

The Place of Law in Virtue-Based Morality

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The documents of the Second Vatican Council make only one reference to moral theology. In the Decree on Priestly Training, *Optatam Totius*, the Council Fathers state that “Special care must be given to the perfecting of moral theology. Its scientific exposition, nourished more on the teaching of the Bible, should shed light on the loftiness of the calling of the faithful in Christ and the obligation that is theirs of bearing fruit in charity for the life of the world.”¹ This was a much-needed instruction. Prior to the Council, moral theology had been taught out of manuals in which “moral theory is presented as the domain of strict ethical obligation which is to be imposed on everyone, and the Decalogue takes the form of a code of commands and prohibitions dictated by God...this moral theory is, above all, rational, and therefore makes little recourse to Scripture.”² One of the theologians who responded wholeheartedly to this call for a renewal of moral theology was Father Servais Pinckaers, O.P. In his *The Sources of Christian Ethics*, he lays out a moral theology according to St. Thomas Aquinas, the Fathers of the Church, and, of course, the Scriptures. Rather than focusing on rules and obligations, his approach is centered on the natural desire for happiness and the virtues as a means to that end. The moral life of the Christian is presented as a continual growth in “freedom for excellence”, a freedom which allows a person to “act with excellence and perfection”³ at will, and which coincides with growth in virtue.

One might ask if there is any place at all for obedience to the commands of the law in this scheme – at first glance, the stress on happiness, virtue, freedom, and grace may seem to do away with it. Pinckaers, however, has a very definite place for it. He conceives the growth in freedom for excellence as a process in three stages: discipline, progress, and maturity. It is in the first stage, that of

¹ *Optatam Totius* 16,
http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19651028_optatam-totius_en.html

² Servais Pinckaers, “The Recovery of the New Law in Moral Theology,” *Irish Theological Quarterly* 64, no.1 (1999): 4.

³ Servais Pinckaers, *The Sources of Christian Ethics*, trans. Sr. Mary Thomas Noble (Washington, DC: The Catholic University of America Press, 1995), 375.

discipline, that obedience to moral rules predominates, and the Decalogue and the pre-conciliar moral manuals correspond particularly to it. Pinckaers is quick to point out, however, that “discipline does not seek a union of wills controlled by a binding authority” but rather “involves the communication of knowledge and the formation of mind and will, within the context of a growing harmony between disciple and teacher.”⁴ Even though moral discipline at first seems harsh and limiting, like exercises at the piano, the disciple gradually comes to understand that the rules and laws are there to train him in the use of his freedom, “to develop his ability to perform actions of real excellence by removing dangerous excesses.”⁵ Thus, in this first stage of the moral life, the negative precepts of the Decalogue are especially needed because the main concern is to avoid sin and any disordered inclinations contrary to charity, for “the seed of love of God and neighbor implanted in our hearts needs protection for future growth.”⁶

Once the plant has grown strong enough, the moral law, which began as a constraint imposed by an exterior will, ends by resonating with our own interior sense of truth and goodness. It is then that the stage of progress begins, in which the main concern is “to grow and advance in the exercise of various virtues and especially in the practice of charity.”⁷ There is a law for this stage, too, the New Law of the Sermon on the Mount, whose most important demands are interior rather than exterior. At this stage, “we move from a limited moral theory to one of progress, based on a generosity that always exceeds the demand with the spontaneity of true love.”⁸ Finally, there is the stage of maturity,

⁴ Ibid., 360.

⁵ Ibid.

⁶ Ibid., 363.

⁷ Ibid., 365.

⁸ Ibid.

characterized by “mastery of excellent actions and creative fruitfulness.”⁹ The law of this stage is the grace of the Holy Spirit working through His gifts, making us able to “perform perfect actions transcending simple reason and our own initiative.”¹⁰

We can see therefore, that there is a characteristic law appropriate to each stage of moral development: the first stage relies on the moral precepts of the Old Law, which corresponds to the natural law, while the second and third stages correspond to the New Law of the gospel, which is “the law of perfection, since it is the law of charity.”¹¹ There is certainly more “freedom of initiative” in the second and third stages, but “this is not to say that ... we no longer have to fight against our faults and we can throw off all discipline.”¹² The validity of the Decalogue remains after the coming of the Gospel; the difference is that the morally mature person experiences it as an interior, rather than an exterior law.

In an article entitled “The Integration of Law and Virtue: Obedience in Aquinas’s Moral Theology”, Benjamin J. Brown takes issue with virtue ethicists who “see law only as a means to the development of virtue – an important help along the road, pointing in the right direction – rather than more essentially and integrally related.”¹³ He argues that St. Thomas actually gives an important and prominent place in his moral theology to law and obedience, which ought not to be relegated to a merely instrumental role. Brown does not think that virtue should be subordinate to the law, but rather that law and virtue complement each other on an equal basis and to emphasize one over the other

⁹ Ibid., 366.

¹⁰ Ibid., 369.

¹¹ Thomas Aquinas, *Summa Theologica*, I-II, 107.1
<http://www.newadvent.org/summa/2107.htm>

¹² Pinckaers, *Sources of Christian Ethics*, 371.

¹³ Benjamin J. Brown, “The Integration of Law and Virtue: Obedience in Aquinas’s Moral Theology,” *Irish Theological Quarterly* 67, no.4 (2002): 334.

would result in a skewed picture of morality: “Without virtue, law tends to become pharisaic; but without law, virtue tends to become self-absorbed.”¹⁴ Pinckaers, as we have seen, clearly subordinates the law to virtue, yet also claims that he is following St. Thomas. What then, is the proper place of law in relation to the virtues?

Brown gives three main arguments for his position: first, that according to St. Thomas, law puts a subject in right relation to a ruler, and our perfection lies in being in right relation to God; second, that not only is law ordered to virtue, but virtue is ordered to keeping the law; and finally, that St. Thomas names obedience as the highest natural virtue, so no act can be virtuous if not done in obedience to the law. It should be noted that Brown uses the word ‘law’ “to refer primarily to the natural law” and the term ‘obedience’, to refer “primarily to obedience to God as the promulgator of natural law,” though he allows that they could also apply to human law and human authority.¹⁵ Apparently, he does not have in mind the Sermon on the Mount or the Gifts of the Holy Spirit when he speaks of the law, though we can assume that, with St. Thomas, he considers the Decalogue to be an expression of the natural law.¹⁶ Therefore, in speaking of law and obedience, he is referring to something that according to Pinckaers belongs only to the first stage, of discipline (though Pinckaers acknowledges that some discipline is needed throughout life), and only in speaking of virtue would he be referring to anything having to do with Pinckaers’ second and third stages. Brown, then, seems to argue that even in the stage of moral maturity one should concentrate on obeying the precepts of the Decalogue as much as on acting with freedom, virtue, and perfection.

Though it is understandable that Brown does not wish for the necessity of obedience to the law to be forgotten in the midst of the contemporary emphasis on virtue, he nevertheless gives law too

¹⁴ Ibid., 351.

¹⁵ Ibid., 334, note 4.

¹⁶ Aquinas, *S.Th. I* 100.1 <http://www.newadvent.org/summa/2100.htm>

exalted a place when he removes it from its subordination to virtue. In giving the natural law a subordinate role, it is Pinckaers who is truly following Thomas, who says that “the Old Law is like a pedagogue of children.”¹⁷ We can see the relative importance of law and virtue for Thomas merely by glancing at the table of contents of the *Summa*: there are 19 questions on law (I-IIae 90-108), while the entire *Secunda Secundae* has to do with the virtues, which are also introduced before law in the *Prima Secundae*, along with such things as happiness as man’s last end, grace, and the gifts of the Holy Spirit. A closer inspection of Brown’s three arguments will show that they are not convincing enough to free the law from its subordinate position.

Brown’s first argument for a higher place for law is that, according to St. Thomas, it puts the subject in right relation to the ruler, and man’s perfection consists in being in right relation to God: “the law is to be followed because God is our Lord and He has commanded it, and one’s proper relation to God requires submission to Him.”¹⁸ He is quick to point out that this submission is not to be like that of an automaton – a person’s intellect, will, and passions must be involved – but he does insist that an equal part of the virtuous person’s intention in any good work should be to submit himself to God as his Lord by obeying His law.¹⁹ Obedience to the natural law, however, does not suffice for putting us into a right relationship with God, because ultimately, the relationship with Him which God calls us to is not one of subject to ruler. In the Old Testament, says Fr. Michael Sherwin, this relationship consisted in fidelity to the covenant, but “in the New Testament, we discover that this right relationship (dikaiosis/justice) is made possible only in Christ, through the grace of the Trinitarian life he has

¹⁷ *S.Th.* I-IIae 107.1 <http://www.newadvent.org/summa/2107.htm>

¹⁸ Brown, “Integration of Law and Virtue,” 336.

¹⁹ *Ibid.*

poured into our hearts.”²⁰ Fr. Romanus Cessario describes this right relationship as “communion, fellowship, indeed personal friendship with the Trinitarian God” and says that “everything that the Church teaches about human conduct on earth finds its fundamentals in the call to Trinitarian communion.”²¹ It is true that such union is impossible without obedience to God’s law, but it extends much farther than obedience, even the obedience which involves the whole person. “For you did not receive a spirit of slavery to fall back into fear, but you received a spirit of adoption, through which we cry, “Abba, Father!”” (Romans 8:15) As God’s adopted children, our right response to Him is not merely obedience, but love.

Brown’s second claim is that while law is ordered to growth in virtue, virtue in turn is ordered to the law. He bases this conclusion on St. Thomas’ statement that “the virtue of every subject consists in his being well subjected to his ruler” and that “the proper effect of law is to lead its subjects to their proper virtue.”²² “Human virtue,” he concludes, “and therefore human perfection, consists in standing in right relation to God, which includes being subject to Him through His laws”²³ and it is in this way that virtue is ordered to the law. We have already shown that right relation to God involves more than subjection. Moreover, when St. Thomas speaks of the law leading its subjects to their proper virtue, he does not equate this virtue to “being well subjected” to God, as we might be led to think. Brown conveniently cuts short his quotation of Thomas, which continues: “and since virtue is “that which makes its subject good,” it follows that the proper effect of law is to make those to whom it is given,

²⁰ Michael S. Sherwin, “Happiness and Its Discontents,” *Logos: A Journal of Catholic Thought and Culture* 13, no.4 (2010): 47.

²¹ Romanus Cessario, “Moral Theology on Earth: Learning from Two Thomases,” *Studies in Christian Ethics* 19, no.3 (2006): 310.

²² *S.Th.* Iallae 92.1 <http://www.newadvent.org/summa/2092.htm>

²³ Brown, “Integration of Law and Virtue,” 337.

good.”²⁴ So according to Thomas, the aim of the law is our goodness, to which our obedience to the law is only a means. Even though Brown says that “in arguing this position, he also claims the converse,”²⁵ St. Thomas makes no such claim in the article being discussed.

There is a way in which virtue is ordered to the fulfillment of the law, but it is not the same law of which Brown is speaking. Fr. Cessario tells us that “virtuous *habitus* supply the internal dispositions for acting in accord with the Eternal Law,”²⁶ which, according to St. Thomas, is “nothing else than the type of Divine Wisdom, as directing all actions and movements.”²⁷ So fulfilling the law to which virtue is ordered means fulfilling our particular role in God’s plan for the entire universe, which involves much more than simply obeying the precepts of the natural law. The natural law, in fact, is not an end of virtue, but is one of the “external or higher principles that God provides to direct human action toward the good end,”²⁸ which, as we have seen, is communion with the Holy Trinity. The other external principle is grace, which is itself a kind of law, for “the New Law is chiefly the grace itself of the Holy Ghost, which is given to those who believe in Christ.”²⁹ In this sense, when Fr. Pinckaers describes the growth in virtue during the stage of “progress” as leading to “perfect actions” performed during the stage of maturity, he is describing how the practice of virtue is ordered to the fulfillment of the New Law. For it is “through faith in Christ and through love, and, along with these, by means of hope and the other virtues, that the Holy Spirit writes the New Law on the hearts and in the lives of the faithful.”³⁰

²⁴ *S.Th.* Iallae 92.1 <http://www.newadvent.org/summa/2092.htm>

²⁵ Brown, “Integration of Law and Virtue,” 337.

²⁶ Cessario, “Moral Theology on Earth,” 311.

²⁷ *S.Th.* Iallae 93.1 <http://www.newadvent.org/summa/2093.htm>

²⁸ Cessario, “Moral Theology on Earth,” 312.

²⁹ *S.Th.* Iallae 106.1 <http://www.newadvent.org/summa/2106.htm>

³⁰ Pinckaers, “Recovery of the New Law,” 10.

Obedience to the New Law “under the direct impulse of the Holy Spirit ... alone can lead us to the full ripening of charity.”³¹

Brown, on the other hand, specifies that “the law is ordered to the development of the virtue of obedience and the virtue of obedience is ordered to the fulfilment of the law.”³² He ascribes to St. Thomas the notion that obedience is the highest natural virtue, and that therefore practicing virtue is for the sake of obeying the law. Brown, of course, acknowledges that faith, hope, and charity, being theological virtues, are higher than any natural virtue, and that charity is the highest virtue of all, though he points out, along with St. Thomas, that charity is impossible without obedience. He also neglects to mention prudence, which is a natural intellectual virtue, though Thomas assures us that “moral virtue cannot be without prudence.”³³ It is true that St. Thomas says that “the virtue of obedience, whereby we condemn our own will for God's sake, is more praiseworthy than the other moral virtues, which condemn other goods for the sake of God.”³⁴ He also says that “any other acts of virtue are meritorious before God through being performed out of obedience to God's will,”³⁵ and would not be meritorious otherwise, just as they would not be meritorious without charity. But two things need to be noted in this regard. First, we must once again look at the overall structure of the *Summa*. Thomas devotes one question to the virtue of obedience, and buries it in the treatise on justice in the middle of the *Secunda Secundae*. On the other hand, prudence, charity, happiness, and grace, each merit an entire section to themselves. So though obedience is certainly an important virtue, there are other aspects of the moral life which are much more important.

³¹ Pinckaers, *The Sources of Christian Ethics*, 369.

³² Brown, “Integration of Law and Virtue,” 338.

³³ *S.Th.* IIaIIae 58.4 <http://www.newadvent.org/summa/2058.htm>

³⁴ *S.Th.* IIaIIae 104.3 <http://www.newadvent.org/summa/3104.htm>

³⁵ *Ibid.*

Second, we should note that St. Thomas says we should perform virtuous acts out of obedience to “God’s will,” which is not identical to the natural law, nor is it the same thing as to obey His precepts, as Brown would have it.³⁶ Obviously, disobedience to the law would be contrary to God’s will, but the law does not prescribe in detail exactly what we must do in order to obey God’s will for us at each particular moment. This is why we need the virtue of prudence, and especially the Gifts of the Holy Spirit, which are “habitual possessions that prepare us to know the mystery of God in a way that cannot be achieved by natural capacities alone.”³⁷ Brown claims that “though a man may desire quite ardently of himself to remain faithful to his wife ... he can still do so out of submission to God’s will ... In this way all actions can be informed by obedience and still be perfectly free and loving.”³⁸ This is quite true; if the man were to be unfaithful to his wife he would at the same time be guilty of disobedience to the sixth commandment, and so faithfulness to his wife has also the character of obedience to a precept. However, the precept cannot cover his entire relationship to his wife – after all, he fulfills it simply by not committing adultery, whereas marriage requires that he love her as his own self. And if “love your wife” is taken to be the guiding precept, it is nowhere near detailed enough to command a particular act in any particular instant. Where is the precept that tells a husband when to buy his wife flowers, when to take her out to dinner, when to comfort her, and when to leave her alone? All these things are discerned by the virtue of prudence, or better yet, by the gifts of the Holy Spirit, in the morally mature person. A man may give his wife flowers in a spirit of submission to God’s will, because he knows that God commands that he love his wife, but if he chooses not to buy her flowers that day, we cannot say that he is being disobedient to God’s command. “The acquired virtue of prudence and its perfection by grace ... facilitate this reasonable free choice and its consequent imperative to ourselves that we should

³⁶ Brown, “Integration of Law and Virtue,” 342.

³⁷ Charles E. Bouchard, “Recovering the Gifts of the Holy Spirit in Moral Theology,” *Theological Studies* 63 (2002): 550.

³⁸ Brown, “Integration of Law and Virtue,” 342.

act or not act, act this way or that way. What the Holy Spirit contributes ... is a perfecting of this whole process of decision making.”³⁹ Every virtuous action must have the character of obedience to God’s will but this obedience will not always be to a precept of the law. Rather, it will be obedience to a command of our reason, informed by the virtue of prudence or by an inspiration of the Holy Spirit, as to what is in accord with God’s will for us at this particular instant.

“This is the will of God, your holiness.” (1 Thess. 4:3) Though Brown is right to warn us not to lose sight of the importance of law and obedience, it is Pinckaers who puts the law in its proper place as a teacher and help to “the final perfection that human nature can sustain. We call this perfection beatific vision, which is the completion that God wills for every intelligent creature on earth.”⁴⁰ In order to be perfectly obedient to God’s will it is not enough for us to obey His law. Granting law even an equal place with virtue in moral theology is a step backward towards the legalism of the manuals, which, “lacking in an operative understanding of the role of grace and the Holy Spirit ... resulted in an almost childish approach to the moral life based on obligation, a “do it because I said so” approach.”⁴¹ This is not what the Gospel calls us to. “The teaching of the Sermon on the Mount, which speaks to the human heart, is ultimately incapable of assimilation by a moral theory centred on legal obligations and external acts.”⁴² The Sermon’s teaching is for all Christians, not just for the elite, and that is why the Second Vatican Council called for moral theology to be nourished more by Scripture. The New Law, which is the grace of the Holy Spirit poured into our hearts, should drive us beyond mere discipline and the obedience of external laws to develop our virtues and learn to act with perfect freedom for excellence. We must follow “the way of perfection, which is taught in the Beatitudes,” which are not opposed to the

³⁹ Bouchard, “Recovering the Gifts,” 554.

⁴⁰ Cessario, “Moral Theology on Earth,” 313.

⁴¹ Bouchard, “Recovering the Gifts,” 557-558.

⁴² Pinckaers, “Recovery of the New Law,” 5.

Commandments, but “constitute invitations to follow Christ and to live in communion with Him”⁴³ in a much deeper way than the Commandments do. In this communion with Christ, and in Him, with the Holy Trinity, we will find our true and perfect happiness, which is the whole purpose of our freedom and of the moral life.

⁴³ Ibid., 14.

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