-25), the death punishment of Ananias and Sapphira by Peter (Acts 5, 1-11), the Apostolic administration of the common goods in the early-Christian community (Acts 4,32-35)<sup>2</sup>. This original form of the new religion – that will triumph over some centuries on the two shores of the Mediterranean sea, that will permeate the institutions of command and administration of the former Roman East as well as the Europe of the future - has to be assumed in its entire meaning, in its historical, political and theological readings.

A huge number of iconographic and textual sources attests to this conceptual mould of Christian identity. Here we examine only three examples, all of these based and well represented by two conceptual figures: the quantity and the extent. Figures that play a central role in each of them.

### 1.1 *The First Theophany of the Child-Redeemer*

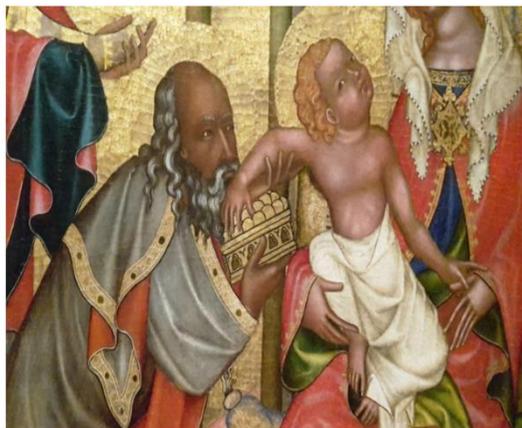
The first one is an iconographic citation that remains one of the most characteristic and well known throughout the centuries: the representation of the first theophany of the Child-Redeemer, renewed every year on the liturgical day of Epiphany, but continuously testified by the images painted or sculpted on the walls of the churches (fig. 1). Here Jesus, after he was noticed only by the shepherds, appears for the first time in front of the world as he who verifies the faith of the three Gentile governors and the solidity of their conversion (*conversio*), by a powerful image. An image that has a communicational function and a concrete didactical purpose. Jesus tests the faith of the king who takes off his crown before the Child, verifying through the quality of the gold coins the first king offers him. By forcing the only evangelical verset that tells this episode – «And when they [Magi] were come into the house, they saw the young child with Mary his mother ... and when they had opened their treasures, they presented unto him gifts; gold, and

<sup>2</sup> One can see the long-lasting function of these versets, primarily Acts 5, 1-11 and 8, 9-25, in Jean Calvin, *Déclaration pour maintenir la vraie foi que tiennent tous Chrétiens de la Trinité des personnes en un seul Dieu*, in Id., *Oeuvres*, eds. F. Higman, B. Roussel, Paris 2009, pp. 900-901 and p. 914; for the latter versets: Jean Calvin, *Institution de la religion chrétienne*, IV, modern French transl. M. de Védrières, P. Wells, Aix en Provence - Charols 2009, p. 948.

frankincense, and myrrh»<sup>3</sup> –, the iconography of Jesus Christ represents him as a shrewd child who has to evaluate not a precious object, a block of gold, but an important though imprecise figure of gold coins presented to him as evidence of faith.



Queen Mary's Psalter, 1310-1320  
British Library - Royal 2 B VII f. 112v



Višší Brod altarpiece, Prague, ca. 1350  
Prague, National Museum

Fig. 1

It is in that way that the king demonstrates and declares the value of his conversion by putting it in the hands of Christ. Furthermore, Jesus chooses this event to show himself to the world, linking himself to the project of the conversion of the world. It is a plan that springs up in open polemics with whom, even if they have seen the signs of his birth and know the Scriptures, have not perceived him and will not follow

<sup>3</sup> «Et intrantes [Magi] domum invenerunt puerum cum Maria matre eius et procedentes adoraverunt eum et apertis thesauris suis obtulerunt et munera aurum tus et murrām»; Matt. 2,11 (Latin texts: *Biblia Sacra Vulgata*; English texts: *King's James Bible*, standard version in <<https://www.kingjamesbibleonline.org>>).

him<sup>4</sup>. It is interesting to notice that the construction of this iconography, comes from patristic texts as well as from the Matthew's Apocryphal Evangel, written around 9-10th c. It is in one verset of this Evangel that each of the three Magi gives a golden coin to Christ, meanwhile one of these will give some gold as an individual present to the Saviour<sup>5</sup>. This verset, used by Roswitha (*Historia nativitatis ... Dei Genitricis*) and then in the famous *Legenda aurea* of Jacopo da Varagine, was finally popularized by the 18th chapter of the *Liber de trium regum corporibus Coloniae translatis* written around the middle of the 14th century by John of Hildesheim. In that chapter we can read that «Melchiar presented to Jesus thirty golden coins (*denarii*) and a golden apple as large as will grip entirely it in one hand»<sup>6</sup>. Epiphany is all of this: in iconographic representations, in visual translations of the patristic exegesis that reads this theophany in different ways. One of these is the first representation and revelation of the Church embodied by Mary and Christ receiving the monetary gifts, appreciating and valuing them, and then placing them in their poor dwelling<sup>7</sup>. However, all of these sources read the gold coins, the symbol and price of the faith, as coins that are not refused by the Child Redeemer, showing to the world how his poor condition does not prevent him from appreciating, verifying and carefully keeping that gift<sup>8</sup>. So, the Magi's tribute – the triple homage to the royalty (gold), sacerdoce (incense) and sacrifice (myrrh) of Christ – it's a recognition that

<sup>4</sup> One of the most clear example is in a series of Augustinian Homelies: the 199 *In Epiphania Domini, sermones* pp. 200-204 and p. 373; <<http://www.augustinus.it/latino/discorsi/index2.htm>>.

<sup>5</sup> *Pseudo-Matthew's Evangel, XVI, 2; Libri de nativitate Mariae: Pseudo-Matthaei Evangelium, textus et commentarius*, ed. J. Gijssels, Turnhout 1997.

<sup>6</sup> *The three King of Cologne*, ed. C. Horstmann, Millwood, N.Y 1975 (1<sup>st</sup> pub. London 1886).

<sup>7</sup> «Magi [entering] ... ad domum in qua Christus est id est ad catholicam ecclesiam perveniunt in qua intrantes per fidem inveniunt Christum cum matre sua, id est, ecclesia»; *Glossa ordinaria*, in *Bibliorum Sacrorum cum Glossa Ordinaria ... Tomus quintus*, Venice 1603, p. 63a.

<sup>8</sup> One of the most important text, coming from Franciscan and pauperistic reading of Jesus-Child visited by the Magi, is Iohannes De Caulibus, *Meditaciones Vite Christi, olim S. Bonaventurae attributae*, ed. M. Stallings-Taney, **Errore. L'origine riferimento non è stata trovata.** Turnhout 1997, pp. 42-43; S. McNamer, *The Origins of Meditationes Vitae Christi*, «Speculum», 84 (2009), pp. 905-955.

celebrates these kind of abilities of Christ since his childhood, since his first public revelation<sup>9</sup>. It's a long-lasting exegesis impregnated with a lot of institutional and political meanings that has to be kept in mind because it remains in this form during all the medieval period and it will also be re-proposed in the Reform Fathers works between 16th and 17th centuries<sup>10</sup>.

## 1.2 *Augustinian Exegesis and its Roots*

The second citation is an evangelical verset (Luke 19,8) restated by Augustine to a Roman officer, Macedonius: «Behold, Lord, the half of my goods I give to the poor; and if somebody was defrauded by me, [if I have taken anything from any man by false accusation] I repay him fourfold»<sup>11</sup>. So, Augustine replays with this evangelical verset, to the question posed by a specific institutional subject upon a precise matter: how to provide the administrative acts with Ethics. The bishop offers Macedonius the figure of Zacchaeus, a rich contractor, a tax collector converted by Christ, not only to comfort him about the hearty welcome received by the rich, but to provide him with a right praxis evangelically founded. An ortho-praxis based on a specific evaluation, calculation and re-functionalization of wealth. A good Christian rich man has to have the capacity to calculate and understand the value of his wealth and needs to know the difference between possessing goods and distributing them. The property of Zacchaeus, with the help and the *placet* of Christ, is figured, becomes calculable, it is furnished by a model rationality: makes 100 the entire property of the newly rich, redeemed and faithful, the 50% lasted in his hands. The other 50% will put in circulation, entering in a

<sup>9</sup> The “standard” exegesis of kingship of Christ is in the *reportatio* of Aquinas’ Commentary: «Per aurum enim potest signari sapientia [...] Sed dicendum quod aliquid mystice hic pretenditur, et potius ista ad tria referentur, quae offerre debemus sc. Fidem, actione et contemplationem. Quantum ad fidem dupliciter: primo quantum ad ea, quae in Christo concurrunt. Scilicet regia dignitas [...] et ideo in tributum obtulerunt aurum»; Thomas Aquinas, *Comment to Matthew* in Petrus de Andria, *reportatio* in <<http://www.corpusthomisticum.org/cma01.html>>.

<sup>10</sup> See: P. Evangelisti, *La balanza de la soberanía. Moneda, poder y ciudadanía en Europa (ss. XIV - XVIII)*, Barcelona 2015, pp. 249-70.

<sup>11</sup> Augustine, *Epistola 153*, in <<http://www.augustinus.it/latino/lettere/index2.htm>>.

virtuous and fruitful circuit, because it will be designated to the Christian community, to whom, as Christian followers (*fideles*), can use this portion of wealth. But there is more. From the 50% remaining in Zacchaeus' hands it includes the resources designated to rectify each contractual damage done or potential. This balance between damage (*laesio*) and compensation – this restoration of the social and juridical equilibrium presented as a duty and as a real possibility – will be achieved by the application of a rate of 400% as a monetary multiplier. In this way, after the encounter with the Redeemer, after Zacchaeus's conversion, his property results not only countable, calculable, but clearly extensible, caught in its potentiality it is also countable. That is the meaning, the overall outcome of Zacchaeus' conversion. That is the precise value of the Christian pedagogy that Augustine extracts from the evangelical Luke's verset transmitting to the imperial officer who has at his disposition a new model of ethics in administrative conduct. In this text, as well as in Greek patristic and in monastic normative texts, to which contributes the same Augustine, the Christian economic ethics are not declined in the heavens of celestial virtues, but they are forged in the terrestrial hothouse of the administration and calculability (fig. 2).

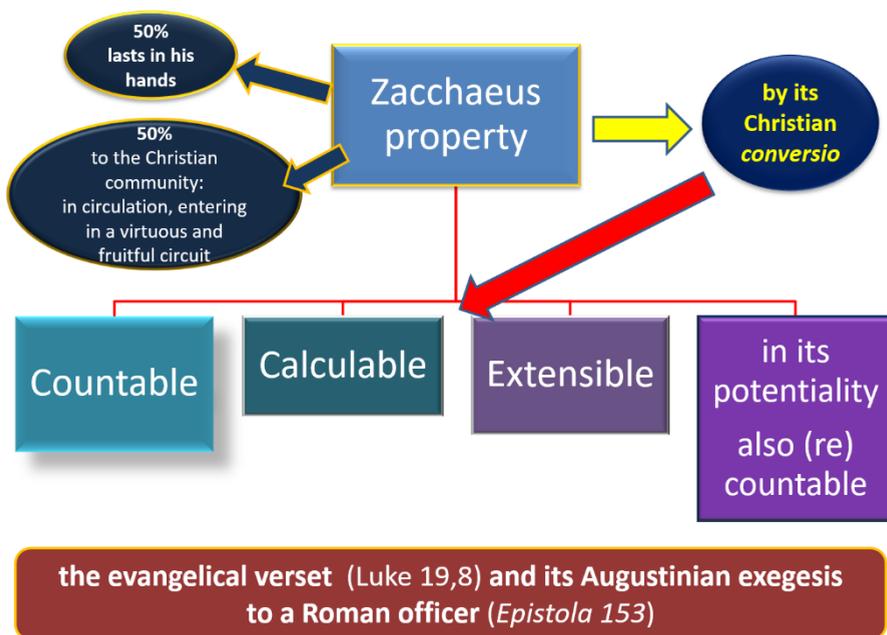


Fig. 2

The tools available in that forge, subsumed and re-functionalized by the patristic and by the same normative texts of early Christian centuries, define the new forms of social life founded on an economic and administrative organization, allow the further conquering of cognitive, rational and operational dimensions.

It's enough to mention, to stay in the same social, cultural and theological context, a Pauline citation re-thought by Augustinian exegesis. It's a verset coming from the epistle that directs us to the prosperous and commercial city of Ephesus and a comparison between the divine wealth and the finiteness of riches belonging to men who do not convert themselves to the new *religio*. Paul - when addressing the Christian community of that flourishing port metropolis, populated by who every day crossed its commercial spaces, who use scales, steelyards and coins – affirms that «the unthinkable wealth of Christ» can and will be appreciated, in its whole extension, only by those who are united in the Christian bond of charity (*caritas*): a term and a value that define the love and the power of Christ. In fact – Paul continues - these true Christians will be able to know and experience «what is the breadth and length and depth and height of the *caritas*», and, likewise, the grace «of Christ» that starts by recognizing themselves together, by the unity coming from that friendly and proactive social bond:

I Paul [ ... ] If ye have heard of the dispensation of the grace of God which is given me to you-ward [ ... ] That Christ may dwell in your hearts by faith; that ye, being rooted and grounded in love, May be able to comprehend with all saints what *is* the breadth, and length, and depth, and height And to know the love of Christ, which passeth knowledge, that ye might be filled with all the fulness of God. Now unto him that is able to do exceeding abundantly above all that we ask or think, according to the power that worketh in us (Ego Paulus [ ... ] si tamen audistis dispensationem gratiae Dei quae data est mihi in vobis [ ... ] ut det vobis secundum divitias gloriae suae virtute corroborari per Spiritum eius in interiore homine habitare Christum per fides in cordibus vestris in caritate radicati et fundati ut possitis comprehendere cum omnibus sanctis *quae sit* latitudo et longitudo et sublimitas et profundum scire etiam supereminentem scientiae caritatem Christi ut impleamini in omnem plenitudinem Dei. Ei autem qui potens est omnia facere superhabundanter quam petimus aut intellegimus secundum virtutem quae operatur in nobis)<sup>12</sup>.

<sup>12</sup> Eph. 3,1 and 3,17-21; as is well known the epistle to Ephesians is considered one of the deuteropauline epistles; italics is mine.

That is the first Pauline approach enhances the ability to understand the extent of the *charitas* (charity) as a dimension of the achievable opportunities among Christians, translated and implemented by Augustine in a specific skill: the ability to understand the value and the use of precious metals and money<sup>13</sup>. The strong intertwined connection among these two founding texts of Christian identity insists on a crucial conceptual operation. Such as was made by Clement of Alexandria between the 2nd and 3rd centuries where the Christian identity could be caught in the knowledge of the measure, it could be defined in the ability to capture the value of scales with which every human action can be appreciated, in the present and in the potentialities:

The man who is truly and nobly rich, then, is he who is rich in virtues and able to use every fortune in a holy and faithful manner ... We must not then fling away the riches that are of benefit to our neighbours as well as ourselves. For they are called possessions because they are things possessed, and wealth because they are to be welcomed and because they have been prepared by God for the welfare of men. Indeed, they lie at hand and are put at our disposal as a sort of material and as instrument to be well used by those who know. An instrument, if you use it with artistic skill, is a thing of art [a craftsman's masterpiece] but if you are lacking in skill, it reaps the benefit of your unmusical nature, though not itself responsible. Wealth too is an instrument of the same kind. You can use rightly; it ministers the righteousness. But if one use it wrongly, it is found to be minister of wrong<sup>14</sup>.

Likewise, in his *De doctrina christiana*, Augustine defines the Christian essence as the ability to measure everything: «Ille autem iuste et sancte vivit, qui rerum integer aestimator est»<sup>15</sup>. The holiness and righteousness of Christian man consist in his full capacity of sizing and estimating.

<sup>13</sup> Augustine, *Sermo 70*, in <<http://www.augustinus.it/latino/discorsi/index2.htm>>. In Augustinian texts the use of the *magnitudines*, associated with the *amor* – as tools to understand the equilibrium between the one and three Persons of the Trinity, that is the basis of Christian theological identity – is in Augustine, *La Trinità*, eds. G. Catapano, B. Cillerai, Milano 2013, XV.23.43, p. 982; it is fundamental to see his *De Doctrina Christiana*, II.46.62 in Augustine, *L'istruzione cristiana*, cit., p. 166.

<sup>14</sup> Clement of Alexandria, *The rich man's salvation*, ed. and transl. G.W. Butterworth, Cambridge Mass. - London 1982, respectively ch. 19 and 14, p. 309, p. 299 (Greek text, p. 308, p. 298); the words in brackets are mine.

<sup>15</sup> Augustine, *L'istruzione cristiana*, cit., I.27.28, p. 50.

It's a permanent feature of the Greek as well as Latin patristic thought that will be easily detected in subsequent texts such as the works of Salvianus de Marseille<sup>16</sup> (401/405 – 451 ca.) or in these, well known, written by Gregorius the Great (540 –604).

### 1.3 *Gregorius the Great and his Regula Pastoralis*

In this context it's enough to examine the determining chapters III.20-22 of the Gregorian *Regula Pastoralis* preceded by the fundamental considerations we read in the preliminary part of the work (II.2 and II.7). In the *Regula* – a key text that was read and studied along Carolingian and Scholastic periods, a book on which every bishop had to swear when he assumed his dignity, as Hincmar of Reims tells us<sup>17</sup> – the ability to measure and to evaluate is well analyzed in relationship with the administration of human and material resources. In this direction we can find some relevant examples in passages that are strictly connected with the Pauline and Augustinian citations mentioned above, to be able to locate a direct contact between the two Latin Church Fathers in a passage about the crucial exegesis of the *agraphon* «Sudet eleemosyna in manu tua», «Alms sweat in your hand»<sup>18</sup>.

However in the Gregorian pedagogy prepared for the good *Episcopus*, in the construction of his pastoral and governmental status, the Pope underlines the superiority of the administrative calculation. Since the second chapter of the Rule, devoted to defining the life-style of the good

<sup>16</sup> Salvien de Marseille, *Les livres de Timothée a l'Église (Ad ecclesiam or Adversus avaritiam)*, in Id., *Oeuvres*, ed. G. Lagarrigue, Paris 1971, I.138-345; among the most important passages see: III.10.41; II.2.8; II.12.54-55.

<sup>17</sup> The text, immediately translated into Greek by the will of Emperor Mauritius, was introduced in Spain by Leandro, bishop of Sevilla. It arrived in Britain in the 7th century and was translated in 9th century for King Alfred the Great, who ordered that «a copy» be sent «to every bishopric in my kingdoms»; *King Alfred's West-Saxon Version of Gregory's Pastoral Care*, ed. H. Sweet, London 1871, p. 8. It arrived in Germany in the 8th century brought by Wynfrith (Boniface). The *Regula* was declared a textbook for the training of bishops in a number of Carolingian French councils (e.g. Council of Frankfurt in 794, Tours in 813).

<sup>18</sup> Augustine, *Enarrationes in Psalmos* 146,17; *Ibid.* 102,12 in <[http://www.augustinus.it/latino/esposizioni\\_salmi/index2.htm](http://www.augustinus.it/latino/esposizioni_salmi/index2.htm)>, and Gregory the Great, *Regula pastoralis*, éd. F. Romme, Paris 1992, 2, III.20, pp. 282-292.

bishop, it means his adequate prerequisites, comes out the importance of the rational analysis. The pontifical text, indeed, affirmed the approach to every kind of reality, to everything and every human event must only be guided by reason («*sola ratio costringat*»). Gregory counter poses the reasonable reason to the upsetting and uncontrollable influence of sentiments using the verset of Exodus 28,15 («And thou shalt make the breastplate of judgment with cunning work; after the work of the ephod thou shalt make it; *of gold, of blue, and of purple, and of scarlet, and of fine twined linen, shalt thou make it*»). He comments on the crucial Biblical passage, implied in the construction of the sacred status of the Levite priest, here subsumed as founding reference for the Christian *presbiter-episcopus*. It is a passage that recalls a typical ceremonial clothing of that sacerdotal caste, the so called “*rationale* of the judgment” worn as breastpiece:

For this it is established by the divine word that the *rationale* of the judgment must adhere to the chest of Aaron, well tied with the laces (“*rationale iudicii viciis ligantibus*”). Because the heart of the priest must not be invaded by fluctuating thoughts but it will be compelled only by reason (*ratio*): the gaze of his thought must not scatter the unsuitable and worthless things (“*non indiscretum vel inutile cogit*”).

Indeed «He who is established as an example for the others must ever demonstrate and show ... the quantity of reason he has in his chest (“*quantam in pectore rationem portet*”)<sup>19</sup>. The ability to evaluate, to weigh and to measure cases, men and goods appears as a specific feature of these early chapters of the Rule, and, at the same time, it is presented as a resource for the bishop’s administrative activity. This ability, recalled by the icon of the sacred parament that entirely envelops the propulsive, energetic and willful center of human actions - the chest of the priest - describes and precisely summarized the aptitude to discernment as well as the plea to get the mental equilibrium that is the basis of the ethical and driving tension presented in the whole work of Gregory.

It is in that framework that another passage, the exegesis of Ezekiel 44,20, finds its perfect coherence: «The priests’ heads must not be shaved, neither should they leave their hair to grow: they should have

<sup>19</sup> *Ibid.*, 1, II.2, pp. 176-180.

their hair short by cutting it»<sup>20</sup>. The concreteness and the power of that image, once more deriving from the ancient sacerdotal tradition, demonstrates its didactic force developing a dynamic and extensible concept based on the assimilation between the correct and measured behavior of the good bishop and the line that measures and appreciates the correct length of his hair, its real extension on his head. The hair, Gregory affirms, represents the portion of thoughts and attentions the consecrated man does not devote to his interior life but to the every-day and concrete life. The length of his hair is a direct measure of that attention, therefore it is unthinkable that a priest or a bishop, who lives for the community and in the community he administers, shaves his hair off. Alike, it is unthinkable that he has long hair. On the contrary, it is convenient and consistent that the bishops «shorten their hair by cutting it» showing and proving, by the care and attention to the length of their hair, the full awareness of their ministerial role, and of their duty as good administrators, as well as the ability to proportion this duty with the attention concerning their interior life. However, without hair, Gregory concludes, they should not be either priests nor bishops. «Tondentes tondeant capita sua»<sup>21</sup>, indeed, means the ability of appreciating and quantifying the material needs, the care we have to devote to it: «when the material life is protected by the practice of exterior providence [ ... ] it is in that time that the hair on the head of a priest is preserved to cover the skin at the same time cut, to avoid covering the eyes»<sup>22</sup>. If we consider these sentences paying attention to their rational lexicon we have to notice that it is based on the key mathematical concept: the refusal of zero as a measure of the balance in the analysis that has to precede the discrete action of the bishop. The refusal of the zero, as a figure, as the absolute value *par excellence*, typifies and qualifies the balance as well as the equanimity of the sacred Christian administrator. So, it is evident that balance and equivalence are not synonyms: a fact that, beyond the Gregorian text, is confirmed in a huge number of normative monastic texts, particularly in the interpretation of the versets 4, 32-35 of Acts of Apostles showing the administrative procedures used to rule the

<sup>20</sup> *Ibid.*, II.7, pp. 218-230.

<sup>21</sup> Ezek. 44,20.

<sup>22</sup> Gregory the Great, *Regula*, cit., II.7, p. 230.

early Christian communities. It could be chosen the *Praeceptum* passages written by Augustine, later reworded in the Benedictine Rule:

The principal reason that brings you here together is to live in unanimity in the home and to keep in your hearts the unity of one heart and one soul in God. Nobody says that something belongs to him (“non dicatis aliquis proprium”), but you must have all things in common (“sed sint vobis omnia communia”). So, the appointed superior, providing meals and clothing should portion not based on the equality of everybody, because you don’t have the same degree of holiness; rather he has to portion according to each one’s individual and different need (“non aequaliter omnibus, quia non aequaliter valetis omnes, sed potius unicuique sicut cuique opus fuerit”). So, indeed, we read in the Acts of Apostles: “They had all things in common and the distribution was made unto every man according to his need”<sup>23</sup>.

## 2. *The Christian Man in the Markets: the Calculable Equivalence in the Franciscan Texts*

If we consider all of these sources of evidence, dated between the 2nd and 6th centuries, all of these works by which the Christian texts assembly a true lexicon to measure and quantify the human economic and administrative actions, the double Franciscan analytical conquest of 13th and 14th centuries will appear in entirely its historical importance. This relates to the well-known concept of *latitudo* (extent) and to the notion of the calculable *aequalitas* (equivalence) formed in the period from Olivi to Scotus – two Franciscan scholars rightly well studied by the historiography that has extensively explored them. It’s enough to mention the early works of Todeschini and the further studies of Odd Langholm, Sylvain Piron and Joel Kaye<sup>24</sup>.

<sup>23</sup> *Praeceptum* I.2-3 in *La Règle de Saint Augustin*, ed. L. Verheijen, Paris 1967, p. 148. The stabilization of this model, that considers and analyzes the equilibrium, but it is not aim the absolute parity among the monks, is readable in the chapter 34 of the Benedictine Rule. There we can appreciate in whole its substance the seizing of hierarchy and the measure of levels that inspire the monastic rules.

<sup>24</sup> G. Todeschini, *Un trattato di economia politica francescana. Il “De emptioibus et venditionibus, de usuris, de restitutionibus” di Pietro di Giovanni Olivi*, Roma 1980; O. Langholm, *Economics in the medieval schools. Wealth, exchange, value, money and usury according to the Paris theological tradition, 1200-1350*, Leiden-New York-Köln 1992; Pierre de Jean Olivi, *Traité des*

What is to be brought to the attention in this second part is not an anachronistic juxtaposition of pages and passages separated by eight centuries of history. The aim is to provide a historical-comparative operation based on two precise facts. The first one rests on the language, it means on the evidence of a sharing Christian lexicon that links and matches different texts, that shows the premises of the late medieval implementations the works of Salvien de Marseille and Gregory the Great read. The second one rests on the transmission of these ancient texts. If we recall the textual tradition of the Pauline verset and his Augustinian exegesis analyzed above we can notice that they arriving into the centuries of Olivi and Scotus through their reception in three different textual typologies. The canonistic texts (*Decretum* 25, I, III; *Summa* of Simone da Bisignano, II, XXIV q. I, 20), the theological works covered from Peter Lombard to Thomas Aquinas (e.g. *Ila Ilae* q. 23. a.7; q. 24 a. 9; q. 32 a. 6), as well as through the most coeval discussion on contractual matters. A discussion permeated by Mendicant textuality exemplified by Matthew of Acquasparta, Richard of Middletown (Mediavilla) until Egidius of Lessines.

Departing from this extant framework we would like to draw attention to the relevance of these Mendicant texts that precede the *Treatise on contracts* by Peter of John Olivi and the well-known passages on the «*commutatio oeconomica negotiativa*» written by Duns Scotus after his Parisian lessons. The analysis is based on two texts strictly intertwined, written in the academic milieu of Paris between 1277 and 1285 by two Franciscan scholars: Matthew of Acquasparta and Richard of Middletown. The two Franciscan reference texts discuss the human economic act in the market parsing a specific contractual type: the purchase of rents remunerated by different movable goods and, especially, by money. Discussing this kind of contract requires a particular attention to be paid to their legitimacy, asking if it is licit for the buyer to offer the seller an immediate availability of money that, otherwise, he couldn't have from this resource. Ultimately, it means dealing with a specific form of credit based upon the *pecunia numerata*, the money in its countable form, as well as on the value that it can contain

*contracts*, ed. S. Piron, Paris 2012; J. Kaye, *A History of Balance 1250 – 1375. The emergence of a New Model of Equilibrium and its Impact on Thought*, Cambridge 2014.

and create. More broadly, it means confronting themselves with an analysis focused on the financial nature of a contractual market every day flourishing and spreading over a large number of European cities of the 13th century.

In order to understand the significance of these disputes, the specific content of contracts discussed in that century should be mentioned. In the *census emphyteutico*, the original and ancient form of these contracts, A offers the right of the usufruct coming from a portion of his property to a subject (B), monetizing this right in a sum that B could pay A monthly or annually. In the more developed contracts, the *surcens* in the *Île de France* or the *censal* in Catalonian countries, A transfers to B a right to have a sum every month or year having from B a capital. Usually, after two or four years, this right ends and B has to sell to A this right at the same price he paid A two or four years before. During 13th and 14th centuries a lot of *surcens* will not be granted by a real estate or any other goods. These contractual types increase their significance if we remember that over the same period they were used for financing the public debt. In the latter case, citizen A transfers to city B a sum of money and, in return for it, city B pays him a perpetual or annuity allowance. Even more complex, but largely used and parsed, is the sale of public bonds to a third subject (C) that has the right to cash the sum previously paid by city B to citizen A.

### 2.1 *Matthew of Acquasparta: the Quest for an Equivalence among the Contractors*

On these grounds, we can examine the most ancient text, the dispute of Matthew of Acquasparta.

In its extreme conciseness, the passage regarding the lawfulness of the purchase of annuity allowances («*utrum liceat emere redditus vel pensiones ad vitam*») catches the crucial point<sup>25</sup>. After having analyzed the *pro* and *contra* stances the purpose formulated by the Franciscan becomes definite in a *via media* between the opposite positions. It is not a dialectic *escamotage* or an intellectual shortcut. Matthew sustains the

<sup>25</sup> Matthew of Acquasparta, *Quodlibet* I, cap. IX, Todi, Biblioteca comunale, ms. 44, ff. 90rb-vb.

necessity to get the middle ground «sine preiudicio» without prejudices, departing from the full consciousness of the complexity of these contracts. Acts of buying and selling considered not as abstract juridical forms but as real human relationships involving different values and different subjects, mainly values and prices that cannot be established definitively. The future cardinal, coming to the *pars construens* of his *quaestio*, underlines the social value of this kind of contract as a general premise. Meanwhile, loan and deposit contracts are economic relationships where the profit regards only one side (the former is for the *accipiente*, the receiver, the latter is «pro dante», for the giver), the commodate, purchase and trade (*commutatio*) contracts benefit both sides, they are «pro utroque». The last three contracts assume a social relevance among the contractual subjects on the marketplace, having the ability to influence the nature of the relationship of the engaged subjects. Indeed, making the difference with the loan and deposit contracts, they produce earnings (*lucrum*) and usefulness (*utilitas*) for both parts. This kind of analysis is not entirely innovative. The juridical doctrine had achieved Matthew's point over the century preceding the Parisian *querelle* he was involved in. However, not to be underestimated is the precise hierarchizing and functionalization of these different forms of economic relationships that bestow an undeniable positive value to the practices he defines as «contractus pro utroque», exactly because they produce a real social growth in terms of profit and usefulness. From this extra-juridical point of view, it should also be noticed the treatment of the purchase of money with money, considered not a loan contract but a buying and selling contract. In this way, indeed, he puts these kinds of purchases in a safe place, excluded from the *vitium usurae* that pertains only to the loan contracts, but what is saved and cared for, with this conceptual operation, is a crucial economic relationship. An agreement validated because of the usefulness it produces for both the contractors, realizing or expanding a *concordia*, a harmony in the market of the financial practices that assure the circulation of money. Behind that *utroque* we can see a whole community practices and recognizes itself in lawful contractual forms, validated since they produce usefulness and earnings which are not solipsistic.

However, what is Matthew's reply about the possibility to validate the *aequalitas* of these contracts? Once it is established that the nature of rent

contracts is equated to the other purchase contracts where the objects of trade are simple goods, once it is established that they bring a mutual profit, it will be necessary to parse all the parameters that could guarantee two results: the equivalence (*aequalitas*) among the contractors and a just/fair compensation («*iusta compensatio*»). The principle of the fluctuation of value, therefore the justice of the negotiable price, is fully assumed by the Franciscan in as much the same *aequalitas* could be obtained «*prout possibile est*», «as far as possible». This equivalence is absorbed in the economic sphere depending on four well defined parameters: the uncertainty inherent to each contract looking to the future and assuming the time as a measure of its results; the proportion between the seller's age and the buyer's age; their health conditions; the proven loyalty of the two sides at the moment of drafting.

After the evidence of all the four parameters has been checked, the value of the purchase could be established, therefore, the price the buyer has to licitly pay to the seller in return for the annual rent, the latter complies with the former. The amount, the *aestimatio* of this price could not be considered excessive taking into account the parameters mentioned above as well as this excess that «must prove not to be particularly noteworthy» (*notabilis*). By the adoption of this complex procedure, that respects and seizes subjectivities and fluctuations as inherited variables of contracts, the equivalence (*aequalitas*) can be said «achieved and saved» (*servata*) «as far as possible». So, this system of equalization, whose goal is to gain «a certain equivalence» («*secundum quamdam aequalitatem*»), makes the evaluation of contractual lawfulness or unlawfulness possible. Furthermore, if we parse these passages from the perspective of the history of language, the crucial absence of two common syntagms should be noticed: «*turpis lucrum*» and «*pretium iustum*». Two typical terms of contractual analysis in canonistic and civil texts. Both of them are excluded from the argument and from the vocabulary used by the Franciscan precisely on a double account. This contract, in fact, is not a loan contract and it does not enter in the perimeter of medieval commutative justice, that is the simple arithmetic equivalence which is the principle argumentation of unlawfulness adopted by Henry of Ghent and a large number of other scholars. Alike,

this double lack demonstrates that the analysis offered by the «paupertatis evangelicae professores»<sup>26</sup>, the practitioners of voluntary poverty, allows an entire range of contracts to escape from a limiting civil law and conventions engaged to millimetrically size the evidence of two parameters: potential or actual damage («damnum emergens») and the ceasing of profit («lucrum cessante») <sup>27</sup>. It is thus confirmed that in economic space, considered and validated over the Middle Ages - especially in theological analyses devoted to financing contracts - we have a fold where the notion of usury as well as the canonistic and civil apparatus derived from it does not operate. This evidence requires a reconsideration of two stereotypes: the “Weberian” lecture about the origin of the Capitalist *Geist* as well as the role of the usury in the Christian Middle Ages proposed in the history of economic thought handbooks.

## 2.2 *Seizing the Profitable Equilibrium. Estimation and Compensation in Richard of Middleton*

Richard of Middleton (the other medieval form of Richard of Middletown), seven years after the text of his Master, came back to the same arguments with a much broader and systematic approach. Among the huge number of elements shared by these Franciscan texts, the common analytical perspective must be first underlined. The attention of both the friars is precisely the urgency to understand in which way

<sup>26</sup> This technical definition comes from a lot of mendicant and Franciscans texts: the most famous is Bonaventure, *Apologia pauperum*, in Id., *Opera Omnia*, Quaracchi (Firenze) 1898, 8, esp. 7.4 and 11.1, pp. 273-274 and pp. 310-311.

<sup>27</sup> The observations here proposed could be confronted with the theses emerging in some texts of legal history: C. Gamba, *Licita usura. Giuristi e moralisti tra Medioevo ed Età moderna*, Roma 2003 and M. Conetti, *Economia e diritto nel Trecento. La Repetitio di Niccolò Matarrelli sul tema dell'interesse*, Roma 2017, pp. 1-43, esp. pp. 1-8. About the texts parsing on these contracts, and more broadly on the issue of contracts and pacts: P. Grossi, *Il dominio e le cose. Percezioni medievali e moderne dei diritti reali*, Milano 1992; R. Volante, *Il sistema contrattuale del diritto comune classico*, Milano 2001; Id., *Il mutuo nel diritto comune. Il problema del valore finanziario dai glossatori a Pothier*, Napoli 2012. For the canonistic texts: O. Condorelli, *Sul contributo dei canonisti alla definizione del concetto di interesse. Frammenti di ricerca (metà sec. XII – metà sec. XIII)*, in *Der Einfluss der Kanonistik auf die Europäische Rechtskultur*, eds. D. von Mayenburg et al., Köln, Weimar, Wien 2016, pp. 23-60.

different forms of allowances purchased by sellers and buyers could stay on the marketplace. In fact, the debate centered on the *aequalitas* of rent contracts results organically inserted in a *quaestio* of his *Quodlibet* opening by a first general *propositum*: «scilicet» – says Richard – «quomodo mercationes iustae ... lucrativae sunt»<sup>28</sup>. As we can see, the perspective is explicit as well as factual. He situates the commerce of rent contracts in the general fold of purchase contracts tracing the headings could bringing them into a just and correct way of trading («iustitia in mercatare»). He speaks of an achievable equilibrium that measures and sizes the lucrative results for both contractors. However, the Franciscan affirms, this trading justice is fully achieved even in the case of a good sale at a price higher than the price achievable in a local market, that is when goods are sold in a market where the scarcity considerably increases its value. Therefore, on this premise, as well as in the development of its *quaestio*, what is examined is the potential gain. As we have read in Matthew's *Quodlibet I* the analysis departs from this horizon discussing the utilities of rents, the potential profit of the seller who ceases, for a while or forever, one of his properties in return for a certain sum of money and that of the buyer who obtains, for the present and for the future, an income that could be considerably higher than the sum paid at the moment of the contractual draft. This analysis focuses on the utility both the sides can obtain in multidimensional space of time and its changing economic variables that go with the whole contractual duration.

It is another important statement connecting this *quaestio* with that of his Master. Since the opening of the first chapter, indeed, Richard attributes a particular positive value to all human actions devoted to realizing a mutual aid («subvenire sibi invicem»). A duty of mutual subsistence in which he includes these contracts. Concluding them has an ethical obligation that demonstrates the vitality, the specific theological declination assumed in the 13th century by Christian charity (*caritas*) we met in the Pauline-Augustinian textual stretch as well as in the Gregorian analysis dedicated to the qualities of the perfect bishop. This duty of mutual aid, this legitimization founded on charitable grounds is

<sup>28</sup> Richard of Middleton *Secundi Quodlibeti, quaestio XXIII*, in Id., *Super quatuor libros sententiarum ... quaestiones*, Brescia 1590, IV, *Quodlibeta*, pp. 65a-71b.

not affirmed by a general Philanthropic formula: it is proposed as a task for all merchant subjects, for the holder of these specific contracts considered essential: «ad usum vitae humanae necessariis»<sup>29</sup>. It will also be observed that this charitable framework, presented as an ethical and civic pressure, qualifying the merchant actors, it is not merely a declaration. This particular commitment to help and to mutually supply (*subventio*), is investigated in each of its dimensions, as the ancient notion of Christian *charitas* was presented to early Christians. The core of Richard’s analysis, in fact, is to understand in which ways, along which scales the *aequalitas* could be saved in these contracts. The verification is not limited to the observance of the principles of the natural right or that of the canonistic doctrine. Surely – affirms the *magister* – they have to be respected but the correct equality, the *aequitas*, that «must be observed between seller and buyer according to the truth of the natural right» has its specific extension because «it has a significant width» he defines *magna latitudo*: «*aequitas* [ ... ] debet observari inter vendentem et ementem secundum veritatem iuris naturalis in magna latitudine consistit». The economic fact of trading (*mercatio*), a complex action where the sale is only the conclusive point of the process, has to acknowledge that a space exists, or better a line, along which the justice of price, and the best equivalence could be achievable (fig. 3).



the geometrical language adopted by Richard and then from Scotus - *latitudo* along which the *aequitas* could be achievable - cancels the arithmetical language based on the point (one figure) that represents the *iustum pretium* =  $x \pm modica additio / deminutio$

Fig. 3

As we can see it is a shift in perspective that emerges in the geometrical language adopted by Richard. In the same years, in fact, Thomas Aquinas and Henry of Ghent, among many others, insisted on the concept of specific point representing the «iustum pretium», that must be precisely established and from which it could deviate only for a «modica additio» or *minutio*, that is a fraction, still considered in any case an infraction to the divine law. Moving away from this perspective, Richard introduces an alternative, setting up the concept of *large width*, a kind of “fitting latitude” translatable by a French word: *fourchette*. It is a concept that will be largely developed by Olivi, Scotus and Guiral Ot in their analyses centered on the structures and the logic of transactions in the market they were drafted in or, simply, discussed.

More broadly, the *magister* reading of economic activities and, more precisely, its financing aspects, is a recognition of the human and subjective nature of these relationships. However, the Friar defines them as neither natural nor solidary, but properly contractual: «All men, according to what is rightly established by Nature, must aid each other in their contracts» («Omnes homines secundum rectum dictamen naturae debent subvenire sibi invicem in contractibus suis») <sup>30</sup>. The trade relationship, in its substance a mutual aid inherent in the human nature and necessary to relieve human needs, reveals its significance by demonstrating the indissoluble link between reciprocity and contractual activities. In this context what is called in question is not a simple «dictamen naturae», a vague natural prescription, but the «rectus dictamen naturae» that is the ground of duty to mutual help, the «subventio inter homines». A principle that needs its proper relational grammar that, firstly, has to be defined, then recognized and observed within the Christian community.

From this perspective it should be considered the greater affinities among Richard’s text and the reflections written about fifteen years later, by *Doctor Subtilis* devoted to «commutatio oeconomica negotiativa». That is the analysis of human activities exclusively dedicated to gain profit, not the exchange to assure the subsistence level. The chapter, indeed, opens with this sentence:

<sup>30</sup> Richard of Middleton, *Secundi Quodlibeti, Quaestio XXIII*, cit., p. 65b.

What follows are mercantile deals where the one making the exchange intend to do business with the thing he acquires, because he buys not for his own use but to sell it and that for higher price; and these negotiations are called monetary or lucrative (“Sequitur de commutatione negotiativa, ubi commutans intendit mercari de re quam accipit quia emit non utatur, sed ut vendat, et hoc carius est; et haec negotiativa dicitur pecuniaria vel lucrative”)<sup>31</sup>.

It will see that Scotus, exactly to explain how the large width functions, the *magna latitudo* along which it could be established the price of all goods and contracts, uses a specific charitable key catching the profound meaning of the contractual aid (*subventio*) invoked by Richard. Moreover, in his text, and in this specific analytical context, this duty is evoked by using the evangelical command of love (Luke 6,31) and the similar terms enshrined in the law of nature, known as “golden rule”, as well as in the *Didachè*, the early Christian normative text<sup>32</sup>.

For whom are involved in transactions, sometimes, it is difficult to manage the contracts if each trader does not intend to set aside something of that exact or indivisible point of equivalence between good and good, so that to some extent a donation accompanies every contract. That is the manner of trading based, as it were, upon the law of nature saying: “Do to another as you would wish to be done to you”. According to this principle, that is when the traders achieve a mutual satisfaction (“pensata mutua necessitate”), they will also be willing to remit that missing portion [*i.e.* to waive the difference] in order to get the prescribed justice. (“Durum est enim inter homines esse contractus in quibus contrahentes non intendant aliquid de illa indivisibili iustitia remittere sibi mutuo, ut pro tanto omnem contractum concomitetur aliqua donatio. Et si iste est modus commutantium, quasi fundatus super illud legis naturae: ‘Hoc facias alii, quod tibi vis fieri’ satis probabile est quod quando sunt mutuo

<sup>31</sup> Ioannes Duns Scotus, *In IV Sententiarum*, dist. XV, q. 2, in Id., *Opera omnia*, studio et cura Commissionis Scotisticae, Civitas Vaticana 2011, 13, pp. 75-113, here, p. 95.

<sup>32</sup> The verset of Luke’s gospel is: «And as ye would that men should do to you, do ye also to them likewise»; the article of *Didachè* (II.1) establishes: «And all things whatsoever thou wouldest not have befall thyself neither do thou unto another»; the Greek version is in *Constitutiones Apostolorum*, ed. P. A. de Lagarde Osnabruck 1966 (1<sup>st</sup> pub. Leipzig-London 1862); see also *Constitutions Apostoliques*, ed. M. Metzger, Paris 1985-1987. For the texts written before and outside monotheistic religions, namely Hebrew and Christian tradition: J. Piper, *Love your enemies. Jesus’ love command in the synoptic gospels and early christian paraenesis*, Cambridge, New York, New Rochelle, Melbourne, Sydney 1979, esp. pp. 19-27.

contenti mutuo volunt sibi remittere, si secundum aliquid deficient ab ista iustitia requisita”<sup>33</sup>.

Scotus’ passage - inserted in the text where the requirement of figures, the need of a scale are continuously remarked upon, being the core of his analysis - constitutes a further demonstration of how the Franciscan textuality pertains to Christian tradition and Christian identity where implementations and slippages take shape along centuries<sup>34</sup>. However, the Franciscan ability to make more and more pervasive the reading keys on the mechanisms of price formation, on equalizing procedures as well as the utility of scales has a specific quality and depth<sup>35</sup>.

Based on this framework, we can examine two main issues largely discussed in Richard’s *quaestio*. The first one is his market concept, specifically its notion of interrelated balance achievable in the markets. The second one is the deepening of the «noteworthy damage» notion, specified in his Latin formula «daesio notabilis».

Regarding, and summarizing, the first point: Richard affirms the full liceity of a higher price is based on a double reason. From one side, he calculates the net profit gained from selling after the deduction of expenditures and risks sustained by the merchant, following a quite steady canonistic norm. To the other he argues that an effective equivalence will be achieved if a merchant buys commodity A at one

<sup>33</sup> Ioannes Duns Scotus, *In IV Sententiarum*, dist. XV, q. 2, cit. pp. 89-90. The analysis is concluded with a fundamental note on the value and the measure of money: «Consimilis conclusio omnino est de iustitia in emptione et venditione, quia ita ibi oportet ex una parte considerare numisma sicut hic rem permutatam»; Ioannes Duns Scotus, *In IV Sententiarum*, dist. XV, q. 2, cit., p. 90.

<sup>34</sup> In this context, *i.e.*, in the reconstruction of the history of Christian identity as an economic, positive, identity, it has to be notice the *glossa* written on one of the Scotus manuscript (T): «Antiquam sententiam negative (Tob 4,16 “Quod ab alio oderis fieri tibi, ne tu aliquando alteri facias”) Christus in forma positive dedit: “Omnia ergo quaecumque vultis ut faciant vobis homines, et vos facite illis”» (Matth. 7,12); «Prout vultis ut faciant vobis homines, et vos facite similiter» (Luke 6, 31); Ioannes Duns Scotus, *In IV Sententiarum*, dist. XV, q. 2, cit. p. 90, note 49.

<sup>35</sup> For Dominican textuality see: M. Bukala, *Oeconomica Medievalia of Wroclaw Dominicans*, Spoleto 2010, esp. pp. 49-59, see also Id., *Risk and Medieval Negotium. Studies of the Attitude towards Entrepreneurship: from Peter the Chanter to Clarus Florentinus*, Spoleto 2014; for a book’s review: P. Evangelisti, *Economia cristiana fra rischio e incertezza*, «Storica» 66 (2017), pp. 173-187.

market, acquired at a higher price than that is commonly established in that place. In this case he acts licitly if he brings to that market a different commodity, commodity B, acquired in another market: the place where he sold the commodity A. In this case, the effective equivalence is achieved when the merchant realizes a profit higher than the «fair», after having detracted the transport and risk expenditures regarding the second transaction. However, it is clear that this kind of equality escaped the classical fair price doctrine because it is achieved by paying attention to and sizing two different purchases on two different markets. So, Richard proposes a more complex calculation of balance (*aequalitas*), taken to consider the existence of several markets interacting with each other<sup>36</sup> (fig. 4).

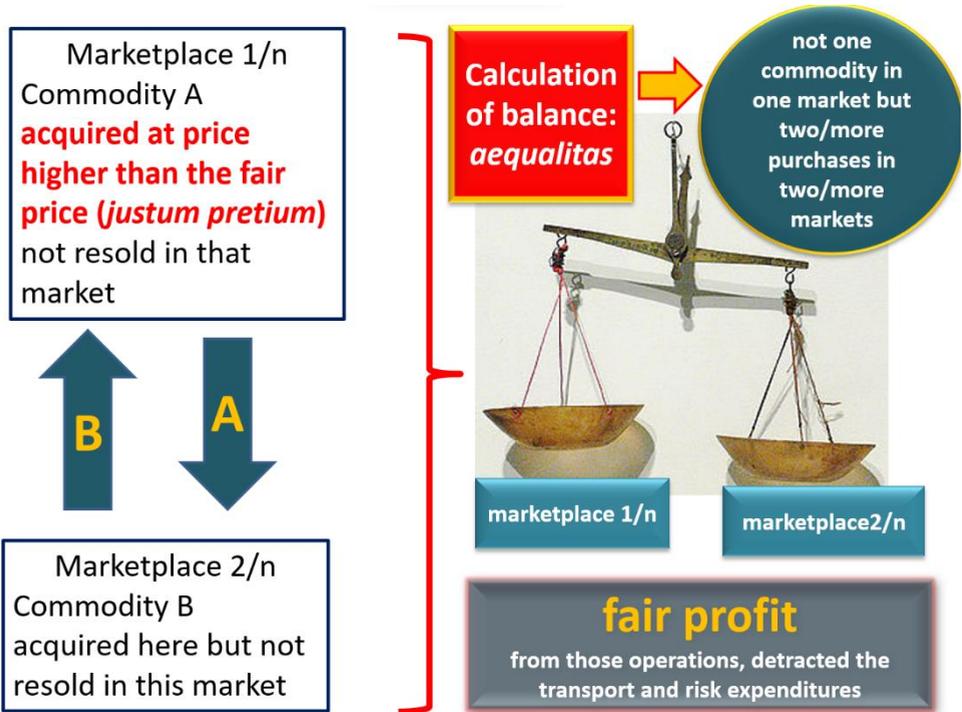


Fig. 4

<sup>36</sup> Richard of Middleton, *Secundi Quodlibeti, uastio XXIII*, cit., p. 70a.

We can pass now to deal with the second and last issue: the lexical transformation, the new qualification of damage (*laesio*) as *notabilis*, noteworthy because it is appreciable<sup>37</sup>. In his Master *Quodlibet I* this syntagm – «*laesio notabilis*» – was not detectable, however its function was evidenced by the disappearance of the technical formula «*laesio enormis*» substituted by «*excessus notabilis*», recurrent terms in the same text of Richard. Therefore, the first evidence we have is the deliberate choice that informs two Franciscan texts going beyond the previous technical formula spreading to a huge number of canonistic, academic and theological texts of their century. This lexical choice performs a clear double function in relation to the different parameters defining the *aequalitas* in rent contracts, including money contracts.

Firstly, the adjective *notabilis* adheres with greater precision to the notion of damage as actual and evident damage, likewise the Ostiensis standpoint requiring it corresponds to a «*deceptio manifesta*», that is a damage observable and appreciable by the market community where the contract is drafted. Therefore, this notion of damage does not derive from the juridical principle of the fair price, likewise a point indivisible, «*medium indivisibilis*» «*secundum naturam*», attested, for example in Henry of Ghent<sup>38</sup>. In Matthew's and Richard's texts the evidence has to be observed as an effective fact, a specific circumstance registrable and recordable.

Secondly, the emphasis in the appreciation of the damage works in its more precise mathematical meaning because the prerequisite for its «noteworthy condition» is its measure in relation to different parameters working along the scale of the «great latitude», that is sizing each factor implied in the *mercatio* prior to the price fixing, or more correctly, prior to the price fitting. It is, indeed, its demonstrable requisite – «*notabilis not secundum se*», as Richard affirms («a damage could not be defined noteworthy taken in itself»), but as a consequence of sizing each parameter - to constitute the effective social and economic meaning of

<sup>37</sup> The same title opening the analysis of these contracts reveals the importance of this syntagm: «*Utique potest in huiusmodi enim contractu aequitas iuris naturalis observari potest, ut nec emens, nec vendens, notabiliter laedatur*»; *Ibid.*, p. 65b.

<sup>38</sup> Henry of Ghent, *Quodlibet*, II, q. 15 in Henricus a Gandavo, *Aurea Quodlibeta*, Venetiis 1613, ff. 68v-69r.

the damage, ultimately what really might invalidate the transaction<sup>39</sup>. If in Matthew's *Quodlibet I* the parameters to be considered were fundamentally four, in Richard's they are more than doubled. In order to evaluate the condition of «noteworthy inequality» («inequalitas notabilis») not only does the size of the plot of land have to be considered but another set of parameters should also be defined, and consequently balanced. They are: the correlation between the age of the seller and buyer; their health; the risks of them developing a disease; the factors that could decrease the soil's productivity; the care and the work invested on that plot of land; a generic risk margin defined as «other circumstances», not precisely quantified but that have to be considered in the final valuation. With this «recta ratio», involving «all parameters» cited above, «the rent contracts should be observed» («ad quas recta ratio docet in tali contractu aspicere»)<sup>40</sup>. Only at that point, it will be possible to formulate a real price. However, to guarantee the definitive lawfulness of it, its equality, «it is necessary for it not to be clearly demonstrable who gains the greater advantage in the contract» («quis meliorem partem notabiliter habeat in isto contractu emens scilicet vel vendens»)<sup>41</sup>. So, we have a precept of contractual certainty and transparency based, only at first glance, on its opposite: «it not to be clearly demonstrable who gains the greater advantage»<sup>42</sup>. Furthermore, we have a plastic conception of the profitable equilibrium, a kind of utility achieved among the merchants valued by parameters verbalized into terms as *approximation*, *relativity*, *estimation*, *compensation*, *proportionality* and *viability*<sup>43</sup>. The application of the whole set of parameters used for the determination of a balanced price, «that will not be appreciably detrimental to either of the subjects», brought to light the core of the contract: money as a resource of potential new profit. As we have seen in Matthew's pages, the attention of Richard, rather than focusing on an abstract juridical form of the purchase, penetrates the economical meaning of the contract, its characteristic dynamics, the goals and incentives that are at its base.

<sup>39</sup> Richard of Middleton, *Secundi Quodlibeti, uuestio XXIII*, cit., p. 67a.

<sup>40</sup> *Ibid.*, p. 67b.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*, pp. 70b-71a. Compare this position with Godfrey of Fontaines, *Quodlibet III*, in *Les philosophes belges*, ed. M. de Wulf and A. Pelzer, Louvain 1904, II, V.14.63.

<sup>43</sup> Richard of Middleton, *Secundi Quodlibeti quaestio XXIII*, cit., pp. 67a-71b.

### 3. *Some Concluding Remarks*

If we consider the two issues examined below we can observe that Richard reshapes the *aequalitas* departing from the realization of a lexical inadequacy: that of the two main technical terms implied in transaction analysis, «*justum precium*», as an indivisible point established in one market, and «*laesio enormis*», considered in its legal self-sufficiency.

The Franciscan, using the key of the great latitude, «*latitudo magna*», a long-lasting term in the Minoritic economic analyses (from 13<sup>th</sup> to, at least, 16<sup>th</sup> century), opens to the space of intelligibility and measurability of the mercantile deals intended to produce mutual benefits. Transactions are not only preserved from the usurious stigma, they are rather enhanced within the Christian and civic relationship, as an eminent charitable form<sup>44</sup>. It is in that framework that one has to situate his different approach to mercantile deals as well as his positive consideration of the lucrative use of money<sup>45</sup>. In Richard *quaestio*, indeed, the concept of «*defectus iudicii rationis humanae*», «an inability to judge as a trait of human reason», spent by a lot of scholars to tolerate economic activities and to justify a slippage from the fair price, has no place<sup>46</sup>. Richard departs from another theological and philosophical standpoint that has its roots in the ancient Christian analysis of the

<sup>44</sup> The partial, but decisive innovation of the lexicon molded by Matthew and Richard allow to recognize in Franciscan textuality devoted to the lawfulness of transactions a proper evolutionary path. A development that takes shape into specific dialectical forms as well as into theological, academic and homiletic typologies (P. Evangelisti, *Contract and theft. Two founding principles of the civilitas and res publica in the political writings of the Franciscan friar, Francisc Eximienis*, «Franciscan Studies» 67 (2009) pp. 405-426). That is particularly important if you compared it with the path run by the civil law experts, where they flank to «*aequitas naturalis*» criterion a set of devices and innovative technicalities in order to support that «*civilis ratio*» with will integrate the validation of contractual circumstances; see Volante, *Il sistema contrattuale*, cit., pp. 101-2, more broadly, *ibid.*, pp. 99-194.

<sup>45</sup> From this point of view it has to confront what emerges in these pages with an important, and quite recent, American historiography well represented by the works of Christine Desan, *Money as a Legal Institution*, in *Money in the Western Legal Tradition. Middle Ages to Bretton Woods*, eds. D. Fox - W. Ernst, Oxford 2016, pp. 18-35, and S. Eich, *The Currency of Politics: The Political Theory of Money from Aristotle to Keynes*, Princeton 2022; Italian transl. Roma 2023); see also Evangelisti, *Balanza*, cit. pp. 23-206.

<sup>46</sup> This argument was literally and frequently spent by Henry of Ghent discussing the lawfulness of these contracts in the second half of 13th century.

multiple dimensions of charity, as well as in its *probabilitas*, namely the necessity to be proved and well documentable. It's enough to cite the *Didachè*, the earliest normative text in the Christian tradition, in one passage focused on the proper management of money:

Woe to him that receiveth; for, if a man receiveth having need, he is guiltless; but he that hath no need shall give satisfaction why and wherefore he received; and being put in confinement he shall be examined concerning the deeds that he hath done, and he shall not come out thence until he hath given back the last farthing [*kodrántes*]. Yea, as touching this also it is said "Let thine alms sweat into thine hands, until thou shalt have learnt to whom to give"<sup>47</sup>.

In this legal context it has to highlight the mandatory pressure to well and precise quantification presents in the syntagm «last *kodrántes*» that is the necessity to compute whatever is due including the minimum money fraction. The *kodrántes*, indeed, was the smallest portion and the lowest unity in the coeval currency scale. They need 64 *kodrántes* to have a *denarius* and 1600 to obtain one *aureus*.

It is this Christian anthropology, developed and long-established in Augustinian as well as in other patristic texts examined in the first part of this essay, that allows Richard to attribute to each Christian man a triple positive capacity. The ability to calculate the weight of his activities, to document the utility he can create as well as to understand the new balances deriving from his actions in the market - taken as a civic and Christian community, ultimately as a body politic<sup>48</sup>.

The books of the art of trade, the first modern works of political economy as well as the merchant treatises that will appear in the modern era – such as the famous Benedetto Cotrugli's treatise in 15th century, the works of William Petty where he discusses the price formation and those written by Forbonnais, especially his French Translation of the *British Merchant* in 18th century –, have a lexical and cultural background

<sup>47</sup> *Didachè*, I.1.18-23; see also above texts and notes 18-19.

<sup>48</sup> It has to consider the inseparable understanding of Christian and civic market, or community, at the base of any recognition of human capacities and their correlated liceity. An early and clear evidence in Franciscan textuality devoted to the *ars mercatoria* is in Alexander of Hales, *Summa theologica* II.3.2.2.2.3, Quaracchi (Firenze) 1948, IV, pp. 721-724, a collective work written around 1240's.

that has to be reconstructed also considering the Christian sources we have analyzed in these pages<sup>49</sup>. In the same perspective one has to reckon the analysis on the «legal» and the «natural» prices outlined by Pufendorf in the famous works published in 1672-73<sup>50</sup>. However, in this historical re-consideration, we have to avoid a methodological entrapment: that is to parse these kind of texts as the «natural» pre-historical sources of the modern economics discipline.

<sup>49</sup> B. Cotrugli, *The book of the art of trade*, eds. C. Carraro, G. Favero, London 2017; P. Evangelisti, *Il pensiero economico nel Medioevo*, Roma 2016, pp. 213-55 = Id., *La Pensée économique au Moyen Âge. Richesse, pauvreté, marchés et monnaie*, Paris 2021, pp. 250-265; W. Petty, *A Treatise on taxes and contributions* in Ch. H. Hull, *The Economic Writings of sir William Petty*, Cambridge (U.S.) 1899, pp. 1-97, esp. p. 90; Id., *Dialogue on diamonds*, in *ibid.*, pp. 624-630, esp. p. 627; on the money, its value and its balanced circulation in the body politic see Id., *Verbum Sapienti*, in *ibid.*, pp. 99-120, esp. p. 112; A. Roncaglia, *The Wealth of Ideas. A History of Economic Thought*, Cambridge (U.S.) 2006, pp. 53-80; A. Alimento, *Beyond the Treaty of Utrecht: Véron de Forbonnais's French Translation of the British Merchant (1753)*, «History of European Ideas» 40 (2014), pp. 1044-1066; A. Finkelstein, *Harmony and the Balance: An Intellectual History of Seventeenth-Century*, Michigan 2000.

<sup>50</sup> S. Pufendorf, *De Jure Naturae et Gentium*, V, Frankfurt - Leipzig 1744, esp. ch. 1, 3, 5, 7-8; Id., *De Officio Hominis et Civis*, Oxford 1927, I.14-15.