

# At the crossroads of law and morality: Leonardus Lessius' (1554-1623) contract theory

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By now it is an established fact that the theologian and jurist Leonardus Lessius (1554-1623) played a pivotal role in bridging the gap between tradition and modernity in both legal and economic thought. Living in the Southern Netherlands at the time of the Spanish and Austrian occupation, Lessius was in a unique position to acquaint himself thoroughly with the refreshing ideas of the Iberian late scholastics, and, after having left his own mark on it, to hand it down to Hugo Grotius (1583-1645) in the Northern Netherlands and, through him, to the Natural Law philosophers in Germany and beyond.

Renowned for his sharp insight and clever advice as a moral adviser to merchants, clerics and princes, Lessius was called the “Oracle of the Netherlands”. In his most famous work, *De iustitia et iure* (1605), he gives an overview of the general juridical and moral principles which guided him in solving the cases of conscience put forward to him. The extraordinary synthesis of law and theology displayed in this masterpiece on justice and right, allows one to think of it both as a juridical commentary on the virtue of justice (*iustitia*), and as a theological commentary on common law (*ius commune*). As such, Lessius' *De iustitia et iure* seems to be the culminating point of a process which had started back in the late Middle Ages, namely the juridification of theological thought – a process which, importantly, did not remain without consequences for the development of legal thought itself.

By focussing on his contract theory, it is the aim of our dissertation to identify the structure (1) and the effects (2) of the juridico-theological synthesis in Lessius' thought. The licitness of a sale-purchase contract, for example, is being assessed by Lessius from his just pricing theory, which, due to its philosophical basis, pays attention not only to mutual consent, but also to equality in the making of a contract. Now, this juridico-theological point of departure had very important implications. It led Lessius to approve of information-asymmetry in the market as a means of making money, for instance – a decisive turn in the history of economic thought. And, what is more, Lessius' idea that the licitness of a sale-purchase contract heavily depends on its price being just or equal persisted through the work of Grotius and Pufendorf amongst others – thus definitively giving the legal assessment of buying and selling a moral face.

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