

## ***De Potentia Absoluta et Ordinata: Contingency of Law and Distinction of Potencies in John Duns Scotus.*<sup>1</sup>**

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**Abstract:** The availability of three different commentaries from John Duns Scotus on Peter Lombard's *Book of the Sentences*, namely *Lectura*, *Ordinatio*, and *Reportatio I-A*, enables a possible revaluation of contemporary interpretations on the distinction of an *absolute* and an *ordained* power (or potency) proposed by Scotus. Being the *Ordinatio* a main guide for the exposition and the other two versions a helpful tool to enlightening each other's arguments, I will return to some topics sustained by some of those interpretations, such as the association of both powers and *de iure et de facto* actions, the distinction of powers understood as a distinction of an operative model related to two ways of acting, and, finally, the association of that distinction with a theory of *synchronic possibilities*: I intend to show that, perhaps, those interpretations are not correct enough. I also aim to show that the text of the *Reportatio I-B*, currently without a contemporary edition, can be useful to illustrate some of the arguments of the mentioned discussion.

**Keywords:** John Duns Scotus, Absolute and Ordained Power, *De iure* and *De Facto* Actions, Manifest Power of the Will, Non-manifest Power of the Will.

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The distinction of the divine omnipotence unfolded in *ordained* and *absolute* figures in all of Duns Scotus' recently edited commentaries on the Distinction 44 of the first book of Peter Lombard's *Sentences*. From the most recent to the oldest version or, at least, from the two newest to the oldest version<sup>2</sup>, we have presentations similarly detailed in the *Reportatio* I-A (held in Paris and which is believed to have been reviewed by Duns Scotus himself) and in the *Ordinatio* (or *Opus Oxoniense*). The *Reportatio* I-A presents the longest version, since it contains two questions, of which, at least in the letter of the text, the second refers more directly to the question originally proposed by Peter Lombard in the distinction 44. Only its first question keeps parallels with the other commentaries, all of them bearing a single question, except the initial arguments from 2 to 5 and their respective answers (paragraphs 2-5; 15-18 in Bonaventure's edition), which deal with the relation between the divine omnipotence and sciences, the relation between time and eternity, the discussion between necessity in science, especially in natural science<sup>3</sup>.

The oldest version, the *Lectura* (also held in Oxford), is also the most succinct. We do not find there many of the corresponding passages of the *Reportatio* I-A and of the *Ordinatio*. However, the whole version keeps parallels with the other versions, even though its argumentation is overall presented in a leaner fashion. Despite the discrepancies in the extension, it seems that Duns Scotus's position presented in these three texts have remained fundamentally the same. The differences in the exposition, as we believe, often help understand more clearly the author's intention. The text of the *Ordinatio*, for instance, is the only one in which Duns Scotus opens the distinction 44 quoting and resuming the question originally proposed by Peter Lombard. In an attempt of better understanding the meaning of this presentation, we will provide a brief summary of the pathway outlined by the Master of the *Sentences*.

## 1. The Divine Omnipotence in Peter Lombard's *Sentences*.

### a. The Power, the Will, the Goodness and the Divine Justice are God Himself.

Peter Lombard reflects on the divine omnipotence in the distinctions 42 – 44 of the first book of his *Sentences*. The distinction 42 searches for the meaning according to which we must understand it: "whether because he can do all things, or because he can only do all things that he wills"<sup>4</sup>, tracing through this discussion the grounds of the identity between God's power, will, and reason:

"That God can do all things is proved by several authorities. For as Augustine says in the book, *Questions of the Old and New Law*: 'God can certainly do all things, but he only does those which are in accordance with his truth and justice.' The same in the same: 'God could do all things at once, but reason,' that is, his will, 'forbade it.' He no doubt called his will reason there because God's will is reasonable and most equitable. And so it is to be

<sup>2</sup> Antonie Vos (2006, pp. 37; 63) understands that, whereas the *Lectura* was probably composed between 1297-1299, the first book of Duns Scotus' *Ordinatio* and his *Reportatio* I-A are contemporary works, written around the years 1301 and 1302. However, Oleg Bychkov (2008, p. 44 ff.) emphasizes that there are arguments which favor the interpretation that the writing of the *Reportatio* I-A is slightly posterior to the writing of the *Ordinatio* I, arguing, among other facts, that some passages seem better developed in the first work than in the *Ordinatio*. In fact, at least materially, it is possible to affirm that with respect to the distinction 44.

<sup>3</sup> It seems a common place, emphasized by commentators at least since Pernoud, that the debate concerning the distinction between the absolute and the ordained power involves both an ethical/political aspect and a "natural" or physical one. However, without taking into account the text of the *Reportatio* I-A, to which only recently it has been possible to have access, Pernoud stated (mistakenly) the following: "Scotus thus limits his discussion of the two powers of God and of the two orders to the realm of morality – of justice and law. St. Thomas, as we have seen discussed the subject on this level, but on the level of physical causality as well. [...] On the other hand, his [sc. Scotus] omission of discussing the *potentia absoluta* on the level of physical causality leaves no ground for inference of contingency on this plane." (Pernoud, 1972, p. 87 f.).

<sup>4</sup> Lombard, 1971, p. 294, ln. 5 f.; *Sententiae in IV Libris Distinctae* I, d. 42, chap. 1: "... prima consideratio occurrit quomodo vere Deus dicatur omnipotens: an quia omnia possit, an tantum quia ea possit quae vult."

professed that God can do all things. (Lombard, 2007, p. 230, ln. 6-12; *The Sentences. Book I: The Mystery of the Trinity*, d. 42, chap. 1) <sup>5</sup>.”

In order to establish the “right” comprehension of Augustine<sup>6</sup>, Lombard proposes the identity between God’s will and his reason and justice. As we will see further, the divine reason is understood by Lombard in the sense of the ordering or measure of what is done, so that it *must not be mistaken with the divine intellect*. We will also see that God is not limited by his will, nor his will by his justice or by any rational demand. A good share of the distinctions 42 and 43 will provide us with a series of disambiguations that will have a single thesis in common: God acts freely and contingently, with no need imposed to his actions, even if this thesis is presented with a somewhat neutral guise – God can always do all things that he wants to. And that is because, in this discussion on his omnipotence, Lombard prefers the “theological” vocabulary (insofar as it is taken from the Scriptures and from texts of the Fathers of the Church), rather than the philosophical. But that does not mean that the developed discussion loses sight of the philosophical matter. The relations between necessity and contingency, language and signification, identity, alterity and non-contradiction, the possible and the impossible, serve, though not declaredly, as background to the whole exposition. In the opposite direction, the medieval reinterpretations of Lombard’s exposition, which we will still revisit, shed light on what seems veiled. That is why the narrative here proposed does not intend to show more than some topics that help locate this subsequent debate.

After announcing the link between will, reason, and divine justice, Lombard discusses the general meaning according to which it is possible to understand the extension of God’s power, starting with the examination of a reading apparently *opposed* to the authority previously presented, insofar as he concedes that God cannot [do] some things *in himself (in se)* that he can *in the creatures*:

“I believe it is to be answered to them that such actions, namely walking and speaking and suchlike, are not alien from the power of God, but pertain to it. For although God cannot have these actions in himself (for he cannot walk or speak and suchlike), yet he can work them in creatures: he makes man walk and speak and suchlike. And so nothing is taken away from divine power through such actions because almighty God can do even these things.” (Lombard, 2007, p. 230, ln 7-14; *Sentences...* d. 42, chap. 2, n.1)<sup>7</sup>.

Lombard’s answer can, however, be a trap. In the opposed direction of what has just been replied, creatures can do things forbidden to God. God cannot sin or do harm. Yet these and all the other “impotences” attributed to God end up being reduced by Lombard to apparent difficulties, not real ones. Being able to sin is not truly a power, but a weakness (*sc. infirmitas*). Without further explanations on this issue, the exposition proceeds by exposing the reason through which is said that God *cannot do harm*, based on Augustine’s opinion according to two passages of his work. The first one, taken from the *Enchiridion*, reaffirms that God can [do] everything he wants. The second, attributed to the *On the Spirit and the Letter* – even though it cannot be found there –, reaffirms the identity between God, justice, and goodness:

“God cannot do unjust things because he is the highest justice and goodness. Indeed, he is omnipotent *not because he can do all things*, but because he can accomplish *whatever he wills*, so that nothing can stand in the way of the

<sup>5</sup>“Quod enim Deus omnia possit, pluribus auctoritatibus probatur. Ait enim Augustinus in libro *Quaestionum veteris et novae Legis*: ‘Omnia quidem potest Deus, sed non facit nisi quod convenit veritati eius et iustitiae’. Idem in eodem: ‘Potuit Deus cuncta simul facere, sed ratio prohibuit’, id est voluntas. Rationem nempe ibi voluntatem appellavit, quia Dei voluntas rationabilis est et aequissima. Fatendum est ergo Deum omnia posse.”

<sup>6</sup>Indeed, it was wrongly believed – Lombard took part in that – that the author of the text to be further quoted, *Questions of the Ancient and the New Law*, was Augustine. It is believed today that its author is probably Ambrosiaster.

<sup>7</sup>“Quibus id respondendum arbitror, quod huiusmodi actiones, ambulatio scilicet et locutio et huiusmodi, a Dei potentia alienae non sunt, sed ad ipsam pertinent. Licet enim huiusmodi actiones in se Deus habere non possit: non enim potest ambulare vel loqui et huiusmodi, eas tamen in creaturis potest operari. Facit enim ut homo ambulet et loquatur et huiusmodi. Non ergo per istas actiones divinae potentiae detrahitur aliquid quia et haec potest facere Deus omnipotens.”

achievement of his will, or impede it in any way at all.” (Lombard, 2007, p. 231, ln. 36-40; *Sentences...*, d. 42, cap. 3, n. 2. Our emphasis)<sup>8</sup>.

According to Lombard, Augustine would have argued that God “cannot do all things” because “all things” would be understood in such a general way that they would also include evil, which God *does not want or can* (*nec vult nec potest*) because it is not convenient to him<sup>9</sup>. Something is convenient to God insofar it is *in accordance* with his being: he who is supreme justice and goodness cannot want evil because his nature is alien to it. The disagreement between God and evil takes place insofar as Lombard, albeit he does not say it here, assumes the Augustinian thesis according to which evil is the lack of good. Just as sin is the will to retain or to conform to what justice prohibits. The reason why God does not want or cannot sin or do harm is the same: to God who is supreme good and supreme justice, to perform an imperfection would be rather a weakness than a power.

#### b. The Convenient, Adequate, and Opportune.

Right after, the distinction 43 starts with a direct attack on Peter Abelard<sup>10</sup>:

“But there are some who, glorying in their own intellect, have attempted to encompass God’s power within a limit. For when they say: ‘God is able to do thus far and no more,’ what is this other than to enclose and restrict under a limit his power, which is infinite? For they say: *God is not able to do other than what he does, nor can he do it better than he does, nor can he omit any of the things which he does.*” (Lombard, 2007, p. 233, ln. 32-38; *Sentences...*, d.43, chap. 1, n. 1. Our emphasis.)<sup>11</sup>.

The emphasized enunciation is a general thesis dismantled by the subsequent analysis of a range of affirmations whose errors are due to the fact, according to Lombard, that they are generally filled with ambiguities. The first two are “God is not able to do other than what is good and just” and “God is not able to do other than what his justice requires”.

According to Lombard, something *is* good and just *only* because God does it – many *are not* good *only* because God has not done them, nor do them, nor will do them. Similarly, the divine will is not restricted to wanting something by a demand of its own justice: God does not do other than what *is convenient* to his justice<sup>12</sup>. The notion of “convenience” reappears when the argument of the previous section is brought back to the discussion: God is supreme justice and, thus, everything he does is just. Doing the unjust would

<sup>8</sup> “Idem [sc. Augustinus] in libro *De spiritu et littera*: ‘Non potest Deus facere iniusta, quia ipse summa iustitia et bonitas est. Omnipotens vero est, non quod possit omnia facere, sed quia potest efficere quicquid vult, ita ut nihil valeat eius voluntati resistere quin compleatur, aut aliquo modo impedire eandem.’”

<sup>9</sup> Cf. Lombard, 1971, p. 296, ln. 22-297, ln. 1; *Sententiae...* I, d. 42, ch. 3, n. 3: “... Augustinus, ubi dicit: ‘Omnipotens non dicitur quod omnia possit’ etc., tam ample et generaliter accepit ‘omni’, ut etiam mala includeret, quae Deus nec vult nec potest. Non ergo negavit eum posse omnia quae convenit ei posse.” – “... Augustine, where he says: ‘He is not called omnipotent because he can do all things,’ etc., took ‘all things’ so broadly and generally as to include even evil things, which God neither wills to, nor can, do. And so he did not deny that God can do all things which it is *fitting* for him to be able to do” (our emphasis).

<sup>10</sup> In the beginning of the distinction 43 of the book I, the editors propose the following remark, whose main content is reaffirmed in the beginning of distinction 44: “That the Master opposes to Peter Abelard’s teaching, with respect to this whole Distinction, is manifestly clear both in his texts, added below, and in the testimonies of some of his students...” (Lombard 1971, p. 298). On the interpretation of Peter Lombard’s opinion, check Courtenay (1990, chap. 2, pp. 43-63) and Boulnois (1994, pp. 71-78), which also consider the contraposition from Lombard to Abelard.

<sup>11</sup> “Quidam tamen, de suo sensu gloriantes, Dei potentiam coarctare sub mensura conati sunt. Cum enim dicunt: ‘hucusque potest Deus, et non amplius’, quid est hoc aliud quam eius potentiam, quae infinita est, concludere et restringere ad mensuram? Aiunt enim: Non potest Deus aliud facere quam facit, nec melius facere id quod facit, nec aliquid pratermittere de his quae facit.”

<sup>12</sup> Cf. Lombard, 1971, p. 299, ln. 25 ff.; ln. 30 f.; *Sententiae...* I, d. 43, chap. un., n. 2: “Si vero per haec verba intelligas eum non posse facere nisi illud quod, si fieret, iustitia eius conveniret, verum dicis. [...] Si autem intelligas his verbis eum non posse facere id quod iustitiae eius convenire non potest, verum dicis” (Our emphasis).



mean to perform an imperfection. Both solutions have in common the thesis that absolutely nothing restricts or compels him to what he wants or does; not even his goodness or justice.

All the following argumentation of this section of Lombard's text will fundamentally replicate the same motto. But there are some points worth listing, as, for example, the third affirmation, which, according to Lombard, needs repair – "God is not able to do other than what he must":

"but if he does all that he ought, and cannot do other than what he ought, then he cannot do other than what he does. – Also, either he ought to leave undone what he does not do, or he ought not to do so. If he ought not to, then he does not rightly leave it undone; but if he ought to leave it, then he ought not to do it. But if he ought not to do it, then it is neither *adequate* nor *opportune* that he do it; and if it is neither *adequate* nor *opportune* that he do it, then he cannot do it. And so he cannot do other than what he does." (Lombard, 2007, p. 235, ln. 6-13; *Sentences...*, d. 43, chap. 1, n.3. Our emphasis.)<sup>13</sup>.

Lombard repeats the pattern of his previous answer by invoking the ambiguity of the affirmation: the word "must", referred to the divine omnipotence, is treacherously dubious – *venenum habet*. It is a mistake to understand "God *must* do something" as a way of saying "God *wants* to do something". Thus, the duty can be taken as a consequence of wanting: God *must* do something because he *wants* it<sup>14</sup> – a mistake insofar as God is not a debtor of anything. We can only understand "God *must* do something" in the sense that he does what is adequate, due *to himself*; then: God *must* do that which, if he did, would be *convenient* to him<sup>15</sup>, since it is *adequate* and *opportune* (*decet et oportet*) *to that which* he himself is. As seen, the general thesis continues the same: nothing restricts or compels God to what he wants or does. Again, it provides merely the presentation of the conceptual pairs of the convenient: the adequate and the opportune.

#### c. The "Reason of What is Done" and the Immutability of the Divine Power and Will.

The other statements analyzed are: 4<sup>th</sup> "Nothing is done or abandoned by God, except by the very best and reasonable reason, although that may be hidden from us, according to which is opportune for him to do or to abandon whatever he does or abandons"; 5<sup>th</sup> "Reason is God doing what he does and not otherwise"; 6<sup>th</sup> "It is impossible for anything to be done beyond his foreknowledge"; 7<sup>th</sup> "God is not able to do something that he does not want to"; 8<sup>th</sup> "God is not able to do more than he is able to"<sup>16</sup>. Among them we will only highlight the one that concerns reason:

"To this too, we say that the phrases are ambiguous and so in need of determination. For if, in saying: 'He cannot do other than what there is reason for him to do,' you understand that he cannot do other than what is reasonable

<sup>13</sup> "[...] si vero facit omne quod debet nec potest facere nisi quod debet, non ergo potest facere nisi quod facit. – Item, aut debet dimittere quod dimittit, ne faciat, aut non debet. Si non debet, non recte dimittit; si vero debet dimittere, ergo non debet facere. Si autem non debet, nec decet nec oportet eum facere; et si non decet nec oportet eum facere, ergo non potest facere. Non ergo potest facere nisi quod facit. [...]"

<sup>14</sup> Cf. Lombard, 1971, p. 300, ln. 12-15; *Sententiae...* I, d. 43, chap. un., n. 3: "Ut autem venenum evacuetur, distingue verbi sensus: 'Non potest Deus facere nisi quod debet', id est nisi quod vult, falsum est: sic enim potest ipse dici debere aliquid quia vult illud." – "Now in order to solve the dubiousness, one should distinguish the meaning of the word: 'God is not able to do other than what he must', that is, 'except what he wants' is false: thus, in fact, it can be said that he must do something because he wants it."

<sup>15</sup> Cf. Lombard, 1971, p. 300, ln. 15 ff.; *Sententiae...* I, d. 43, chap. un., n. 3: "Si autem dicatur: 'Non potest nisi quod debet', id est non potest nisi illud quod, si faceret, ei bene conveniret, verum est." – But if it is said: 'is not able to do other than what he must', that is, 'cannot do other than that which, if he did, would suit him well' is true."

<sup>16</sup> Cf. Lombard, 1971, p. 300, ln. 18 ff.; p. 301, ln. 1 f.; ln. 16 f.; ln. 25 f.; p. 302, ln. 4 f.; *Sententiae...* I, d. 43, chap. un., n. 4, 5, 6, 7, 8: "Nihil facit aut dimittit nisi optima et rationabili causa, licet nobis occulta sit, secundum quam oportet eum facere et dimittere quae facit vel dimittit"; "Ratio est eum facere quae facit, et non alia"; "si praeter prescientiam eius aliquid fieri impossibile est"; "Per quod videtur non posse facere aliquid nisi quod vult"; "Ex hoc videtur quod Deus non possit plura quam vult sicut non vult plura quam potest." (Our emphasis).



and what, if it were done, would be reasonable, then the sense is true. But if you understand that he cannot do different reasonable and good things, other than the ones which he wills and does, then the understanding is false.” (Lombard, 2007, p. 236, ln. 10-15; *Sentences...*, d. 43, chap. 1, n. 5)<sup>17</sup>.

For Lombard, something is only said to be reasonable, that is, something accomplished in accordance with reason and, thus, rational, because God has done it. The reasonableness or rationality of the creation is always a *consequence* of God’s making something, not its *conditioning*. Therefore, the ambiguity to which Lombard refers is the fact that the reason according to which we state that things were made is the *result* of divine work, not the reason *through which* the work would have been made: reason does not restrict God to do only those works he wants and does.

Lastly, the conclusion of the chapter provides a kind of summary of its fundamental thesis:

“[...] By these authorities and many others, it is *plainly taught that God is able to do many things which he does not will*. [...] For God does not will to justify all men, and yet who doubts that he is able to do it? And so God is able to do other than what he does; and yet, if he were to do something different, he would be no different himself. And he is able to will other than what he wills, and yet his will cannot in any way be different, or new, or mutable. For although he is able to will what he never willed, yet he cannot will newly or by a new will, but only by an everlasting one; for he is able to will what he is able to have willed from eternity. For he has the power of willing both now and from eternity; and yet, what he does not will now, he did not will from eternity. (Lombard, 2007, p. 238, ln. 2-3; 6-15; *Sentences...* d. 43, chap. 1, n. 9-10. Our emphasis.)<sup>18</sup>.

The conclusion presents an unfolding of the general thesis defended throughout the distinction 43: if nothing restricts God, then God does not do only what he does not want. His power and will have no bounds and are eternal, that is, his potency is always the same: it does not change, increases, diminishes. Consequently, even now he “can want something different than what he wants *and, however, his will can never be another one, nor new, nor in any way mutable*.” Any change in what is done would never indicate a change in God’s will, who does just, good, rational etc. things simply because he does them.

#### d. Perfection and the Operation of Things.

In the distinction 44 Lombard makes the following question: “Can God do anything better than he does?”<sup>19</sup>. He resumes one of the aspects mentioned, but not directly considered, in the distinction 43, where he criticized the opinion according to which “God is not able to do other than what he does, *nor can he do it better than he does, nor can he omit any of the things which he does*.” Again, his answer will consist in showing a range of ambiguities relevant to the discussion on the divine omnipotence. The first of them refers to whether that which is doubted can or cannot be better. If the reference is strictly related to what the divine substance is, then God cannot do other but the same: the Son, who has the same substance as his Father, cannot be but equal to the Father. But all the other things that do not belong to the same substance of the Father can be better than what they are:

“[...] And so God can make a thing better than he does. Hence Augustine, *On Genesis*: ‘God could have made man such that he would have been neither able nor willing to sin; and if he had made him such, who doubts that he would

<sup>17</sup> “Et ad hoc dicimus locutiones ambiguas esse, et ideo determinandas. Si enim cum dicitur: ‘Non potest facere nisi quod ratio est eum facere’, intelligas eum non posse facere nisi ea quae rationabilia sunt, et ea quae, si fierent, rationabilia essent, verus est sensus. Si autem intelligas eum non posse facere alia rationabilia et bona, nisi ea quae vult et facit, falsus est intellectus.”

<sup>18</sup> “[...] Hi auctoritatibus multisque aliis aperte docetur quod Deus multa possit facere, quae non vult. [...] Non enim vult Deus omnes homines iustificare, et tamen quis dubitat eum posse? Potest ergo Deus aliud facere quam facit; et tamen, si aliud faceret, alius ipse non esset. Et potest aliud velle quam vult, et tamen eius voluntas nec alia, nec nova, nec mutabilis aliquo modo esse potest. Etsi enim possit velle quod nunquam voluit, non tamen noviter nec nova voluntate, sed sempiterna tantum velle potest; potest enim velle quod potest ab aeterno voluisse. Habet enim potentiam volendi et nunc et ab aeterno; quod tamen nec modo vult, nec ab aeterno voluit.”

<sup>19</sup> Lombard, 1971, p. 303, ln. 22; *Sententiae... I*, d. 44, chap. 1, n. 1: “utrum melius aliquid Deus possit facere quam facit.”

have been better?’ From the above, it is established that God can also do other things than he does, and that he can do those which he does better than he does.” (Lombard, 2007, p. 239, ln. 10-15; *Sentences...*, d. 44, chap. 1, n. 3)<sup>20</sup>.

Therefore, the initial question should *not* be understood otherwise but as related to things different from the divine substance, which, considered in themselves, can be better than what they are. As we have just seen, even though the answer to the initial question has already been provided, Lombard does not seem to consider that this answer solves the problem he has been facing, since he rephrases that initial question in order to move the debate forward: “Can [God] do what he does in a *different* manner and better than what he does?”<sup>21</sup>.

Rephrased that way, the question resumes another aspect mentioned in the distinction 43 and takes advantage, in the unfolding of its answer, of a new approach of the discussion. Omnipotence will remain being considered in itself because the exposition will still be developed with the aim of showing that the divine omnipotence is never restricted or compelled to something just as it is never altered or diminished: God never changes his will, nor can no longer do something. As presented right at the beginning of the question 44, there is, however, a change of perspective because this consideration takes directly into account, for the first time in the exposition of the argumentation of this treatise, that which is wanted and done by God. From this point of view, Lombard will distinguish two possible answers to the question, given a new ambiguity:

“If the mode of operation is referred to the wisdom of the maker, then it cannot be other or better. For he cannot do anything differently or better than he does, that is, by another wisdom or by a greater wisdom: for he can do nothing more wisely than he does. But if the mode is referred to the thing itself which God does, we say that there can be another and better way. And according to this, it can be granted that he can do the things which he does better and differently than he does, because he can grant to some a better way of existing, and to others a different one. Hence Augustine, in *On the Trinity*, book 13, says that a different mode for our salvation was possible for God, who can do all things; but none other was more convenient for the healing of our misery. And so God can do some of the things that he does in another and better way, some in another and equally good way, or some even in a less good way than he does: but only if the way is referred to the quality of the work, that is, of the creature, and not to the wisdom of the Creator.” (Lombard, 2007, p. 239, ln. 18-33; *Sentences...*, d. 44, chap. 1, n.4)<sup>22</sup>.

There are two manners according to which things are done: *the manner of the operation of that which is done*, related to the artificer’s wisdom, who can never be better than he is, and the *manner of the existence of the thing*, related to the thing itself with respect to the quality of the work, a manner that can be better or worse (“less good”) or simply different (“equally good”, whatever that may mean) than it is. Thus, the answer to the question is: regarding the operation, it can be different; not better. But regarding each thing done, it can be both different and better. It is important to notice that even though wisdom always produces what is best, the artificer’s wisdom is always tied to his will. A man incapable of sinning would maybe be better, regarding the thing itself, than the man currently created, the sinner. And as seen, Augustine states that God could certainly have made a man like that. The man was created capable of sinning only because

<sup>20</sup> “[...] Postest ergo Deus meliorem rem facere quam faciat. Unde Augustinus, *Super Genesim*: “Talem potuit Deus hominem fecisse, qui nec peccare posset nec vellet; et si talem fecisset, quis dubitat eum meliorem fuisse?” Ex praedictis constat quod potest Deus et alia facere quam facit, et quae facit, meliora ea facere quam facit.”

<sup>21</sup> Lombard, 1971, p. 304, ln. 29 f.; *Sententiae...* I, d. 44, chap. 1, n. 4: “utrum alio modo vel meliori quam facit, possit ea facere quae facit”. Our emphasis.

<sup>22</sup> “Si modus operationis ad sapientiam opificis referatur, nec alius, nec melior esse potest. Non enim potest facere aliquid aliter vel melius quam facit, id est alia sapientia vel maiori sapientia: nihil enim sapientius potest facere quam facit. Si vero referatur modus ad rem ipsam quam facit Deus, dicimus quia et alius et melior modus ad rem ipsam quam facit Deus, dicimus quia et alius et melior potest esse modus. Et secundum hoc concedi potest quia ea quae facit, potest facere melius et aliter quam facit, quia potest quibusdam meliorem modum existendi praestare, et quibusdam alium. Unde Augustinus in XIII libro *De Trinitate* dicit quod fuit et alius modus nostrae liberationes possibilis Deo, qui omnia potest; sed nullus alius nostrae miseriae sanandae fuit convenientior. Potest igitur Deus eorum quae facit quaedam alio modo meliori, quaedam alio modo aequae bono, quaedam etiam minus bono facere quam facit: ut tamen modus referatur ad qualitatem operis, id est creaturae, non ad sapientiam Creatoris.”

“no other manner was more convenient for the healing of our misery”, even though “a different mode for our salvation” would have been possible. That manner *is the best* one because it is “more convenient” to this choice.

Peter Lombard’s answer aims at a difficult balance: articulating the defense of the contingency of the divine will – insofar as it admits that God could and can do things qualitatively better or different than how he does them – with the defense of the perfection of the creation order – which merges with the divine wisdom – without incurring any necessitarianism. God could have created a world in which “our salvation” or, at least, the “most convenient” manner to redress our miseries was *not* the main object of the divine will.

e. “Impotence” and Impossibility: Omnipotence and Time.

After a long dispute against opinions similar to those mentioned especially in the distinction 43, apparently intending to “restrict” the divine omnipotence, Lombard proposes, in the closure of his discussion on God’s omnipotence, a final question whose consequence curiously seems to be precisely the statement of a “limit” to God’s omnipotence. If up to this point the discussion on the contingency of the divine power and will was a sign that God’s power cannot be in any way restricted or diminished, now the consideration of time will end up showing that it is possible to speak of a “non-power”, which also is not able either to restrict or to diminish omnipotence. *In themselves*, the divine power and will remain absolutely free of any restrictions. But *in the creatures* the divine power and will keep a relation with temporality, demanding a different investigation<sup>23</sup>. The second question of the distinction 44 intends to clarify whether the choices made by God can diminish his omnipotence: “Can God do everything he once could?”<sup>24</sup>.

In his answer, Lombard defends that just as God always knows (/wants) what he once knew (/wanted) “and [he] never loses any science or changes the will he had, he can always do everything he once could and is never deprived of any of his potencies”<sup>25</sup>. God can never cease being able to do that which he once could. But that does not mean that he can redo now exactly what he once did – and this is the heart of the question:

“Therefore he is not deprived of the power of becoming incarnate or rising again, although he cannot now become incarnate and rise again. For just as he was once able to become incarnate, so he is now able to have been incarnate; in which the power of the same thing is shown. For as he once knew that he would rise again, even now he knows that he has risen again; it is not a different knowledge to have once known that, and now know this, but entirely the same. And just as he once willed to rise again, now [he wills] to have risen again; *in which is expressed the will of the same thing*. Similarly, he was once able to be born and to rise again; and now he is able to have been born and have risen again; and it is the power of the same thing. For if he were now able to be born and rise again, it would not be the same power. For verbs of different tenses, spoken at different times and with the addition of different adverbs, have the same meaning, as speaking in the present we say: He is able to lecture today; but tomorrow we will say: He is able to have lectured, or he was able to lecture yesterday; where the power of the same thing is shown. But if in speaking at different times, we use verbs of the same tense and the same adverbs, saying to day: He

<sup>23</sup> According to Courtenay, 1990, p. 54, the position that defends that temporal restrictions are imposed to temporal objects, not to God: “... Temporal limitations apply not to God’s power but to the objects of God’s power in time.” We will defend here that Lombard’s argumentation aims at a little different conclusion: the consideration of that which is in time gives us the opportunity to foresee the related consequences including of what is in eternity, once they are related to the divine potency itself.

<sup>24</sup> Lombard, 1971, p. 305, ln. 11; *Sententiae... I*, d. 44, chap. 2, n. 1: “utrum Deus semper possit omne quod olim potuit”.

<sup>25</sup> Cf. Lombard, 1971, p. 305, ln. 18-22; *Sententiae... I*, d. 44, chap. 2, n. 2: “Ad quod dicimus quia, sicut omnia semper scit quae aliquando scivit, et semper vult quae aliquando voluit, nec unquam aliquam scientiam amittit vel voluntatem mutat quam habuit, ita omnia semper potest quae aliquando potuit, nec unquam aliqua potentia sua privatur.”.



is able to lecture today; and saying tomorrow: He is able to lecture today, *we say that he is able to do not the same thing, but different ones.*" (Lombard, 2007, p. 240, ln. 10-30; *Sentences...*, d. 44, chap. 3, n. 2-3. Our emphasis)<sup>26</sup>.

Concerning divine omnipotence, time can create an ambiguity in the relation between language and things, provoking some confusions. Just as different expressions can refer to the same thing, different things can be referred by a single expression: God indeed incarnated and resurrected *at a given moment*. Just as God could once to become incarnate and resurrect, even today he could have once incarnated and resurrected, but doing it now again would be another case: "... For if he were now able to be born and rise again, *it would not be the same power.*" However, although the discovery of the ambiguity in language has led us to identify the confusion either of a single potency taken as two or of two potencies taken as one, that does not seem to be the only conclusion to be reached when we consider the relation between omnipotence and time:

"And so let us profess that God is always able to do whatever he once could, that is, to have all that power which he once had, and the power of that entire thing which he once had; *but he is not always able to do all that which he was at some time able to do:* yet he can do or have done what he could *at some time* do. Similarly, whatever he wills he willed, that is, he even now has the whole will which he once had, and he even now has the will of whatever thing he once had; and yet he does not will to be or to be done all that at some time he willed to be or to be done, but he wills it to have been or to have been done. The same is to be said of God's knowledge." (Lombard, 2007, p. 240, ln. 31-40; *Sentences...*, d. 44, chap. 2, n. 4. Our emphasis.)<sup>27</sup>.

Without ever losing sight of the consideration of omnipotence in itself, Lombard adds a last layer to the understanding of his fundamental thesis that God never ceases of being able to do that which he once could. Although the divine omnipotence is never restricted nor diminished, the consideration of temporality impels him to another conclusion: that the divine omnipotence cannot be confined nor diminished does not mean that God can do the exact same thing at two different moments of time. Thus, the statement that God "is not always able to do all that which he was at some time able to do" ends up revealing not only the ambiguity proper to language. If God was incarnated and resurrected, he "cannot" be incarnated and resurrect now both because he wanted to do it once and not now and because his wanting to do it now would necessarily be wanting to do another thing. Besides the ambiguity in language, temporality reveals identity, alterity, and non-contradiction – proper even to that which is not in time –: doing the exact same thing at two distinct moments implies doing and not doing that thing at a given moment in time – which, regarding that which is outside time, in eternity, would be the same as doing and not doing, engendering *and not engendering* the Son, for instance. Omnipotence is not restricted or diminished because it is alien to the impossible.

<sup>26</sup> "Non est ergo privatus potentia incarnandi vel resurgendi, licet non possit modo incarnari vel resurgere. Sicut enim potuit olim incarnari, ita et potest modo esse incarnatus; in quo eiusdem rei potentia monstratur. Ut enim olim scivit se resurrecturum, et modo scit se resurrexisse; nec est alia scientia illud olim scivisse, et hoc modo scire, sed eadem omnino. Et sicut voluit, olim resurgere, et modo resurrexisse; in quo unius rei voluntas exprimitur. Ita potuit olim nasci et resurgere, et modo potest natus fuisse et resurrexisse; et est eiusdem rei potentia. Si enim posset modo nasci et resurgere, non esset idem posse. Verba enim diversorum temporum, diversis prolata temporibus et diversis adiuncta adverbis, eundem faciunt sensum, ut modo loquentes dicimus: Iste potest legere hodie; cras autem dicemus: Iste potest legisse, vel potuit legere heri; ubi unius rei monstratur potentia. Si autem diversis temporibus loquentes, eiusdem temporis verbis et adverbis utamur, dicentes hodie: Iste potest hodie legere; et dicentes cras: Iste potest hodie legere, non idem, sed diversa dicimus eum posse."

<sup>27</sup> "Fateamur igitur Deum semper posse et quidquid semel potuit, id est habere omnem illam potentiam quam semel habuit, et illius omnis rei potentiam cuius semel habuit; sed non semper posse facere omne illud quod aliquando potuit facere: potest quidem facere aut fecisse quod aliquando potuit. Similiter quidquid voluit, et vult, id est omnem quam habuit voluntatem, et modo habet; et cuiuscumque rei voluntatem habuit, et modo habet; non tamen vult esse vel fieri omne quod aliquando voluit esse vel fieri, sed vult fuisse vel factum esse. Ita et de scientia Dei dicendum est."

## 2. Duns Scotus and the Contingency of the Divine Will.

In his commentary on the distinction 44, Duns Scotus states his perspective on the debate by modifying the question originally presented by Peter Lombard in the *Sentences*: “Can God do anything better than he *does*?”. Rephrased in the *Ordinatio*, the question is reformulated in a slightly different way: “Could God have done anything better than he *did*?”<sup>28</sup>, emphasizing the past tense. After the quotation, Duns Scotus addresses another question: “Can God do things *otherwise* than they *were ordained* by him to be done?”<sup>29</sup>. As announced, this other question can seem inspired by the motto of the distinction 43 of the first book of the *Sentences*<sup>30</sup>, in which we find that those who sustained the opinion opposed to the one defended by Lombard would have stated that “God is not able to do other than what he does, nor can he do it better than he does, nor can he omit any of the things which he does.”. However, as we have seen, in the distinction 44 itself Lombard had reformulates his initial question in the following way: “Can [God] do what he does *in another or better way than he does it*?”. By choosing only the first of these two considerations, Duns Scotus transposes the problem so that he can identify what God has done with the *ordering* of what is *done*.

Indeed, the question initially set in the distinction 44 (or rather the part not yet analyzed of his second formulation) is, according to the text, more clearly resumed only in the second question presented in the *Reportatio* I-A, thus formulated: “Can God make things better than he *has made* them?”<sup>31</sup>, in which the first and the third initial arguments reproduce texts from Augustine indeed used in fundamental steps of that distinction. In this second question, the changes in the verb tense also highlights the consideration on the current character of the possibility of a divine intervention, equally presented in the first question and in the sole questions from the other commentaries. Thus, in the *Reportatio* I-A, from the question “Could God produce things otherwise than he does, now or otherwise than according to the order presently established by him?”<sup>32</sup>, follows the opposed argument: “It seems that he could not: for then *either now or then* he would have produced not according to order ...”<sup>33</sup>. In the *Lectura*: “Can God produce the thing otherwise than he *preordained*?”<sup>34</sup>, to which we have the following *sed contra*: “the thing *can* be otherwise than he *preordained* once it does not include a contradiction ...”<sup>35</sup>.

Whichever the version, with his formulation Duns Scotus seems to insist in the possibility of a continuous operation of the divine power. If Lombard’s proposal did not do more than to reaffirm that the divine omnipotence always remains the same *despite* what God has done, does, and will do, with an approach that favors to a large extent the consideration on the divine omnipotence in itself, Duns Scotus seems to insist in the fact that the discussion can gain strength when we put aside this consideration on the omnipotence and take it according to its measure and according to that through which it has been, is, and will be done

<sup>28</sup>Duns Scotus, 1963, p. 363, ln. 6; *Ordinatio* I, d. 44, q. un., n. 1: “utrum Deus potuit res melius fecisse quam fecit”. Our emphasis.

<sup>29</sup>Duns Scotus, 1963, p. 363, ln. 7 s.; *Ordinatio* I, d. 44, q. un., n. 1: “utrum Deus possit aliter facere res quam ab ipso ordinatum est eas fieri”. Our emphasis.

<sup>30</sup>In Boulnois, 1994, p. 264, we find the following justification to this displacement: the distinction 43, as was considered by Duns Scotus, was “une innovation qu’il a fallu intercaler dans le traité de la toute-puissance divine. En revanche, la question de théodicée (Dieu fait-il toujours le meilleur ?) est abandonnée.”

<sup>31</sup>Duns Scotus, 2008, p. 537; *Reportatio* I-A, d. 44, q. 2, n. 19: “utrum Deus possit facere meliora quam fecit”. Our emphasis.

<sup>32</sup>Duns Scotus, 2008, p. 531; *Reportatio* I-A, d. 44, q. 1, n. 1: “utrum Deus posset aliter res producere quam facit, vel secundum ordinem institutum ab eo modo”. Our emphasis.

<sup>33</sup>Duns Scotus, 2008, p. 531; *Reportatio* I-A, d. 44, q. 1, n. 1: “Videtur quod non: quia tunc vel modo vel alias inordinate produceret, quod est inconveniens.”. Our emphasis.

<sup>34</sup>Duns Scotus, 1966, p. 545, ln. 5 f.; *Lectura* I, d. 44, q. un., n. 1: “utrum deus aliter potest producere res quam praeordinavit”. Our emphasis.

<sup>35</sup>Duns Scotus, 1966, p. 545, ln. 9-11; *Lectura* I, d. 44, q. un., n. 2: “Contra: res aliter potest esse quam praeordinavit: hoc enim non includit contradictionem; igitur etc.”. Our emphasis.

– something in fact already present in the last steps of Lombard’s own text. If everything God has done obeys a certain order, then is it possible that he does something other than how he ordained it to be done, that is, *beyond* or *in a contrary or different way* than the order established now by him?

The initial arguments that present an unfavorable answer to the question – and that are repeated in all of Duns Scotus’s commentaries – defend the idea of a synonymy between doing things other than it was ordained them to be done and doing them inordinate. A similar position had been defended by Bonaventure of Bagnoreggio, who according to Courtenay (and also Marrone, 1974, p. 17, n. 11; Randi, 1987, p. 31 ff.) had not seen the use in the distinction between the absolute and the ordained potency:

“Not all theologians found the distinction useful, [...]. Bonaventure, for example, who began his lectures on the *Sentences* in 1250, felt that any discussion of what God could do or could have done outside the order his wisdom and justice established attributed to God the possibility of doing what was not good, just, or wise. Since such actions, even theoretically entertained, would contradict the divine nature, they were for Bonaventure not a form of power but of impotence that should not be associated with God. Bonaventure, returning to this Anselmian position, generally avoided using the distinction, although he seems to have allowed some validity to a distinction between divine capacity and volition.” (Courtenay, 1990, p. 91. Our emphasis).

#### a. Bonaventure: Absolute Potency and Disorder.

In his *Commentary on the Sentences*, Bonaventure solves a question on the following passage of the distinction 43 of the *Sentences*: “It should be said that [God] could not raise Judas with respect to his mind?”:

“It is also asked about what was said: *It should be said that [God] could not raise Judas with respect to his mind?* It clearly follows from that that God can save Judas: therefore, [he can] for the same reason, condemn Peter. *On the contrary: He is just, and cannot deny himself:* therefore, nor [can he] do anything against justice.” (Bonaventure, 1883, p. 778; *Commentaria in Quattuor Libros Sententiarum Magistri Petri Lombardi* I, d. 43, dub. 7)<sup>36</sup>.

Saving Judas and damning Peter seems to be a problem if it results in an unjust action. Bonaventure follows Lombard’s association between God and justice and begins his answer to this question denying a certain comprehension of the distinction between the ordained and the absolute potencies:

“I reply: some distinguish God’s potency in two ways here, saying that God can either with respect to the *absolute* potency – and, thus, [he] can save Judas and damn Peter –, or with respect to the *ordained* potency – and, thus, he cannot. But it is clear that this distinction is not convenient because God cannot do anything that he does not do orderly. Indeed, *the power to do something unorderedly is not a power*, just as *the power to sin and the power to lie*. Whence [God] cannot lie by the *absolute* potency or by the *ordained* potency.” (Bonaventure, 1883, p. 778; *Commentaria...* I, d. 43, dub. 7, ans.)<sup>37</sup>.

According to the position rejected by Bonaventure, the capacity of *doing something* by the absolute potency would be the same as the capacity of *doing something* – and, once the potency is actualized, *the action by which something is done* – *against* the established order, i.e., the capacity to act *without order or inordinately*. Clearly, the action by the absolute potency is understood as an action against justice and perhaps is indicative of a potency distinct by means of a real distinction from the one according to which the ordained actions take place. The reason behind the rejection of the distinction can be reached in the answer to the question:

<sup>36</sup> “Item quaeritur de hoc quod dicit: *Nunquid dicendum est, non potuit Iudam suscitare in mente?* Ex hoc videtur, quod Deus possit salvare Iudam: ergo pari ratione damnare Petrum. *Contra: Iustus est, et negare se ipsum non potest:* ergo nec facere contra iustitiam.”

<sup>37</sup> “Respondeo: Aliqui distinguunt hic potentiam Dei dupliciter, dicentes, Deum posse aut de potentia *absoluta*, et sic potest Iudam salvare et Petrum damnare; aut de potentia *ordinata*, et sic non potest. – Sed haec distinctio non videtur esse conveniens, quia nihil potest Deus, quod non possit ordinare. *Posse enim inordinate facere est non posse, sicut posse pecare et posse mentiri.* Unde nec potentia *absoluta* nec *ordinata* potest mentiri.”

“According to this, it must be said that when one asks whether God could save Judas and condemn Peter, it must be said that you may speak either by the *maintained merits*, or not by the *maintained merits*. If [you speak] *by the maintained merits*, I then say that [he] could not. For this is the same as to affirm and to question, as if one questioned whether [he] could judge without justice, which certainly, far from any doubt, God cannot. If, however, it is understood not by the maintained merits, then, far from any doubt, he could save Judas, taking away by grace his sins and demerits and rendering merits. Yet, [he] cannot give Peter bad merits, but since he freely rendered grace and nature, [he] can take away both or only one of them, and thus Peter could sin and God could give him the eternal punishment ...” (Bonaventure, 1883, p. 778; *Commentaria...* I, d. 43, dub. 7, ans.)<sup>38</sup>.

To save Judas “maintaining his merits” means saving him maintaining his bad merits, that is, against the ordering that states that everyone who dies in mortal sin will be condemned. From that follows the injustice or disorder of this action. However, it is important to notice that even so Bonaventure understands that God can save Judas, although he does not come to do it: God can act assuring that Judas does not die in mortal sin, “taking away by grace his sins and demerits and rendering merits”. Therefore, Bonaventure clearly rejects an interpretation of God’s absolute potency according to which God’s acting with respect to absolute potency means acting *against* the order, that is, against justice, through an action that can prescind from the ordained potency. But the refusal of this interpretation does not seem to also imply the refusal of the distinction between potencies. In another passage from the *Sentences*<sup>39</sup>, Bonaventure sets himself to examine the following question: Could God rectify the devil’s affection or will? (“*Utrum affectus vel voluntas daemonis possit rectificari*”). In his analysis, we see that the distinction between the ordained and the absolute potency play a relevant role in the understanding of the problem:

“I reply saying that, as the Saints and the authorities say, the devil’s will *cannot* be rectified in any way according to what the verb “can” predicates the potency that has some *ordering to the act*. For if it is understood on the potency of *acting in an absolute way*, God undoubtedly has the power of restoring good will to the devil; however, from the *devil’s side* there is no ordering for that, or rather, his will became impossible, as the Saints say and show the reasons. But if the *cause* of the impossibility to rectitude is questioned, one must understand the following on it: two things are needed to the rectitude of the will decayed by the actual sin, namely, on the side *of the will*, penitence; on *God’s side*, the saving grace. And the devil lacks both of them; and, for this reason, he lacks completely the path to rectification.” (Bonaventure, 1885, p. 175; *Commentaria...* II, d. 7, p. I, a. 1, q. 1, ans.)<sup>40</sup>.

Even if God could have rectified the angel’s will according to what the comprehension of his capacity refers the absolute potency, it is not possible to do it according to the ordained potency. Because he is a “spiritual and incorruptible” substance, the angel was created in the Empyrean heaven, which is the place of glory. For this reason, when he sins, he immediately leaves “time and the state of merit”:

“Therefore, it is evident that the angel’s will is neither rectifiable nor was so from the time following his fall. Because once he had been outside the state of merit, his damnation was revealed to him in a most certain way; and, then, just

<sup>38</sup> “Et propter hoc dicendum, quod, quando quaeritur, utrum Deus posset salvare Iudam et damnare Petrum, dicendum, quod aut loqueris *salvis meritis*, aut *non salvis*. Si *salvis meritis*, sic dico, quod non posset. Hoc enim idem est dicere et quaerere, ac si quaereretur, utrum posset iudicare iniuste; quod quidem absque dubio Deus non potest. Si autem intelligatur *non salvis meritis*, sic absque dubio posset salvare Iudam, auferendo per gratiam peccata et demerita et dando merita. Petro autem non potest dare merita mala; sed tamen, sicut liberaliter dedit gratiam et naturam, potest auferre utrumque et alterum tantum; et tunc Petrus posset peccare et Deus aeternaliter punire. Sicut enim Deus liberaliter dedit bonam voluntatem Petro, ita etiam liberaliter *conservat*, similiter et *naturam*. Et sic patent obiecta.”

<sup>39</sup> The passage, known by the quoted commentators, is pointed out by the Quaracchi edition itself (Bonaventure, 1883, p. 778, footnote 3) as an indication that Bonaventure would not have disapproved the distinction itself.

<sup>40</sup> “Respondeo: Dicendum, quod sicut Sancti dicunt et auctoritates, voluntas diaboli nullo modo potest rectificari, secundum quod hoc verbum *potest* praedicat potentiam habentem aliquam *ordinationem ad actum*. Nam si intelligatur de potentia *efficientis absolute*, absque dubio potens est Deus diabolo restituere bonam voluntatem; tamen ex parte *diaboli* non est ordinatio aliqua ad hoc, immo facta est voluntas eius impossibilis, ut Sancti dicunt et rationes ostendunt. Si autem quaeratur *causa* impossibilitatis ad rectitudinem, intelligendum est ad hoc, quod ad rectitudinem voluntatis, per actuale peccatum lapsae, duo concurrunt, scilicet ex parte *voluntatis* poenitentia, ex parte *Dei* gratia sanans. Et utrumque deest diabolo; et ideo omnino deest ei via retificationis.”

as the blessed shall not fear the damnation, the evil angel, according to the certitude of the condemnation, should not *hope* for salvation, and, according to the absence of grace, cannot *do penitence* and, then, cannot be good. That said, it is easy to solve all objections.” (Bonaventure, 1885, p. 176; *Commentaria... II*, d. 7, p. I, a. 1, q. 1, ans.)<sup>41</sup>.

Thus, for the angel, sinning means his fall and condemnation. For God, the limit is not being able to change what has already done. However, this is very different with respect to men. According to Bonaventure, the man is capable of being rectified by God's grace because, given his condition, he is in a place distant from the state of merit and in time, then being able, as long as he is in this condition, to be saved by divine grace:

“Indeed, because he was created in an animal body so it could bear children for the worship of God, and so in a disposition distanced from glory, was given to man a distanced (from the state of merit) *place* own to his condition: namely, the earthly paradise. Also was prefixed to him a long-lasting *limit* on account of the role of bearing children. And therefore, when the Angel sinned, he immediately went out of the time and state of merit, but the man did not. And, thus, the latter can be rectified; the former, cannot.” (Bonaventure, 1885, p. 176; *Commentaria... II*, d. 7, p. I, a. 1, q. 1, ans.)<sup>42</sup>.

In conclusion, the passage below shows in which sense Bonaventure proposes the interpretation of what was exposed according to the distinction of potencies:

“For to the objection that there can be the donation of mercy, it must be said that there can be it *by the absolute potency*, but by the ordained potency, which operates according to the order of wisdom (and God does not corrupt this order, but rather he follows it inviolably), there must not be or cannot be [that donation], because God's deliberation and disposal cannot be changed for whatever reason.” (Bonaventure 1885, p. 176 f.; *Commentaria... II*, d. 7, p. I, a. 1, q. 1, ad 1m)<sup>43</sup>.

If there was not corruption of the order (although, as we know, that is not the case), God could grant his mercy to the falling angels *by his absolute potency*. However, he cannot do it by his ordained potency, due to the mentioned reasons. Proportionally, heading back to the case of Judas's salvation, we can say that there is a possible action for God with respect to his ordained potency, but if God decided to save him, this action would take place in accordance with his ordained potency, not against it. For Bonaventure, it is a mistake to understand the absolute potency as if it referred to an action held with disregard for an ordering, that is, as referring to an action distinct from the one held with respect to the ordained potency.

#### b. Henry of Ghent and the Distinction Between Two Ways of Action.

Some contemporary commentaries bring closer Bonaventure's and Henry of Ghent's positions (Marrone, 1974, p. 17, n.11; Randi, 1987, p. 32), defending that both would have rejected the distinction between the absolute and the ordained potency to God. John Marrone, for example, summarizes Henry of Ghent's position as follows:

“Henry of Ghent defined absolute power as power used sinfully but validly. Thus unlike other theologians Henry refused to credit God with an absolute power by which he could perform acts that could not be done by his ordained power, since this implied that God could act unjustly.” (Marrone 1974, p. 17. Our emphasis.).

<sup>41</sup> “Patet igitur, quod voluntas Angeli non est rectificabilis, nec fuit a tempore, ex quo cecidit. Quia enim fuit extra statum meriti, certissime revelata est ei sua damnatio; et ideo, sicut Beati non possunt timere damnationem, ita angelus malus propter certitudinem damnationis non potest *sperare* salutem, et propter absentiam gratiae non potest *poenitere*, et ideo nec bonus esse. – Illis visis, facile est omnia obiecta solvere.”

<sup>42</sup> “Homini vero, quia conditus est in corpore animali ad procreandam prolem ad cultum Dei, et ita in dispositione remotiori a gloria, datus est *locus* distans ad merendum a sui conditione, scilicet paradisus terrestris; et praefixus est ei *terminus* diuturnus propter officium procreandi prolem. Et propterea, cum peccavit angelus, statim exiit tempus meriti et statum, homo vero non; et ideo iste potuit rectificari, ille vero non.”

<sup>43</sup> “1. Ad illud enim quod obiicitur, quod potest esse condonatio misericordiae; dicendum, quod potest de potentia *absoluta*; sed de potentia *ordinata*, quae operatur secundum ordinem sapientiae – et illum ordinem Deus non corrumpit, immo inviolabiliter servat – non debet esse nec potest esse; quia consilium Dei et dispositio non potest mutari aliqua ratione.”



Marrone's commentary stresses two points: Henry of Ghent rejects the possibility of a divine action with respect to the absolute potency that cannot be held by his ordained potency. In addition, he understands the ordained potency as the justice potency<sup>44</sup>:

"For, even though it is not the case of distinguishing in God the absolute and the ordained potency – 'For once *God* cannot sin, he *cannot do anything by the absolute potency* unless *he can do it by the ordained potency*: for, his whole potency, whatever be the way of it becoming into act, is ordained; for, if God damned Judas and saved Peter by the absolute potency and the ordained potency according to the rule of justice, if he can save Judas bringing him back from condemnation, and condemn Peter moving him away from salvation, he cannot do it by the absolute potency without being capable of to do it by the ordained potency according to the rule of justice, but [he can] with other than that former according to which until now one should be condemned and the other saved, such as it is adequately declared in our *Quodlibet* XI –, ...'" (Ghent, 1989, p. 255, ln. 7 – 256, ln. 18; *Quodlibet* XII, q. 31)<sup>45</sup>.

Henry denies the distinction between potencies in God insofar as he denies God the possibility of an action with respect to the *absolute potency* that does not take place *as well as* with respect to the *ordained potency*: "his whole potency, whatever be the way of it becoming into act, is ordained" (*vide* Porro, 2003, p. 398 f.). That his ordained potency can only do something "according to a rule of justice" is thus presented in the *Quodlibet* XI:

"And like that absolute way, I say that God cannot do in any way something that would not be adequate for him to do in any way and according to any order; for everything he does, it is adequate for him to do it; and everything he can do, if he did, it would be adequate for him to do it, and he would not do it except in accordance with an adequate order. Whence, if God can damn Peter and save Judas by the absolute potency, it is so only because it would be adequate for him to do it – if he did – according to some order of justice, and he could not do it in another way." (Ghent, 1518, f. 440rC-440rD; *Quodlibet* XI, q. 2)<sup>46</sup>.

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<sup>44</sup> In this regard, Randi (1987, p. 31) notes that in the 14<sup>th</sup> Century Gregory of Rimini will still believe to be able to identify the distinction between the absolute and the ordained potencies with the pair *potentia/iustitia*. Although he is quoting Anselm, Rimini indeed resumes the conclusions of the distinction 43 of Lombard's *Sentences* and not only identifies, based on the "old distinction", the ordained potency with justice, but he also defends the link between the ordering and the divine will in a very close sense from the one we will see defended by Duns Scotus when he proposes that that which is in disagreement with the order is the impossible: "Huic distinctioni satis concordat alia antiqua, qua dictum est quod quaedam deus non potest de iustitia, quae potest de potentia. Cum enim nihil sit iustum nisi quod est conforme divinae voluntati, quae est prima et summa lex iustitiae iuxta illud Anselmi Proslogio capitulo 12 deo dicentis: 'Id solum iustum est quod vis, et non iustum quod non vis', illud dicitur repugnare divinae iustitiae, quod repugnat divinae voluntati. Illud ergo dicitur deus non posse de iustitia, quod est impossibile suae ordinationi et voluntati, quae est prima iustitia. Tale autem est omne, cuius oppositum deus vult, quamquam ipsum sit secundum se simpliciter possibile." – "Clearly agrees with this distinction an old one, by which was said that God cannot [do] by justice everything he can do by potency. For since nothing is just except what is in conformity with the divine will, which is the first and supreme law of justice, just as in Anselm's *Proslogion*, chapter 12, where it's said to God: 'For that alone is just which you will, and that is not just which you do not will', a passage in which is said that it is not compatible to the *divine justice* what is not compatible to the *divine will*. Therefore, in this passage it is said that God is not able to do by justice that which is *impossible with his ordering and will*, which is the prime justice. That indeed is everything whose opposite God will, *albeit that is absolutely possible according to itself*." (Rimini, 1984, p. 368, ln. 28-36; *Lectura* I, d. 42-44, q. 1, a. 2, ans. Our emphasis).

<sup>45</sup> *Tractatus super facto praelatorum et fratrum, Pars III, Ratio 10<sup>a</sup> Pro Fratribus*: "Licet enim circa Deum non contingat distinguere inter potentiam absolutam et ordinatam – 'Deus enim eo quod peccare non potest, nihil potest de potentia absoluta, nisi illud possit de potentia ordinata: omnis enim potentia sua, quocumque modo vadit in actum, ordinata est: si enim Deus Iudam damnavit et Petrum salvavit de potentia absoluta et ordinata secundum regulam iustitiae, si possit Iudam salvare et eum a damnatione revocare, et Petrum damnare atque eum a salute repellere, hoc non potest de potentia absoluta, quin etiam hoc possit de potentia ordinata secundum regulam iustitiae, sed alterius quam praecedentis, secundum quam unum hactenus damnavit et alterum salvavit, prout hoc satis declaratur in nostro XI<sup>o</sup> Quodlibet –,..."

<sup>46</sup> "Et sic absolute dico quod deus nullo modo potest facere aliquid quod nullo modo et secundum nullum ordinem deceret eum facere: immo quicquid facit decet eum facere: et quicquid facere potest, si faceret, deceret eum facere, et non nisi secundum ordinem decentem faceret. Unde si potest deus Petrum damnare et Iudam saluare de potentia absoluta, hoc non est nisi quia deceret eum facere hoc secundum ordinem aliquem iustitiae si faceret, nec aliter posset illud facere."

Although it must not be distinguished in God, the consideration on the absolute potency serves to demonstrate that it is possible that God *changes* the current order. God *can* change the present order by saving Judas and condemning Peter with respect to his absolute potency, and the condition for this action to be truly possible is, if it happens to be held, that it takes place according to an adequate *order*, the justice order. Consequently, what is possible is that which, if done, will be done in an adequate manner and according to an order. Thus, the absolute potency concerns everything that is, according to the mentioned manner, possible to God. In turn, the ordained potency concerns what is not only possible, but what is also done. Therefore, Henry of Ghent vetoes the distinction between potencies in God with respect to action: every divine action occurs with respect to the ordained potency. That seems not to imply that he also discards any consideration regarding the absolute potency with respect to God, once he employs it, in both quoted passages, in order to indicate everything that God can do, although he does not. Hence, he does not seem but to resume – as it seemed to be the case of Bonaventure – a comprehension of the ordained and the absolute potencies such as the one presented, for instance, in Thomas Aquinas:

“What is attributed to His power considered in itself, God is said to be able to do in accordance with His absolute potency. [...] What is, however, attributed to the divine potency according as it carries into execution the command of a just will, God is said to be able to do by His potency as ordained.” (Thomas Aquinas, 1923, p. 148; *Summa Theologica*, q. 25, a. 5, ad 1m, with amendments.)<sup>47</sup>.

When considering it, it is easier to notice in which sense it is possible to *distinguish* these potencies *in man*:

“... about the pure man, however, it is the case of distinguishing the absolute and the ordained potency. For once the pure man can sin, he can do something – taking ‘potency’ in the broad sense – by the absolute potency that he cannot do by the ordained potency: indeed, by the absolute potency, he can perform the evil of fault that he cannot perform by the ordained potency. Therefore, on the legislator, who is a pure man capable of sinning and evil acting, I say that he certainly can establish or concede a privilege by the absolute potency, and that follows from it the second way of the inconvenient previously mentioned ...” (Ghent, 1989, p. 256, ln. 18-25; *Quodlibet XII*, q. 31)<sup>48</sup>.

If God cannot do but what is convenient to him, the same does not apply to men. The “pure” man is that who has the “potency” to sin and act badly. The potency to act badly is called “potency” in a broad sense because, probably, it is rather a weakness, as Peter Lombard said with respect to the hypothesis of a sinner God. The man has only truly a potency to act when he acts orderly. The distinction between potencies, such as defended by Henry of Ghent in the quoted passages from the *Quodlibet XII*, concerns the possibility of distinguishing actions and, in this regard, the distinction between potencies is the distinction between two modes of operation. Thus, although the distinction between potencies as two ways to act can only be applied to man and is inconvenient to God, the consideration of two potencies, however, is as convenient to man as to God: even though he acts according to a mode of action both convenient and just, the possibility of doing *all* that is possible, with respect to the *absolute potency*, is still open to God.

From what we have just seen, neither Bonaventure nor Henry of Ghent seem to have simply refuted or rejected the consideration on the divine potency within the framework of the ordained and the absolute power. What both authors reject is some interpretation that could propose the distinction between ordained

<sup>47</sup> “... quod attribuitur potentia secundum se consideratae, dicitur Deus posse *secundum potentiam absolutam*. [...] Quod autem attribuitur potentiae divinae secundum quod exequitur imperium voluntatis iustae, hoc dicitur Deus posse facere *de potentia ordinata*.”

<sup>48</sup> *Tractatus super facto praelatorum et fratrum, Pars III, Ratio 10<sup>a</sup> Pro Fratribus*: “... circa hominem tamen purum bene contingit distinguere inter potentiam absolutam et ordinatam. Homo enim purus eo quod peccare potest, aliquid potest, large accipiendo potentiam, de potentia absoluta, quod non potest de potentia ordinata: de potentia enim absoluta agere mala culpa quae non potest agere de potentia ordinata. Dico ergo de legislatore, qui est homo purus potens peccare et malum agere, quod de potentia absoluta bene potest statuere vel privilegium concedere, ad quod sequitur secundo modo inconveniens praedictum, ...”

and absolute potency *in God* as a distinction between *two ways of acting*, insofar as they understand that, once it is diverse and excluding of what is proper to the action that takes place *by the ordained potency*, an action *by absolute potency* can only take place in an *inordinate* (Bonaventure) or *unjust* way (Bonaventure, Henry of Ghent). For both, there is only potency where there is order.

c. Duns Scotus and the *Summa Halensis*: distinguishing otherness and disorder; *de iure* and *de facto* actions.

Therefore, the initial arguments in Duns Scotus's presentation resume a certain association between an action *other* than the current order and an *inordinate* action. The argument for a favorable answer to the question, the *sed contra*, shows that this association is not necessary:

"To the contrary: for certain things to be otherwise than they are [now] does not include a contradiction, as is clear in the case with the contingents. However, God is capable of anything that does not include a contradiction; therefore, etc." (Duns Scotus, 2008, p. 532; *Reportatio I-A*, d. 44, q. 1, n. 6)<sup>49</sup>.

As long as he holds himself out of the contradictory, nothing prevents God from doing the things *in a different way* from the current order established by him: difference, or otherness, does not imply disorder. The reason for the uncoupling of these two concepts will be presented as grounded in the distinction of potencies understood as a distinction of two *principles* of action:

"in anyone who acts by the intellect and by the will, who can act in conformity with the righteous law and, however, [he] does not necessarily act in conformity with the righteous law, the distinction between the ordained and the absolute potency must be made; and that is because [he] can act in conformity with that righteous law and, thus, according to the ordained potency (in fact, it is ordained insofar as it is *principle* of the execution of something in conformity with the righteous law), and [he] can act beyond that law or against it, and in this consists the absolute potency, which exceeds the ordained potency. And, *for the same reason*, not only in God, but in anyone who acts freely – who can act according to the prescription of the righteous law and beyond such law or against it – the distinction between the ordained and the absolute potency must be made; [...]" (Duns Scotus, 1963, p. 363, ln. 16-364, ln. 7; *Ordinatio I*, d. 44, q. un., n. 3. Our emphasis.)<sup>50</sup>.

At first, what draws most attention in the passage is not the relation between the intellect and the will, which will be revisited later by Duns Scotus, but the association between order and law, righteous because in accordance with the righteous reason<sup>51</sup>. Acting *according to the ordained* potency is having the potency as the principle of the execution of something in *conformity* with the righteous law. Similarly, acting according to the absolute potency is having the potency as the principle of the execution of something that takes place beyond or against the righteous law and, thus, exceeds the ordained potency.

By understanding the distinction of an ordained and an absolute potency as the distinction of two ways of acting according to their conformity with the righteous law (which is far from understanding it as a real

<sup>49</sup> "Contra: aliqua aliter fieri quam fiant non includit contradictionem, ut patet de contingentibus. Sed Deus potest quidquid non includit contradictionem; ergo etc."

<sup>50</sup> "Respondeo: in omni agente per intellectum et voluntatem, potente conformiter agere legi rectae et tamen non necessario conformiter agere legi rectae, est distinguere potentiam ordinatam a potentia absoluta; et ratio huius est, quia potest agere conformiter illi legi rectae, et tunc secundum potentiam ordinatam (ordinata enim est in quantum est principium exsequendi aliqua conformiter legi rectae), et potest agere praeter illam legem vel contra eam, et in hoc est potentia absoluta, excedens potentiam ordinatam. Et ideo non tantum in Deo, sed in omni agente libere – qui potest agere secundum dictamen legis rectae et praeter talem legem vel contra eam – est distinguere inter potentiam ordinatam et absolutam;"

<sup>51</sup> Cf. Duns Scotus, 1966, p. 535, ln. 12 s.; *Lectura I*, d. 44, q. un., n. 3: "quando est agens quod conformiter agit legi et rationi rectae, ..." – "when there is an agent who acts in conformity with the law and with the righteous reason, ...".

distinction between potencies<sup>52</sup>), and both having as *principle* the agent's potency of doing or not doing something, we will find, as we will see, one of the aspects according to which Duns Scotus's position will be able to be seen as "new". Acting in *conformity* with the righteous law *not always* entails will and freedom: all things operate "according to their movements and according to the order established by God and, thus, for instance, the celestial bodies<sup>53</sup>. That is why in every *free* agent there must be the distinction of an ordained and an absolute potency, starting by God himself. In conclusion, Duns Scotus suggests that it would be due to this distinction, proper to free agents, that the following distinction would have been made by the "jurists":

"[...] *that is why* the jurists say that someone can do something 'de facto', that is, by the absolute potency – or 'de jure', that is, by the ordained potency according to the law." (Duns Scotus, 1963, p. 364, ln. 7-10; *Ordinatio I*, d. 44, q. un., n. 3. Our emphasis.)<sup>54</sup>.

Regarding this approximation (*de facto/absolute potency; de jure/ordained potency*), Boulnois (2012, p. 91) defended that the distinction of an absolute and an ordained potency is only a particular case of a general distinction between *de iure* and *de facto* actions. Duns Scotus, however, seems to have almost the contrary in mind. The distinction proposed by the jurists is, in the *Ordinatio*, a *consequence* of that distinction between potencies. The same appears, even more clearly, in the texts of the *Reportatio I-A*:

"[...] Indeed, since there is such a rule, [this agent] can act according to it; however, because it does not act necessarily according to it, but freely, therefore it can act otherwise. Hence jurists distinguish between the notions *de iure* and *de facto*, and one can make this distinction as regards any power of the judge or the one who judges, e.g., of the Pope and the princes." (Duns Scotus, 2008, p. 532; *Reportatio I-A*, d. 44, q. 1, n. 7. Our emphasis.)<sup>55</sup>.

The approximation of the two topics is not original for Duns Scotus, who assumes here an idea already present, for instance, in the *Summa Halensis*, in a question where the distinction between the ordained and the absolute potency appears as well:

"Therefore, to the objection: 'except what is just can be done', it must understand: 'cannot be done but in an ordinate manner'. Whence, although it is said about a *man* that [he] can [act] *de jure* and *de facto*, however, it is said that, according to the law, we can only this: what we can *de iure*. However, in God, the power *de facto* is the same power *de iure*, according to what the right ['*jus*'] is said the adequacy of the divine will. Whence, in a sense it is said 'to be done what is just' with respect to man, in another sense, with respect to God; with respect to man, it is done what is just because what the man does is just; from God's side, however, it is done what is just because God, who does something, is just. Thence follows in the sense previously mentioned that 'he cannot do except

<sup>52</sup> Cf. Licheto, 1893, p. 746: "Est tamen advertendum, quod potentia absoluta et ordinata in Deo non sunt duae potentiae distinctae ex natura rei, nec formaliter. Immo proprie, cum dicitur potentia absoluta vel ordinata, non dicitur aliqua potentia, sed magis quidam modus agendi, scilicet ordinate vel absolute." – "However, it should be noticed that in God the absolute and the ordained potency are not two potencies distinct from the nature of the thing, nor are they formally distinct. For, properly, by saying absolute or ordained potency one does not refer to any potency, but rather to some way of acting, that is, orderly or absolutely."

<sup>53</sup> Cf. Duns Scotus, 2008, p. 536; *Reportatio I-A*, d. 44, q. 1, n. 17, with amendments: "Permittit enim res ut in pluribus operari secundum motus suos et secundum ordinem ab eo dispositum." – "Indeed, as in most cases [God] allows things to follow their own motions, according to the order that he instituted. [...]"

<sup>54</sup> "ideo dicunt iuristae quod aliquis hoc potest facere de facto, hoc est de potentia sua absoluta – vel de iure, hoc est de potentia ordinata secundum iura."

<sup>55</sup> "Quia enim habet illam regulam, potest agere secundum illam; quia vero non necessario agit secundum illam sed libere, ideo potest agere alio modo. Unde iuristae distinguunt 'de iure' et 'de facto', et sic potest distingui de omni potestate iudicis vel iudicantis, ut Papae vel principum."

what is just', namely, that 'it would be just if done [by him]'" (Hales, 1924, p. 220; *Summa Halensis* I, inq. 1, tract. IV, q. 2, m. II, chap. 2, ad obiecta II, 1. Our emphasis.)<sup>56</sup>

In the *Summa*, the man can only do something *de iure* if he acts *according to the law*. Similarly, in the *Ordinatio*, we can find an association between what one can *de iure* and the ordained potency. But it is important to clarify the limit of this association. In the *Summa*, the distinction between being able *de iure* and being able *de facto* does not make sense except to the man, who can act in an unjust manner – not because being able to act *de facto* is a synonym of being able to act unjustly<sup>57</sup>, but because it is possible to act *de facto* both justly and unjustly: that is why in God, who only does what is just, these powers are “the same”. Duns Scotus unfolds his discussion in a similar direction insofar as, as a clarification to this association between potencies and what can happen *de iure* and *de facto*, he states the following:

“But when that righteous law – according to which one must act orderly – is not under the power of the agent, so his absolute potency cannot exceed his ordained potency regarding any object, unless [he] acts *inordinately* regarding it; for it is necessary that that law remains – in comparison with such agent – and, however, the action ‘that has not been conformed to that righteous law’ is not righteous nor ordained, because such agent should act according to the rule to which he is submitted. Whence everyone who is under the divine law, if do not act according to it, acts *inordinately*.” (Duns Scotus, 1963, p. 364, ln. 11-19; *Ordinatio* I, d. 44, q. un., n. 4. Our emphasis.)<sup>58</sup>

There are men who are only *submitted* to the righteous law, not having it under their power. For them, the absolute potency cannot exceed *de iure* the ordained potency. But if they *de facto* act in a way that exceeds the ordained potency, they will act in an inordinate way and in accordance with their absolute potency: not everything these men *de facto* do are also done by them *de iure*. Therefore, Duns Scotus shows in which sense it is correct to trace, just as we have seen in Bonaventure and Henry of Ghent, the association between the absolute potency and a disordered or unjust action: when the agent executes *de facto* an action, but in a way alien to what he can do *de iure*. However, still there is another situation that sides this one:

“But when the law and the righteousness of the law are under the power of the agent, in such a way that it is not righteous except because it is established, then the agent, due to their freedom, can order differently from what that righteous law would dictate; and, however, [they] can act in an orderly manner regarding that because [they] can establish another righteous law according to which [they] would act orderly. And then their absolute potency *simply does not exceed* the ordained potency because it would be ordained according to another law, just as according to the previous one, however, [it] exceeds the ordained potency precisely according to the previous law, against

<sup>56</sup> “Ad illud ergo quod obicit quod ‘non potest fieri nisi quod iustum est’, intelligitur: ‘non potest fieri nisi ordinate’. Unde quamvis homo dicatur posse de iure et posse de facto, dicitur tamen legaliter: hoc solum possumus quod de iure possumus; tamen in Deo idem est posse de facto et posse de iure, secundum quod ius dicit condecetiam bonitatis divinae. Unde ‘iustum fieri’ aliter dicitur respectu hominis, aliter respectu Dei: respectu hominis iustum fit, quia iustum est illud quod homo facit; ex parte vero Dei iustum fit, quia Deus faciens est iustus. Inde est quod sequitur: ‘non potest facere nisi quod iustum est’ in sensu praedicto, quod scilicet ‘iustum esset, si faceret.’” (Our emphasis).

<sup>57</sup> As Courtenay, 1990, p. 102, for instance, defends that it is the case of Duns Scotus: “... Scotus incorporated the analogy developed by the canon lawyer: *potentia ordinata* meant acting according to the law, *de iure*; *potentia absoluta* means acting apart from the law, *de facto*.” We aim to show here that this description does not correctly express Duns Scotus’s position.

<sup>58</sup> “Quando autem illa lex recta – secundum quam ordinate agendum est – non est in potestate agentis, tunc potentia eius absoluta non potest excedere potentiam eius ordinatam circa obiecta aliqua, nisi circa illa agat inordinate; necessarium enim est illam legem stare – comparando ad tale agens – et tamen actionem “non conformatam illi legi rectae” non esse rectam neque ordinatam, quia tale agens tenetur agere secundum illam regulam cui subest. Unde omnes qui subsunt legi divinae, si non agunt secundum illam, inordinate agunt.”



which or beyond which [they] make. One could, thereby, adduce the example of the prince, the subjects, and the *positive law*.” (Duns Scotus, 1963, p. 364, ln. 11-19; *Ordinatio* I, d. 44, q. un., n. 5. Our emphasis.)<sup>59</sup>.

The agent who has the law and the rectitude or righteousness of law under their power can impose a law different from the established one. This new law can be both contrary to the one already established and diverse from it. Thus, this agent’s absolute potency simply does not exceed their ordained potency when their actions are ordained. Better: when their action *establishes ordained laws*. However, according to the previous law, the absolute potency exceeds the ordained potency insofar as the former reveals the agent’s power, which is clear, for instance, in the text of the *Lectura*:

“just as it would be suggested that someone was so free (as the king) that they could make and change the law, whence [they] can act diversely beyond that law with respect to their absolute potency because [they] can change the law and establish another.” (Duns Scotus, 1966, p. 535, ln. 20-23; *Lectura* I, d. 44, q. un., n. 3)<sup>60</sup>.

In short, in the case of the agent who has the law and the righteousness of the law under their power, such as in the case of the prince who can impose a law to his subjects, concerning *the action in itself*, the absolute potency *does not exceed* the ordained potency, once whatever the agent may do, they do it in an ordered manner. In this sense, what the agent does *de facto* is what that they do *de iure*. But when the action is considered according to something that was, is, or will be done, there is a reason to distinguish what the agent *can* do according to their absolute potency from what they effectively do *according to the ordained potency*. The prince’s (/ king’s) absolute potency *exceeds* his ordained potency insofar as he is as free to *make* the law as he is to *change* the law – more than the action, the extension of the potency itself is under question<sup>61</sup>: *everything* the agent effectively *can* do *even* they do not do it, since that the possible is understood as being exactly the same as what the agent can do *de iure*.

Consequently, a consideration in which the possible *de facto* (what is done according to the absolute potency) and the possible *de iure* (what is done according to the ordained potency) are taken as if separated things will only make sense if each of the potencies is taken in itself or in a theoretical way. In this sense, according to the absolute potency, *de facto*, that is, effectively, the agent can do *all that is possible* for them to do, understanding by it as all that can be done *de iure* according to the ordained potency: that is the reason why there is no place to allege here a theoretical inconsistency or confusion according to which, in other texts where this issue is addressed, Duns Scotus has not distinguished a “technical” use from a “common” sense of the expression “*de facto*” (cf. Courtenay, 1990, p. 113, n.60; p. 121). In this sense, there are no actions that God can take *de facto* that he cannot also take *de iure*, just as there is no law established by the prince (/ king) according to his absolute potency that can be righteous without also being established according to his ordained potency. As Scotus said above: “their absolute potency *simply does not exceed* the *ordained* potency because it would be *ordained* according to another *law* (*viz.* a new law), just as according to the previous one”.

In general, the absolute potency can be as much the origin of *inordinate* actions as it clearly comes to be, considered in itself or with respect to its effects, to some extent, the origin of all *ordained* actions. Therefore,

<sup>59</sup> “Sed quando in potestate agentis est lex et rectitudo legis, ita quod non est recta nisi quia statuta, tunc potest aliter agens ex libertate sua ordinare quam lex illa recta dictet; et tamen cum hoc potest ordinate agere, quia potest statuere aliam regem rectam secundum quam agat ordinate. Nec tunc potentia sua absoluta simpliciter excedit potentiam ordinatam, quia esset ordinata secundum aliam legem sicut secundum priorem; tamen excedit potentiam ordinatam praecise secundum priorem legem, contra quam vel praeter quam facit. Ita posset exemplificari de principe et subditis, et lege positiva.”

<sup>60</sup> “sicut, ponatur quod aliquis esset ita liber (sicut rex) quod possit facere legem et eam mutare, tunc praeter illam legem de potentia sua absoluta aliter potest agere, quia potest legem mutare et aliam statuere.”

<sup>61</sup> Cf. Licheto, 1893, p. 747: “... excedit ergo ordinatam in quantum est voluntas in se considerata in ordine ad omne possibile ab ipsa fieri vel omitti.” – “...therefore, [sc. the absolute potency] exceeds the ordained potency as far as it is the will considered in itself with regard to the order of what is possible to be done or omitted by it.”

Duns Scotus's "novelty" is to consider, although only for certain agents (but not only God), the absolute potency as the *principle* of an action according to which is possible to act *in an ordained manner*, *de potentia ordinata*. There was also an ambiguity here: with respect to God, considered *in itself* or theoretically, the potency is absolute insofar as it concerns everything possible and, thus, exceeds the ordained potency, but considered with respect to its effects, the potency is absolute because – to some extent – it is the principle to all ordained actions and, thus, does not exceed the ordained potency, becoming inseparable from it. Similarly, considered in itself or theoretically, the potency is ordained because it is principle to all the actions that *can come to be ordained*, that is, that can come to be *in conformity with the law*. Considered with respect to its effects, the potency is ordained because it is principle to all ordained actions, becoming in some cases inseparable from the absolute potency: for this reason, there is not even a real distinction between potencies, nor any distinction between acting *by the ordained potency* (*de potentia ordinata*) and acting in an *ordered way*<sup>62</sup>.

In the case of the man, there is only difference with respect to the extension of the absolute potency. In itself or theoretically, the potency is absolute because it concerns all that is possible to him. But considered with respect to its effects, the absolute potency is both principle – to some extent – of his ordained actions, indeed not exceeding the ordained potency, and principle of his inordinate actions, indeed exceeding the ordained potency: "exceeding (or not) the ordained potency" is an expression that, therefore, determines only whether an action takes place (or not) in conformity with the righteous law *already established*. Whereas in God the absolute potency exceeds the ordained potency only in theory, that is, insofar as he can order many actions that he does not want to, in the man this happens both in theory and effectively, insofar as every man "can" act in an inordinate manner<sup>63</sup>.

For that reason, differently from what we have already said that has been suggested, we see Duns Scotus propose the distinction between the right ("*jus*") and the fact as if it was the juridical correspondent of the theological distinction. From a proposal to comprehend the distinction between the ordained and absolute potencies that take into account the diversity of the agents, Duns Scotus adopts the interpretation according to which the actions concern *de facto* both to what is done in a manner alien to law and to what is done *de iure*, that is, in conformity with the law (even by establishing a diverse or a contrary law from the one already established), thus illustrating both the totality of the possibilities of an agent and the actual fulfillment of these possibilities<sup>64</sup>. Due to this adjustment, Duns Scotus outweighs the positions of

<sup>62</sup> Against, for instance, the interpretation thus summarized by Leppin, 1998, p. 170: "In the work of the *Doctor subtilis*, acting *de potentia ordinata* and working *ordinate* are quite different things: the first indicates God acting according to the *universal* laws given by himself, while the second exceeds this sphere..."

<sup>63</sup> It is possible to note here the insufficiency (somehow indicated by Boulnois, 1994, p. 57) of the distinction rightly credited by several commentators to Randi – although he says it was at least partly suggested by H. A. Oberman (Randi, 1986, p. 209 ff.; 1987b, p. 43) –, of two interpretative paradigms of the distinction of God's power: a logical "pour lequel la puissance absolue est la puissance capable de la totalité des possibles (de tout ce qui est non contradictoire), et la puissance ordonnée correspond au choix d'un ordre particulier", and an operative, "pour lequel l'intervention divine *de potentia absoluta* est une possibilité *de fait* de modifier ce qui est *en droit* le cours des choses" (cf. Boulnois, 1994, p. 56 ff.). As seen, based on the very description proposed, we can easily notice that the logical paradigm also contains an unavoidable operative character: the order is chosen because it is accomplished – as we have seen above, Aquinas clearly affirms that with respect to the ordained potency God "*executes* the empire of the just will". Likewise, in Duns Scotus there is clearly also a "logical" character: at the same that the absolute potency is taken as a principle of the ordained action, the ordained potency is considered capable of the totality of what can be ordained without contradiction for having as principle the absolute potency considered in itself. As we have seen, at least as a thesis to be refuted, the "operative" paradigm of the absolute potency has been applied to God at least since Bonaventure and Henry of Ghent.

<sup>64</sup> For this reason, the consideration according to which Duns Scotus "ne distinguerait plus deux formes de pouvoir mais deux formes d'agir (selon la loi et hors de la loi)" is excessively reducing (Boulnois, 1994, p. 57): once these forms of acting are generally associated to the potencies in a disjunctive way – ordained potency = *selon la loi*; absolute potency = *hors de la loi* –, this description would rather fit Henry of Ghent than Duns Scotus because, for the latter, acting "outside the law" is only one amongst several cases, which, as seen, would be possible only to men.

Bonaventure and Henry of Ghent, who did not envisage the possibility of an action with respect to the absolute potency that was not inordinate.

d. Intellect, Will, and Non-contradiction: The Universal Law and the Particular Judgement.

Once the relations between the distinction of potencies and the rectitude of law are established, Duns Scotus focuses his attention on the theme of the distinction between intellect and will:

“Therefore, applied to what was proposed, I say that some general rules, which dictate righteously, are settled previously by God’s will and, certainly, not by the divine intellect, which precedes the act of the divine will, as was said in the distinction 38. But when the intellect offers such law to the divine will (for example, that ‘all that must be glorified must previously have the grace’), if it pleases his will, which is free, it is righteous law and the same follows with respect to the other laws.” (Duns Scotus, 1963, p. 365, ln. 16-366, ln. 7; *Ordinatio* I, d. 44, q. un., n. 6)<sup>65</sup>.

In this regard, the text of the *Reportatio* I-A is much more developed, reproducing in the very exposition what should be consulted in the distinction 38. There we see, for instance, that the general laws to which the *Ordinatio* refers are the practical laws (or rules) or universal propositions established from the divine wisdom, “though they are rather from his will than from God’s intellect”. This affirmation is grounded on the fact that, in them, “there is no necessity from the terms”, just as we see in “every whole is bigger than its part”, in which the subject “includes the cause in the predicate”. A universal proposition like “every righteous man shall be saved” is only a valid rule because God wants it to: there is nothing in the subject (“every righteous man”) that necessarily includes what is predicated to it (“shall be saved”). Therefore, it is only through the divine will, “which accepts both” – that is, understands the link between the subject and the predicate as valid –, that we have that universal proposition *contingently* established as a law or practical rule<sup>66</sup>:

“Therefore, by being able to act according to those righteous laws insofar as they are previously settled by him, it is said that God acts according to the ordained potency; now, insofar as he can [take] many actions that do not take place according to those laws already previously settled, but beyond them, it is said that his potency is absolute; for once God can [take] whatever action he wants that does not include contradiction, and can act in any way that does not include contradiction (and there are many other ways), it is said, therefore, that [he] then acts according to the absolute potency.” (Duns Scotus, 1963, p. 365, ln. 16-366, ln. 7; *Ordinatio* I, d. 44, q. un., n. 7. Our emphasis.)<sup>67</sup>.

Once the divine will *contingently* establishes what is willed, God can act both in accordance with what he establishes, according to the ordained potency, and as much as beyond what he establishes, according to the absolute potency. But although he defends a completely free will to God, Duns Scotus proposes a limit to his absolute potency – the non-contradiction:

“Whence I say that [he] can act in an ordinate manner with respect to many others; and it does not include contradiction that many others can be done in an ordinate manner out of those that are done in conformity with those laws when the righteousness of that law – according to which it is said that someone acts righteously and in an ordinate manner – is under the power of the very agent. For this reason, just as he can act in other way, he can establish another righteous law that, if it was established by God, would be righteous because no law is righteous unless it is established by the divine will that accepts it; and, therefore, his absolute potency to [do] something does not encompass except what would be done orderly, if it was done: certainly, it would not be done in an

<sup>65</sup> “Ad propositum ergo applicando, dico quod leges aliquae generales, recte dictantes, praefixae sunt a voluntate divina et non quidem ab intellectu divino ut praecedat actum voluntatis divinae, ut dictum est distinctione 38; sed quando intellectus offert voluntati divinae talem legem, puta quod “omnis glorificandus, prius est gratificandus”, si placet voluntati suae – quae libera est – est recta lex, et ita est de aliis legibus.”

<sup>66</sup> Cf. Duns Scotus, 2008, p. 533; *Reportatio* I-A, d. 44, q. 1, n. 9 e idem 1966, p. 535 s.; *Lectura* I, d. 44, q. un., n. 4.

<sup>67</sup> “Deus ergo, agere potens secundum illas rectas leges ut praefixae sunt ab eo, dicitur agere secundum potentiam ordinatam; ut autem potest multa agere quae non sunt secundum illas leges iam praefixas, sed praeter illas, dicitur eius potentia absoluta: quia enim Deus quodlibet potest agere quod non includit contradictionem, et omni modo potest agere qui non includit contradictionem (et tales sunt multi modi alii), ideo dicitur tunc agere secundum potentiam absolutam.”

ordinate manner according to this order, but it would be done in an ordinate manner according to another order. The order that the divine will could establish, just as it can act.” (Duns Scotus, 1963, p. 366, ln. 8-19; *Ordinatio* I, d. 44, q. un., n. 8)<sup>68</sup>.

The same limit also extends to the ordained potency. God can take many actions other than the ones he takes and has taken and all of them can be ordained “provided that they do not include contradiction”. In order for a law to be righteous, it is sufficient that it is “established by the divine will, which accepts it”. This is another aspect of the already mentioned “novelty” of Duns Scotus’s solution: the connection between the absolute potency and the non-contradiction in view of the order. Once it is not contradictory that many other actions, diverse or contrary to the current order, can be accomplished in an ordinate way, God can do everything that, because wanted by him, can be righteously established. Although the association of the discussion of the divine potency with the topic of the impossibility of contradiction has been implicit – as seen – at least since Peter Lombard but openly declared at least since Thomas Aquinas (Thomas Aquinas, 1923, p. 142; *Summa Theologica* I, q. 25, a. 4), the same association does not seem to have its place so clearly established in the debate on the distinction of potencies. Giles of Rome, for instance, defends that *what concerns* the positive law there are no restrictions to the Pope’s absolute power. It befits him only the compliance with the law:

“For the sake of a greater understanding of what has been said and of what must still be said, however, we shall make a twofold distinction as to the power of the Supreme Pontiff and his jurisdiction in temporal matters and say that it is in one sense *absolute* and, in another, is *governed by rules*. For as those learned in philosophy have taught, he who establishes the law should observe the law. Therefore, if the Supreme Pontiff is *a creature without bridle and without halter by reason of his absolute power*, he must nonetheless impose bridle and halter upon himself by observing the statutes and laws in his own actions. For although, *speaking of positive laws* [as distinct from the natural and divine laws], he himself is above the laws, nonetheless, in order that he may give stability to his laws and statutes, it is fitting that he govern the Church entrusted to him according to statutes and laws.” (Giles of Rome, 2004, p. 344-345; *De ecclesiastica potestate* III, chap. 7. Our emphasis.)<sup>69</sup>.

Duns Scotus’s position will clearly state that, just as the contradiction is a limit to God, it will also be a limit to the power of the king, *even with respect to the positive law*, as we will see. After determining the contradiction as the only limit to the divine potency, Duns Scotus opens the discussion on how the contingency of law and God’s power is shaped according to this. In the text of the *Reportatio I-A*:

“Because these laws are subject to the divine will – for every just law is [such] only because de divine will accepts it (but not vice versa) –, and the will can do contingently all it wants or does not want, therefore it can establish another law, for example, ‘that every rational soul shall be saved’ or something of this sort. Therefore, his power in an absolute sense does not exceed his ordained power, because whatever law is instituted by God, whether

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<sup>68</sup> “Unde dico quod multa alia potest agere ordinate; et multa alia posse fieri ordinate, ab illis quae fiunt conformiter illis legibus, non includit contradictionem quando rectitudo huiusmodi legis – secundum quam dicitur quis recte et ordinate agere – est in potestate ipsius agentis. Ideo sicut potest aliter agere, ita potest aliam legem rectam statuere, – quae si statueretur a Deo, recta esset, quia nulla lex est recta nisi quatenus a voluntate divina acceptante est statuta; et tunc potentia eius absoluta ad aliquid, non se extendit ad aliud quam ad illud quod ordinate fieret, si fieret: non quidem fieret ordinate secundum istum ordinem, sed fieret ordinate secundum alium ordinem, quem ordinem ita posset voluntas divina statuere sicut potest agere.”

<sup>69</sup> “Ad maiorem tamen intelligenciam dictorum et dicendorum, distinguemus duplicem potestatem Summi Pontificis et duplicem eius iurisdictionem in temporalibus rebus: unam absolutam et aliam regulatam. Quia, ut tradiderunt sapientes philosophi, legis positivus debet esse legis observativus. Si ergo Summus Pontifex secundum suum posse absolutum est animal sine freno et sine capistro, ipse tamen debet sibi frenum et capistrum imponere, in se ipso observando leges et iura. Nam licet ipse sit supra iura, loquendo de iuribus positivis, ut tamen det suis iuribus et suis legibus firmitatem, decet eum secundum leges et iura commissam sibi ecclesiam gubernare.” According to Oakley (1968, p. 332), although the passage we have just quoted is from 1301 (therefore, contemporary of the *Ordinatio* and of the *Reportatio I-A*), Giles of Rome presents there “the most extensive (and, by far, the most illuminating) elaboration” on the comprehension that, in the 12<sup>th</sup> century, the canonists – who Duns Scotus call jurists in his text – and among them Henry of Segusio, Cardinal Hostiense, had on the established correspondence between the power of the pope and the divine power from the distinction between the absolute and the ordained potencies.

[it is instituted] in a different way or is altogether different from the one that is in force now, it will not be out of order.” (Duns Scotus, 2008, p. 533 ff.; *Reportatio* I-A, d. 44, q. 1, n. 10, with amendments.)<sup>70</sup>.

Besides the resumption of an important conclusion of the text of the *Ordinatio* – which makes once more clear that there is occasion in which the power *de iure* and the power *de facto* are indeed confounded (“his power in an absolute sense does not exceed his ordained power, *because whatever law is instituted by God, whether [it is instituted] in a different way or is altogether different from the one that is in force now, it will not be out of order*”) –, he also resumes the affirmation that no law is just if not accepted by the divine will. In addition to that affirmation, Duns Scotus presents the thesis that grounds it: “and the will can do contingently all it wants or does not want”. Everything God establishes is contingently established, such as the law according to which “every rational soul shall be saved”. There, “there is no necessity from the terms”. Although the distinction does not go further here, this law will not serve only as illustration to this example. We will get back to that.

Before presenting the summary of his answer to the question, Duns Scotus makes a last distinction stating that there are two ways for understanding that something is ordained and is done orderly. Something is ordained or done orderly *by the universal order* when there is the establishment of a righteous law or rule by means of a universal proposition, such as “every final sinner will be condemned”, established by God, or like the universal proposition “every murderer will be killed”, which might have been established by a king. In other words, we say that something is ordained or done orderly *by a particular order* when we express it in the form of an uttered judgement based on that righteous universal law, such as the particular judgement “this murderer will be killed”. In sum, the law concerns exclusively universal causes; the judgement concerns particular causes<sup>71</sup>.

Having clarified that, Duns Scotus resumes the initial question by showing how it must be understood. The question presented in the *Ordinatio*, “whether God is able to do things otherwise than he ordained them to be done”, is analyzed in the following way: the proposition “God is able to do things otherwise than he ordained them to be done” is false in the sense of the composition, for, taken that way, it would mean that “God produces otherwise than according to his determination”, which is a non-sense. But the same proposition is true if taken in the sense of the division, insofar as it corresponds to two true categorical propositions, that is, “God can do this now” (which means: “God can produce something according to his determination”) and “God has not determined to do it now” (which means: “God is able to do things

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<sup>70</sup> “quia istae leges subsunt voluntati divinae – eo quod nulla est lex iusta nisi quia voluntas divina acceptat, non autem e converso –, voluntas autem potest contingenter quodcumque velle vel nolle, ideo potest statuere aliam legem, ut quod omnis anima rationalis salvabitur vel aliquid huiusmodi. Ergo potentia eius absoluta non excedit ordinatam, quia quaecumque lex a Deo instituat aliter vel alia quam illa quae nunc est, esset ordinata.”; cf. *ibidem*, p. 533; n. 9: “Deus autem potest agere omni modo qui non includit contradictionem. Cum igitur multi alii modi non includant contradictionem, potest agere aliter quam de potentia ordinata.” – “However, God can act in any way that does not include a contradiction. Therefore, because there are many other ways that do not include a contradiction, he can act otherwise than on the basis of ordained power”.

<sup>71</sup> Cf. Duns Scotus, 1963, p. 367, ln. 1-8; *Ordinatio* I, d. 44, q. un., n. 9: “Uno modo, ordine universalis, - quod pertinet ad legem communem ‘omnem finaliter peccatorem esse damnandum’ (ut si rex statuatur quod omnis homicida moriatur). Secundo modo, ordine particulari, - secundum hoc iudicium, ad quod non pertinet lex in universalis, quia lex est de universalibus causis; de causa autem particulari non est lex, sed iudicium secundum legem, eius quod est contra legem (ut quod iste homicida moriatur).” – “On the one hand, by the universal order, which concerns the common law: ‘every final sinner must be condemned’ (for example, if the king establishes that every murderer be killed). On the other hand, by the particular order, according to the judgement which does not concern the law as universal – because on universal causes, there is law; on the particular cause, however, there is no law but, on what is contrary to law, the judgement according to the law (for example, that this murderer be killed).”.



otherwise”)<sup>72</sup>. By employing this comprehension to what was previously discussed, Duns Scotus concludes that God can act diversely from what is ordained by the particular order *when* he acts by the absolute potency “according to the laws of justice”<sup>73</sup>, diversely from what is ordained by the universal order; that is, when, *according to his absolute potency*, he acts in order to establish, *according to his ordained potency*, a *universal law* diverse from the previous one or contrary to it – “the potency is not said to be ordained but according to the universal law; not according to the order of the righteous law on something particular”:

“Therefore, I say that God can not only act diversely from what is ordained by the particular order, but [he] can act orderly diversely from what is ordained by the universal order (or according to the laws of justice): because by the absolute potency, those which are beyond this order and those which are against this order can be ordained by God to be done, although the potency is not said to be ordained unless it is according to the order of the universal law and not according to the righteous law on something particular.” (Duns Scotus, 1963, p. 367, ln. 9-17; *Ordinatio* I, d. 44, q. un., n. 10-11)<sup>74</sup>.

As exemplification of the rule that the judgement cannot be modified by God’s absolute potency without also modifying the universal law from which the judgement is derived<sup>75</sup>, Duns Scotus proposes the comparison of two cases, measured by the universal law according to which “anyone who finally dies in sin will be condemned”. In one of the cases, we have someone who has not yet died, but who has committed a final or mortal sin and who will die in final sin and be condemned. In the other case, we have Judas, who has died in final sin and, therefore, is already condemned. According to Duns Scotus:

“it is possible that God saves that one he does not save (who, however, will finally die in sin and will be condemned), but one does not concede that he can save Judas, already condemned – and, however, this is not impossible by the absolute potency of God because it does not include contradiction.” (Duns Scotus, 1963, p. 367, ln. 17-21; *Ordinatio* I, d. 44, q. un., n. 11)<sup>76</sup>.

The dilemma is: although it is denied that God can save the already condemned Judas, saving him does not (necessarily) include contradiction and, therefore, is not impossible by God’s absolute potency; on the other hand, no one denies that it is possible that God saves that one he does not save, that is, that one who will die in final sin. Those who claim that God cannot save Judas think that God cannot change the past:

<sup>72</sup> Cf. Duns Scotus, 1963, p. 445, ln. 22-27; *Ordinatio* I, d. 44, q. un., *Appendix A*: “Item, sciendum quod haec distinguenda est ‘Deus potest aliter producere res quam disposuit’. In sensu compositionis est falsa: significatur enim quod haec est possibilis ‘Deus producit aliter quam secundum dispositionem suam’; in sensu divisionis est vera, et sunt duae propositiones categoriae, et est sensus: ‘Deus potest facere hoc modo’, ‘non disposuit facere hoc modo’. Nec tamen sequitur quod inordinate agat, ut patet per praedicta.” – “Likewise, it must be known that [the proposition] ‘God can produce things differently than he has determined’ must be distinguished. In the sense of the composition, it is false: for it means that [the proposition] ‘God produces otherwise than according to his determination’ is possible. In the sense of the division, it is true: there are two categorical propositions, and the meaning is: ‘God can do this now’, ‘[but he] has not determined to do it now’; and it does not follow yet that he acts inordinate, as it is clear from what was said –.”

<sup>73</sup> That is, according to the ordained potency. Pace Randi, 1987, p. 54: “Scoto rende *potentia ordinata* coestensivo a *ius* non a *iustitia*...”

<sup>74</sup> “Dico ergo quod Deus non solum potest agere aliter quam ordinatum est ordine particulari, sed aliter quam ordinatum est ordine universali – sive secundum leges iustitiae – potest ordinate agere, quia tam illa quae sunt praeter illum ordinem, quam illa quae sunt contra ordinem illum, possent a Deo ordinare fieri potentia absoluta.[11.] Potentia tamen ordinata non dicitur nisi secundum ordinem legis universalis, non autem secundum ordinem legis rectae de aliquo particulari.”

<sup>75</sup> Pace Gelber, 2004, p. 315: “And just as God can set aside one universal order with a new universal order through his absolute power, so through his ordained power *he can make a judgement in a particular case that runs contrary to the universal prescription*.”. Our emphasis. Because the law is a universal proposition and the judgement is the particular conclusion that follows from that proposition, the position defended by Gelber would not result in an opposition, but in a contradiction, which Duns Scotus repeatedly denies to be possible.

<sup>76</sup> “Quod apparet ex hoc quod possibile est Deum salvare quem non salvat, qui tamen morietur in peccato finaliter et damnabitur, - non autem conceditur ipsum posse salvare Iudam iam damnatum (nec tamen hoc est impossibile potentia absoluta Dei, quia non includit contradictionem);”.

the fact that him, at the end, died in sin. Thus, if God had saved him, it would have been an injustice – he would have saved a few who finally died in sin, while he would have condemned all the others who had not been excluded from the judgement derived from the general law according to which “anyone who dies in sin will be condemned”. In sum, God would commit a contradiction by making simultaneously current the general law on the condemnation of that one who finally dies in sin and the particular judgement “this one who finally dies in sin will not be condemned”. However, no one would deny that God can save the other, who has not died in final sin yet, because while he lives, God can do something to avoid such outcome. According to Duns Scotus:

“Therefore, ‘saving Judas’ is impossible in the same way that it is now possible to save the first: therefore, [he] can save this one with respect to the ordained potency (which is true), but not the other [Judas]. Certainly, not by the particular order<sup>77</sup> (which takes place as if only on an individual subject to action and to a particular operation), but by the universal order because, if he is saved, [God] would keep following the righteous laws – which [he] truly previously settled – on the salvation and the damnation of each of them. For [he] will keep following that law that says that ‘the one who is finally evil will be damned’ (which is the previously settled law on those who will be damned) because one is not a final sinner yet, but can be not a sinner (mainly while [he] still is a pilgrim) because God can prevent him with his grace; just as if the king, having prevented someone from committing a murder, if [he] does not damn him, [he] does not attempt against his universal law on the murderer.” (Duns Scotus, 1963, p. 367, ln. 21-p. 368, ln. 10; *Ordinatio* I, d. 44, q. un., n. 11)<sup>78</sup>.

The one who has not died in final sin yet can be saved by the ordained potency, according to which “anyone who finally dies in sin will be condemned” (which implies, in the opposite direction, that “anyone who does not die in final sin will be saved”) because he may not die as a final sinner, once God prevents it by his grace. Thus, when he saves him, God does not do it because he did something orderly exclusively with respect to the particular law, but because his intervention acted in accordance with the universal law, just as a king, by preventing someone from committing a murder, does not need to execute him in accordance with the universal law that says that “every murderer will be killed”. Judas’s case is different:

“However, it would not maintain with that particular law that Judas would be saved; for [he] can have the prescience that Judas must be saved by the ordained potency, but not ordained in this manner, but absolute with respect to this manner, and ordained in another manner according to some other order that, then, is possible to establish.” (Duns Scotus, 1963, p. 368, ln. 10-14; *Ordinatio* I, d. 44, q. un., n. 11)<sup>79</sup>.

<sup>77</sup> The Latin text may suggest that it is Judas himself the subject of the following example, even though the solution clearly concerns the sinner who has not died in final sin yet, compared to Judas from the start. In fact, the subject of the example can be Judas alone – and it is so, for instance, in the exposition of the *Reportatio* I-A. In the *Reportatio* I-A, however, we only find the example about a possibility that cannot be fulfilled: Judas could be saved by the absolute potency of God if he has not died in final sin. But, once he died in final sin, he cannot by no means be saved by the ordained potency. However, another version of that *Reportatio* (namely, the *Reportatio* I-B), will suggest an interpretation closer to the one we defend here for this quote of the *Ordinatio*: Judas could be saved by the absolute potency of God because even dying in final sin, God can establish another law by means of which Judas could be saved by God’s ordained potency. On the other hand, as suggested in the *Reportatio* I-A, one who has not died in final sin yet, can be saved by the ordained potency of God according to the current established law if God decide to intervene with his grace.

<sup>78</sup> “ergo istud, scilicet ‘salvare Iudam’, eo modo est impossibile quo modo possibile est salvare istum: ergo istum potest salvare de potentia ordinata (quod verum est), et illum non. Non quidem ordine particulari (qui est quasi de isto agibili et operabili particulari tantum), sed ordine universali, quia si salvaret, staret modo cum legibus rectis – quas vere praefixit – de salvatione et damnatione singulorum. Staret enim cum illa ‘quod finaliter malus damnabitur’ (quae est lex prefixa de damnandis), quia iste adhuc non est finaliter peccator, sed potest esse non peccator (maxime dum est in via), quia potest Deus eum gratia sua praevenire; sicut si rex praeveniret aliquem ne faceret homicidium, si non damnat eum, non facit contra legem suam universalem de homicida.”

<sup>79</sup> “Non autem staret, cum illa particulari lege, quod Iudam salvaret; Iuda enim potest praescire salvandum de potentia ordinata, sed non isto modo ordinata sed absoluta ab isto modo, et alio modo ordinata secundum aliquem alium ordinem tunc possibilem institui.”

Once he had died in sin, he could not have been saved once the particular law remains current, that is, the judgement according to which “the one who is finally evil will be damned”. In other words, in order for Judas to be saved, God would have to establish, by his absolute potency, a universal law that would contradict the law established according to which “anyone who finally dies in sin will be damned”, that is, God would have to establish by the ordained potency a new “ordained law, but not ordained in this manner, but absolute with respect to this manner, and ordained in another manner according to some other order that, then, is possible to establish.”

When considering the remarks on the difficulty to interpret the meaning of the two cases we have just exposed<sup>80</sup>, we could look outside the text of the *Ordinatio* for an example that ensures our interpretation. It will not be found in the *Lecture* or in the *Reportatio* I-A, in which only one solution to Judas’ case is considered, whom God could save if, before Judas’s death, he had “prevented him with his grace”, ensuring, then, that he did not die in final sin. Put that way, the solution is similar to the one described in the exposition of the first of the two cases of the *Ordinatio* and also similar to the one presented by Bonaventure, although it is now formulated according to the distinction of potencies. Curiously, in the *Reportatio* I-A, Duns Scotus finishes his exposition by simply saying that Judas, who has died in final sin, could not have been saved by the ordained potency, that is, once the rule “every evil person will be damned” is maintained, just as someone who will be damned, while existing or living, still can:

“To the case at hand: God has established a universal law by ordaining that every evil person be damned. A particular order – which we call a judgment – is that this particular person, namely Judas, will be damned. I say that God can save Judas by his power taken in an absolute sense. However, he cannot simply save him on the basis of an ordained and universal power. At the same time, he can save him on the basis of a particular order if Judas had and had not been damned because God were able to prevent him [from his damnation] through grace, as it happened in the case of Peter after his sin. Therefore, he can [act] against the universal order by the absolute power and this would not result in disorder, because [he] would have established that this law was ordained. Hence, even though he must be damned, this one who [now] exists as damned<sup>81</sup> can, however, be beatified by

<sup>80</sup> Cf. Veldhuis, 2000, p. 227: “... Duns illustrates the distinctions made with the help of two examples, which pose a series of difficulties for the interpreter. ...”. Indeed, the works we usually find present divergent interpretations when commenting these two cases. For example, again, Veldhuis, 2000, p. 227s.; Adams, 1987, p. 1193-1198; Gelber, 2004, p. 315 f.

<sup>81</sup> Among other modifications, we propose here that, in this context, the Latin word “*praescitus*” has a very different meaning from “foreknown”. It means “the damned one”. In similar contexts, something alike occurs with the Latin word “*preadestinatus*”, whose meaning is “the saved one”, instead of something like “someone who is previously destined to be either saved or damned”. Indeed, these words are clearly applied by Scotus in this sense, for instance, in Duns Scotus, 1963, p. 309, ln. 17-20 (*Ordinatio* I, d. 40, q. un., n. 3): “Si non [posset damnari], non esset sollicitandum alicui de observantia praeceptorum et consiliorum, quia qualitercumque operaretur salvaretur, si est praeordinatus, – et qualitercumque operaretur, si est praescitus damnaretur. Frustra ergo ponitur tota lex divina!” – “If he could not be damned, it could not be required from someone the obedience about the precepts and deliberations, once, no matter what he does, he will be saved if he is predestined, and, no matter what he does, he will be damned if [he is] *praescitus*. Therefore, it’s useless to propose anything about the divine law!”. The same sense can even be found in William of Ockham. Among other places: Ockham 1979, p. 592, ln. 21 ff. (*Ord.* I, d. 40, quaestio unica): “quaero utrum sit possibile aliquem praeordinatum damnari et praescitum salvari” – “I ask whether is possible to the predestinated be damned and to the damned be saved”; *ibidem*, p. 595, ln. 6-9 “dico quod quamvis nec ista propositio ‘praeordinatus potest damnari’ nec ista ‘praescitus potest salvari’ sit distinguenda secundum compositionem et divisionem, ...” – “I say that although neither the proposition ‘the predestinate can be damned’ nor the other one ‘the damned can be saved’ should be distinguished according [the senses] of composition and division, ...”; and finally, *ibidem*, p. 596, ln. 11-16, in which can be found the following conclusion: “Et isto modo est de istis oppositis: ‘praeordinari-damnari’, ‘praesciri-salvari’” – “And that’s the mode proper to these opposites: ‘be predestinated – be damned’, ‘be damned – be saved’”. Vide Oliveira 2014, p. 64-71.

both absolute and ordained power, but Judas cannot [be beatified] by the ordained power.” (Duns Scotus, 2008, p. 535; *Reportatio* I-A, d. 44, q. 1, n. 13, with amendments.)<sup>82</sup>.

However, very close to the argument exposed in the *Ordinatio*, and with examples that support our interpretation of this text, is the little known *Reportatio* I-B<sup>83</sup>, which regarding the case of the king and the murderer says that:

“I also say that there is order according to universal laws, such as the one ‘every murderer will be killed’ and, once the practical universal law is followed, [the agent who is not under the law] cannot prevent this murderer from being killed. But the legislator can save him in two ways, insofar as it is in his power to do it. In a way, by preventing him from being a murderer, and thus he can – or at least could – save this one who now is a murderer while the law universal is followed. In another way, [he] can save him by establishing an opposed law and destroying that one.” (Duns Scotus, 1518, f. LXI v; *Reportatio* I-B, d. 44, q. 1)<sup>84</sup>.

Regarding God, we read:

“Thus, God can save this sinner who is still alive maintaining the universal law because [he] can prevent him from dying in mortal sin while he lives. In another way, [he] can, by the absolute potency, against this universal law, by establishing another and, however, [he] does not want to save him. Whence [he] can save him in a different way than Judas and Judas in a different way than the stone – because he can save this sinner while maintains the universal law ‘everyone who is finally an evil person will be damned’ by preventing him from being finally an evil person and, however, [he] does not want to save him more than he wants to save Judas. [He] can save Judas while keeping Judas’ nature, by establishing another universal law: the one that dictates that ‘every rational nature will be saved.’” (Duns Scotus, 1518, f. LXI v; *Reportatio* I-B, d. 44, q. 1)<sup>85</sup>.

As we see, the example of the one who has not yet died in final sin remains fundamentally the same one already described by us. However, in Judas’s case we have a novelty: Judas can be saved even if his nature is maintained, that is, the fact that at the end he died in sin. God could save him in an ordained manner according to his absolute potency, thus establishing a new universal law, according to which “every rational nature will be saved”, which he have already seen in the *Reportatio* I-A formulated as “every rational

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<sup>82</sup> “Ad propositum: Deus posuit legem universalem et ordinem quod omnis malus damnabitur; ordo particularis, qui dicitur iudicium, est quod iste, id est Iudas, damnabitur. Dico quod Deus potentia absoluta potest salvare Iudam. Non tamen simpliciter potest eum salvare potentia ordinata et universali. Potest tamen eum salvare ordine particulari, si Iudas esset et non esset damnatus, quia possit eum praevenire per gratiam, sicut et Petrum post peccatum. Potest igitur contra universalem ordinem potentia absoluta, sed tunc non esset inordinatio, quia statueret istam legem ordinatam esse. Unde iste, praescitus existens, licet damnabitur, tamen potest potentia absoluta et potentia ordinata beatificari; non tamen Iudas potentia ordinata.”

<sup>83</sup> Just like in the *Reportatio* I-A, in the distinction 44, the *Reportatio* I-B brings basically the same two questions: “Could God produce otherwise than according to the order disposed by him?” (utrum deus posset producere alia quam secundum ordinem ab ipso dispositum) and “Can God do better [things] than he does?” (utrum deus possit facere meliora quam facit). It also follows what we have said with regard to the other versions: it has parallels with all of them and does not seem to diverge from the content. Very close to the A-I, but much more concise than it, the I-B also presents examples closer to the narrative of the *Ordinatio*, such as the one we will present next.

<sup>84</sup> “Aliud dico quod ordo est secundum leges universales ut quod omnis homicida occidatur et stante lege universali practica [sc. “omni agente libere quod potest agere conformiter regule et disformiter”] non potest facere quin iste homicida moriatur: sed legislator potest istum dupliciter saluare si sit in eius potestate uno modo preueniendo ipsum ne sit homicida et tunc potest istum qui est homicida nunc uel saltem potuit saluare stante lege in universali. Alio modo potest eum saluare statuendo legem contrariam destruendo istam.”

<sup>85</sup> “Sic Deus potest saluare istum peccatorem uiuentem stante lege universali: quia potest preuenire illum dum uiuit ne moriatur in peccato mortali. Alio modo potest de potentia absoluta contra istam legem universalem statuendo aliam: et tamen non uult istum saluare. Unde aliter potest istum saluare quam Iudam et aliter Iudam quam lapidem – quia istum peccatorem potest saluare manente lege universali quod omnis finaliter malus damnabitur preueniendo istum ne sit finaliter malus: et tamen non uult magis saluare istum quam Iudam. Iudam potest saluare manente natura Iude ponendo aliam legem universalem quod omnis rationalis natura saluabitur.”



soul will be saved”. This new law cancels or destroys the previous one, according to which “anyone who finally dies in sin will be condemned”. Thus, even if he finally dies in sin, Judas can be saved without that resulting in disorder or injustice, and since that law is destroyed, there is no possibility of a contradiction with respect to the particular judgement “this one (Judas) will be saved”, a manifest contradiction to that former universal law. In accordance with that, we find in the *Ordinatio* the following conclusion:

“Therefore, [he] can save Judas by the absolute potency. Indeed [he] can save a sinner by the ordained potency, although [he] will not save him –, but [he] cannot beatify a stone either by the absolute potency or by the ordained potency. And, according to that, it is evident that, in God, the potency can be said absolute according to this: insofar as [he] can [act] against the universal law and not [against] the particular [law].” (Duns Scotus, 1963, p. 368, ln. 15-19; *Ordinatio* I, d. 44, q. un., n. 11, *textus interpolatus*)<sup>86</sup>.

Once more, we reach the conclusion that God cannot act against the particular law without altering the universal law. And we find also the conclusion relative to the example on the stone quoted in the text of the Reportatio I-B: God cannot beatify a stone *either by the absolute potency or by the ordained potency* probably because “being beatified” is a possible predicate only to a rational nature, endowed with intellect and will, capable of both sinning and not finally dying in sin, which does not apply to what a stone is in its essence.

The last statement of the distinction 44 in the text of the *Ordinatio* resumes the scope of the discussion so far presented:

“Now, how the divine will can act with regard to particulars and the righteous laws that must be established *while not wanting the opposite* from what it wants now, was addressed above in the distinction 39.” (Duns Scotus, 1963, p. 369, ln. 1 ff.; *Ordinatio* I, d. 44, q. un., n. 12. Our emphasis.)<sup>87</sup>.

The distinction 39 is a defense of the contingency of the divine freedom and of the certainty of its science, that is, it exposes the theme of the contingency of God’s will associated with the defense of the contingency in the divine science: the defense that, although the science of God is necessary and, thus, God knows in a necessary and immutable way the truth about the contingent, it does not imply that he is incapable of knowing the contingent (because contingency is, to a certain extent, change and the divine science does not change), nor does it imply change in the divine science (moving from not knowing to knowing as contingent actions take place), nor, in conclusion, it implies the loss of the contingency in things – from the fact that God knows with certitude the true even about contingent things, does not follow that things do not taken place freely anymore, but only in a necessary manner (*see* Oliveira, 2014, pp. 101-132).

Duns Scotus’s remark stresses the difference in the established debates: whereas the distinction 39 considers the divine will in itself, showing how the divine will deals contingently with its objects, the distinction 44, even when it considers the potencies *in themselves*, it considers them in order to know

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<sup>86</sup> “Potentia ergo absoluta potest Iudam salvare, - potentia vero ordinata potest istum peccatorem salvare, licet non salvabitur; sed lapidem nec potest beatificare potentia absoluta, nec ordinata. Et secundum hoc, patet respectu cuius dicitur potentia absoluta in Deo, id est in quantum potest contra legem universalem et non particularem.”

<sup>87</sup> “Qualiter autem voluntas divina possit circa particularia et circa leges rectas instituendas, non volendo oppositum eius quod nunc vult, dictum est supra distinctione 39.”



what is possible to do<sup>88</sup>. The discussion on the distinction between potencies assumes the contingency of the divine will, explained in the distinction 39, in an investigation that undergoes the comparison between the human and the divine will:

“Therefore, it is important to investigate the first contingency with respect to the divine will. In order to see how it should be set, first one needs to see it regarding our will, and [see] three [things] about it: first, what the freedom of our will is related to?; second, how this freedom is conform to possibility or contingency?; and third, how the possibility regarding opposed things is expressed on the logical distinction of propositions?” (Duns Scotus, 1963, p. 416, ln. 15-19; *Ordinatio I, Appendix A*: d. 38 pars 2 et d. 39, q. 1-5, n. 14)<sup>89</sup>.

In accordance with what is requested for the comprehension of the text of the distinction 44, from this discussion what is interesting to us is mainly the following:

“And this is the way it is with the divine will. For God can only will something in eternity or in that one instant of eternity, and by means of that single act of volition in that one instant he is contingently the cause of that *a*. For example, if my will were to exist but for one instant of time, it would contingently elicit an act of will in that instant (and could have merited [salvation]) not because it preexisted in being in another instant, but because it elicits a volitional act of this sort freely and contingently. It is the same way with the divine will: in that instant of eternity, in which it produces *a*, there could be non-*a*; otherwise it would follow that whenever the cause exist, *a* would necessarily [come to] exist.” (Duns Scotus, 2008, p. 477; *Reportatio I-A*, d. 39-40, q. 1-3, n. 43, with amendments.)<sup>90</sup>.

Everything God wants is wanted in the single instant of eternity. Although the distinction of potencies allows us to understand that God is able to want *a* in the instant *x* and, then, stop wanting *a* in the instant *y*, it does not follow that his will would have opposite acts in eternity<sup>91</sup>, that is, that the divine will would end up in contradiction. For Duns Scotus, there could only be a problem if such an alteration affected the *non-manifested* potency of will, described in the previous passage, that is, the one that ensures the contingency of something because, in the same instant of *nature* in which *a* is produced or wanted, it could be not wanted or not produced. The change announced according to the absolute potency of an intervention according to the ordained potency in the current order, is due to a successive potency, which happens in time: the *manifested* potency of the will, in respect to which, according to Duns Scotus, there is

<sup>88</sup> Pace Veldhuis 2000, p. 228. Based only on the solution of the *Ordinatio*, Veldhuis joins the discussion on the contingency of the divine will, as we have just pointed out, with the discussion on the distinction of potencies without believing that time would have any relevance to the argumentation on this distinction: “We see that in both examples of the sinner and of Judas, Scotus makes *time* play a significant part, in our view, without good reason. In the case of the sinner, who could be saved within the order of *potentia ordinata*, Duns speaks of a still living sinner who will remain unconverted, but who *could* [be] drawn toward conversion by God in the future, even if God factually will not do so. Judas already died unconverted and condemned. However, with regard to the synchronic possibilities of God’s *potentia ordinata* or *potentia absoluta* for an unconverted sinner, time does not play an essential part. The two alternative possibilities of *potentia ordinata* and *potentia absoluta* are therefore available *both* for the former sinner and for Judas. Thus it was also possible for Judas to be converted by God within the order of *potentia ordinata*.”

<sup>89</sup> “Primam ergo contingentia oportet quaerere in voluntate divina, – quae, ut videatur qualiter sit ponenda, primo videndum est in voluntate nostra, et ibi tria: primo, ad quae sit libertas voluntatis nostrae; secundo, qualiter ista libertatem sequatur possibilitas sive contingentia; et tertio, de logica distinctione propositionum, quomodo exprimitur possibilitas ad opposita.”

<sup>90</sup> “Et isto modo est in voluntate divina: Deus enim nihil potest velle nisi in aeternitate sive in instanti uno aeternitatis, et mediante unico velle in illo unico instanti contingenter est causa ipsius *a*. Sicut si voluntas mea non esset nisi in uno instanti temporis, contingenter eliceret actum volendi in illo instanti (et posset mereri) non quia praefuit in esse in alio instanti, sed quia libere et contingenter elicit talem actum volendi — sic voluntas divina: in illo instanti aeternitatis in quo producit *a*, posset esse non *a*; alias sequeretur quod quando est causa, necessario esset *a*.”

<sup>91</sup> Cf. Duns Scotus 2008, p. 531; *Reportatio I-A*, d. 44, q. 1, n. 3, 3<sup>o</sup> init. arg., with amendments: “Item, in aeternitate disposuit rem fieri secundum ordinem ab eo institutum. Si ergo potest aliquid aliter producere, et non de novo, ergo in aeternitate potest habere actus oppositos.” – “Also, he from eternity determined that things should be according to the order instituted by him. Therefore, if he can produce something otherwise [than the way it is now] and without bringing about anything new, then he can have opposite acts from eternity.”



no dispute. Therefore, opposites can never be jointly created in a single instant of time. They only can be set in different instants of the time. This temporal succession does not imply, however, that these opposites could not have been ordained by God in the indivisible instant of eternity: “as far as eternity is concerned, opposites are allowed to exist – separately, not in conjunction – and moreover in the same instant.”<sup>92</sup>.

e. The Distinction Between Potencies and the Contingency in Science: The Necessary as in Many.

Explaining the distinction between the universal law and the particular judgement, Adams (1987, p. 1196) remembers the biblical case of the three young men thrown in the furnace who were not hit by the fire (Daniel 3, 13-97). If “heat heats” is a universal rule comparable to those we have just examined, Adams proposes that there must have been an exception to that rule in the following manner: “heat always heats proximate objects except for the three boys in the fiery furnace”, an example that seems contrary to the distinction between universal laws and particular judgements, as Adams herself observes. She also considers that it could not be the case that the “heat heats” would be a general rule most of the times and that it would have been replaced by the rule “heat does not heat”, since the biblical narrative points out that while the three young men were not hit by the fire, those who threw them in the flames were mortally hit by them and had their clothes burned. “But these worries were not anticipated by Scotus”, she says.

Nonetheless, we are dealing with a mistake. Adams did not get to know the text of the *Reportatio I-A*, which mentions precisely the case of the three young men in the fiery furnace. In the text, Duns Scotus replies that we see there something we believe is necessary, but which is indeed contingent as in most cases (*ut in pluribus*), that is, *what happens in most cases* and, therefore, has the aspect of a certain stability<sup>93</sup>. Thanks to an incidental commentary – “I reply now as I replied yesterday in some question ...” –, we find out how to better understand it. Duns Scotus points out something not predicted by Adams’s counterarguments: the heat heats not according to a general law, but according to one of its attributes, which may or not be present to its subject:

“Indeed, the first cause, on which any absolute being directly depends, can cause a certain attribute not to follow or originate from a certain subject. However, because *as in most cases* God works in conjunction with things and allows them to have proper attributes, therefore an attribute can be known and demonstrated about its subject *as*

<sup>92</sup> Cf. Duns Escoto 2008, p. 536; *Reportatio I-A*, d. 44, q. 1, n. 16, ad 3m: “Ad aliud dico quod in aeternitate possunt fieri opposita divisim, non coniunctim, et hoc in eodem instanti. Patet supra in materia de futuris contingentibus.” Vide also Duns Scotus, 1963, p. 417, ln. 16-419, ln. 4; *Ordinatio I*, Appendix A: d. 38 pars 2 et d. 39, q. 1-5, n. 16. Thus, by crediting the contemporary thesis on the synchronic possibilities as one of the characteristics proper to the distinction of potencies, Boulnois (1994, p. 56: “Tout en reprenant ces éléments classiques, l’interprétation de Scot tranche sur celle de ses prédécesseurs, pour trois raisons : [ ... ] 3e Même lorsqu’il a choisi un ordre, en même temps et sous le même point de vue, Dieu *peut* faire ce qu’il n’a pas décidé. La puissance divine est ouverte à un éventail de possibilités synchronique, et l’état de fait choisi n’exclut pas les autres possibilités.”) also confuses the discussion that grounds the contingency of the divine will with the discussion concerning what this free will is able to do.

<sup>93</sup> Cf. Duns Escoto, 2008, p. 536; *Reportatio I-A*, d. 44, q. 1, n. 17, with amendments: “Ad aliud concedo quod non est scientia simpliciter necessaria, sed ut in pluribus tantum. Permittit enim res ut in pluribus operari secundum motus suos et secundum ordinem ab eo dispositum. Aliquando tamen, praetermittendo illum ordinem, agit secundum alium ordinem: patet de statione solis tempore Iosue et de tribus pueris in igne et de eclipsi solis in morte Christi, quod fuit contra principia geometriae. Sic ergo modo respondeo, sicut heri in quadam quaestione, quod non est scientia de contingentibus nisi de facto ut in pluribus.” – “As regard the other, [n. 4] I concede that it is not a science that is simply necessary, but only as in most cases. Indeed, in most cases [God] allows things to follow their own motions, according to the order that he instituted. However, at times he disregards this order and acts according to another order: this is clear in the case of arresting the movement of the sun at the time of Joshua, or in the case of the three young men in the fire, or of the solar eclipse at the time of Christ’s death, which was against the principles of geometry. Therefore, I reply now as I replied yesterday in some question, that there is no science of the contingents, except *de facto* as in most cases.”

in most cases, although not always nor by some absolute necessity.” (Duns Scotus, 2008, p. 517; *Reportatio* I-A, d. 42, q. 2, n. 32. Our emphasis. With amendments.)<sup>94</sup>.

In this regard, an attribute is an accidental perfection, different from an essential perfection (cf. Duns Scotus, 2008, p. 537-540; *Reportatio* I-A, d. 44, q.2). Just as heating is an attribute of the heat, that something can be heated is not a general law either, since “being heated” is an attribute that may or may not happen to a subject. Whatever the miracle God worked by preventing the young men from being burned<sup>95</sup>, Duns Scotus makes use of this passage to show that the defense of the contingency of the divine will imposes a certain modulation to the understanding of the necessity of science.

There is no science simply necessary, “but only as in most cases”: in a science are considered attributes that cannot be “always or by some absolute necessity” known or demonstrated with respect to their subject. Necessity in science is something conditional, not absolute: the contingent things, as the celestial bodies, are naturally able to perform certain movements that are their adequate attributes or accidental perfections unless God intervenes in the current order. But if this divine interference ceases, they must go back to the uniformity of their natural aptitude:

“As for the fact that [celestial bodies] have an innate disposition towards such motions, this is necessary and is known by demonstration. At the same time, when they are sometimes moved otherwise, as at the time of Joshua or Ezekiel, or according to what we read about the sun in the Lives of the Saints, this is contingent activity and for this reason these things cannot be known by demonstration. Now if the sun and the moon preserved the same motions that they were known to have had before [the occurrence of supernatural events], then [exact] science [would still] follow of necessity. Hence the sun and the moon presently appear to be in exactly the same positions as [they would] if no unusual motions or alignments had occurred during the aforesaid time. This is because [at those times] as one body was moving contrary [to its usual movement], the whole movable celestial sphere immediately adjusted to its appropriate position in order to preserve uniformity.” (Duns Scotus, 2008, p. 536 ff.; *Reportatio* I-A, d. 44, q. 1, n. 17)<sup>96</sup>.

In a nutshell, concerning the natural things, the absence of contradiction makes us consider the distinction between essential and accidental perfections. In the natural things, God respects the limit of non-contradiction once he alters only what is not part of their essence. Otherwise, we would be facing the creation of something completely new, which is not absolutely impossible. Again, the dilemma is: for

<sup>94</sup>“Potest enim causa prima, a qua immediate dependet quodlibet ens absolutum, facere quod ad tale subiectum non sequatur talis passio nec oriatur ex eo. Quia tamen ut in pluribus Deus cooperatur rebus et permittit eos habere proprias passiones, ideo ut in pluribus potest passio sciri et demonstrari de subiecto, licet non semper vel necessitate absoluta.”

<sup>95</sup>Duns Scotus (2008, p. 518; loc. cit., n. 33) indeed does not speak there about the heat, but he gives an example about men: “Ad tertium quando dicitur quod Deus non potest facere hominem sine quantitate, dico quod falsum est. Et cum probas quod ‘esse organicum corpus’ ponitur in definitione eius, dico quod ‘organicum’ quod ponitur in definitione eius non dicit quantitatem vel partes tales sub quantitate, sed dicit corpus habens plures partes heterogeneas quibus competit, virtute animae, multiplex operatio. Non dicit tamen tales partes ut extensas per quantitatem, quia breviter numquam in aliqua definitione substantiae est necessario ponendum accidens.” – “To the third, [n. 8] when it says that God cannot make a human being without quantity, I reply that this is false. And when you prove [this by stating] that its definition includes ‘being a body with organs’ I say that ‘with organs’ that is contained in its definition does not imply quantity or quantifiable extension. What it implies is a body that has many heterogeneous parts which, when powered by the soul, are capable of multiple tasks. It does not imply, however, that such parts should have quantifiable extension, because, in a nutshell, no definition of substance ever requires necessarily an accident.” (With amendments).

<sup>96</sup>“Sed quod sint sic apta nata ad tales motus, hoc est necessarium et sic scitum demonstrative. Sed quod modo sint aliter mota, ut tempore Iosue vel Ezechiae, vel sicut legitur in vitis patrum de sole, hoc est contingenter factum et ideo haec non possunt sciri demonstrative. Sed si habent tales motus quales deprehensi sunt sol et luna habere prius, tunc sequitur de necessitate scientia. Unde in eodem aspectu se habent sol et luna modo ac si non fuisset ibi aliquis novus motus vel nova coniunctio temporibus praedictis. Quod patet quia sicut contra movebatur unum corpus, ita totum caelum vel corpus motum subito revertebatur ad locum suum ad habendum uniformitatem.”

a stone to be able to be beatified, it would have to be able to sin. If God created such a stone, it ceases to be simply a stone or that which we now know as a stone would have been destroyed. Anchored in the distinction of potencies, such as presented by Duns Scotus, the theory of the conditional necessity of science announces the engagement of this distinction of potencies in the issue of the divine intervention by the second causes, fundamental to the development of what came to be the Ockhamian discussion. With his presentation of the distinction of potencies, Duns Scotus gives Ockham a razor.

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