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Beyond Natural Law

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I. Obedience and Law in Religion. Does God legislate?

In religious philosophy today one can seem to reach a point where on the one hand, in a discerning moral theology, one would stress the purely analogous, "sociomorphic" character of law and obedience in relation to the transcendent, to God,[1] while in apologetics on the other hand one argues for theism as the only rational basis for any assertion of absolute, that is to say literal obligation (qualifying it as "moral" obligation does not make for clarity).[2] Is there not a contradiction here?

The answer would seem to be affirmative. That is why, in later work, the present writer has gone on variously to resolve or transmute this concept of obligation which he began by insisting was indispensable, undeniable indeed.[3] He now takes such discourse as reflecting a kind of *description* of the workings of a life governed by love, corresponding to the one "command" of Christ. This love, he has also pointed out, cannot be just one, even the highest, among a set of virtues, seeing as it "informs" all of them.[4] Thus the life of virtue is effectively itself transcended, inasmuch as it still would

[1] Cf. N. Berdyaev, *Slavery and Freedom*, 1944; J. Fuchs SJ, "Das Gottesbild und die Moral innerweltlichen Handelns", *Stimmen der Zeit* Bd.202, 6, Juni 1984, pp. 363-382; Stephen Theron, "The *bonum honestum* and the Lack of Moral Motive in Aquinas's Ethical Theory", *The Downside Review*, April 2000, pp. 85-111.

[2] J.H. Newman, *A Grammar of Assent*, 1870; Stephen Theron, *Morals as Founded on Natural Law*, P. Lang, Frankfurt 1987; Josef Seifert, "Gott und die Sittlichkeit innerweltlichen Handelns", *Forum Katholische Theologie*, 1985, 1, pp. 27-48.

[3] This was also the initial premise for C.S. Lewis's theism in his *Mere Christianity* (Book I, "Right and Wrong as a clue to the Meaning of the Universe") London 1952 (but first printed in "*Broadcast Talks*, Geoffrey Bles, London 1942"). It is argued for more systematically in his set of lectures, *The Abolition of Man*, 1943, described by Cardinal Schörnborn as *un brillant essai*, in his "L'homme créé par Dieu: le fondement de la dignité de l'homme", *Gregorianum* 1984, p. 353. One should add that Lewis in part anticipates our present solution when he has his diabolical protagonist in *The Screwtape Letters* say of the divinity, with some disapproval, that "He's a hedonist at heart."

[4] See our *Natural Law Reconsidered*, Peter Lang: Frankfurt 2002.

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belong to the domain of law, albeit law interiorized from action to corresponding habit. Such a transcendence interprets, but also insists upon, the Christian shift from pagan virtue to divine beatitude as the ultimate "value", a move inwards from the divine goodness to the divine being.[5]

But if statements of our duties are only descriptive (of what can be expected of love), yet love itself of its nature cannot be prescribed. This is what compels analogical understanding of the term "command" when a command of love is spoken of. Hence nothing is literally prescribed outside the human forensic realm. What remains of our previous position, then, is that *if* there were pure duties[6] then they could only be prescribed by a God, i.e. by an absolute being grounding even our freedom. This however is only one and that the most primitive or anthropomorphic way of understanding conscience as the voice of God, should we be attached to this view of things. Similarly, a commitment such as Seifert's to a substantial, specially created human soul has no intrinsic connection with there being literal divine commands, even though such commands might need a soul as precondition for their applicability.

Conversely, if God does not literally prescribe then there are no pure duties. At this point we are not talking about any idea of revelation. One can also wonder to what extent this very notion, revelation, where it falls short of epiphany, is not tied to naive picture-thinking, anthropomorphic in the negative sense, about God as declaring his will in the form of commands. We might think of Jesus, for example, as transcending this anthropomorphic, Judaic notion of revelation just in his transcending the sociomorphic idea of a literal divine command, manifesting instead his person.

The theory that sees God as essentially prescribing even before any idea of revelation might come into the picture is the theory of natural law. Hence this concept can be used restrictively insofar as it can support a claim that our nature can demand something that does not seem natural to us or forbid what seems only too natural. Behind this, however, a thought-through natural law ethic must arrive at the position that the ethically right behaviour is a matter of doing

[5] Cf. E. Gilson, *The Spirit of Medieval Philosophy*, New York 1940, pp. 325, 473. Gilson speaks of standing the old pagan philosophy of virtue on its head.

[6] Seifert, *art. cit.*, merely assumes their necessary existence, arguing that since "norms" cannot be derived from human nature according to contemporary teleological moralists they have to end up in arbitrary voluntarism (*mit einer radikal voluntaristischen Auffassung enden, die die in Gott abgelehnte Willkürherrschaft auf den Menschen überträgt*). But this is simply to fail to take seriously the new command of love, according to which absolute commands, only logically conceivable as divine as Anscombe saw ("Modern Moral Philosophy", *Philosophy* 1958), have been replaced, in fulfilment of a divine dialectic, by a more enduring absolute which as energy, grace, life, is never more than analogously prescriptive.

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what we most deeply want to do,[7] i.e. natural law can function heuristically, insofar as a theory of the natural inclinations can help us to know ourselves and our destiny. It is not in the end a theory of prescription, the epithet "natural" as it were naturally obliterating this (prescriptive) feature of law, as in talk of the laws of nature. It is only that in our human case, being free, it is up to us to live according to our nature. But no theorist can prevent the ultimate coincidence of this nature with what we really want. For desire arises out of nature as defining, i.e. delimiting it. Nor is it correct to use the concept in order to play off the species against the individual. For if inclination supplies precept and individually I genuinely lack the inclination in question then there is no corresponding precept that can apply to me. That the other view, of inclination as pertaining to the species, is often taken as self-evident is clearly related in advance to a notion of precept taken as assimilated to commands in society as essentially addressed to members "equal before the law", equal, because law itself is seen as necessarily cast in universal terms (as, by contrast, God's command to Abraham to sacrifice his son was not). Here again we have sociomorphism. Divine, unlike human intellect, is not tied to universal categories, nor is this supposition a part of any true doctrine of the divine ideas.[8]

Natural law, then, is a kind of ultimate attempt to shore up the idea of duty before God. Here, as in utilitarianism, duty can be justified entirely in teleological terms. This is only so, however, where a future not-yet is envisaged as goal. But this means that what is still being called duty is a mere sub-species of practical prudence. Far more important ethically, one can scarcely deny, is the beautiful action, *to kalon*, here and now, whatever it may be, inclusive of a beautiful means-end series. Teleology transfers duty or obligatoriness to the ends sought, that is to say. But our end is our preference; we cannot but choose it ourselves, and in choosing it we will either flourish or not. The teaching of religion, of Christianity, is that to love is to flourish, while to flourish, of course, is life, perhaps the ultimate good.

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How might this affect the practice of religion? Christian religion, in accordance with sound philosophy, proposes an end as given, i.e. as not lying within our choice, since it is but the natural consequence of the absolute requirements of our intellectuality, which latter, in turn, is our very organizational life-principle. This latter thesis, that

[7] Cf. H. McCabe OP, *Law, Love and Language*, London 1968.

[8] The supposition leads to the contradictory assertion that there is no divine knowledge of particulars.

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of Aquinas, finds confirmation in Hegelianism. A main opponent is the Cartesian dualism.

Yet man's success is seen as consisting in his own free choice of this pre-determined end, to which he inclines upon understanding it to be such. This end is infinite being and our enjoyment of it, be it by vision, knowledge, life or however we express the union or absorption intended. In some religions loss of individuality, seen as a false self, is envisaged as a precondition; in others it is just the individual who has to remain the subject of this absolute fulfilment.

We cannot but choose our end indeed. Therefore the appearance of an imposition of it is appearance only. Although in saying "thou hast made us for thyself" Augustine spoke truly and "one thing alone is needful," yet this one thing includes any other possible thing, i.e. it is not a thing among things in any literal sense, but the All.

A lover may say: I do not want the All, I want only my beloved Yet either this attitude cannot be maintained and there is no lover who has not wanted more, beginning with the basic wants and freedoms of nature, or the beloved has become for him or her the vehicle for, perhaps the first intuition of, the All.[9] Here, however, we cannot play down the dialectic between life and death, the finding life through and in death, the death to all else that love entails and moves towards, the love which is "better than life".

It is Christian teaching that wanting the All naturally entails a certain denial of or relaxation of our obsessive grip upon self, leading through to a recovery of this same self in this fulfilment of union with all things (with the All), where we keep the self in "life eternal".

That nothing less than the All is our natural end cannot be seen then as a restriction upon choice, as would an imposed finite end. There is nothing outside of it and he who chooses nothing does not choose. Already the bare or, it may be, joyous affirmation of one's own will participates in this choice of the All, which is sought in all our actions, more or less appropriately.

Law, again, is a descriptive help for the avoidance of inappropriateness, a kind of summation of the past, one's own or society's. This view opens a rift of paradox in the Biblical account of the Fall of Man, should we wish to retain that. Death, religion wants to teach, is not natural but "penal". This latter, however, is again a forensic term, being used sociomorphically. Read thus, the story invites us to see mankind as lying under the "wrath of God" or, more literally, as estranged from the All through "wounds" of nature transmitted from the first parents. The overcoming of this, thanks to a particular historical divine initiative, proceeds via a

[9] Cf. Stephen Theron, "Analogy and the Divine Being", *The Downside Review*, April 1998, pp. 79-85.

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substitution, more or less painful, of "grace" for nature as principle of our lives. It is in clarification, perhaps apologetic modification, of this that Aquinas adds that grace in fact perfects nature, i.e. does not replace it.

In apparent contrast with this drama, though, we observe the natural development of a human life from childishness to wisdom and larger views, to "graciousness" in a word. The biblical drama may be best taken then as giving the hidden rationale and cause of this, as when theologians say that grace is everywhere operative and all grace is the grace of Christ. This view tends to reduce original sin to a negatively ideal state, i.e. not so much a real predicament as an explanatory posit, like the state of inertia in modern physics, posited although everything is actually always moving. There results a certain coincidence, helpful ecumenically, with the Islamic denial of original sin.

A loss of innocence is posited in the *Genesis* account. But are we intended to think that God, the All, intended man to remain in ignorance of what, it is said there, would enable him to be as God? The tenor of the rest of scripture itself speaks against it. Again, is it not natural to man to wander around in the wide world, not just stay in "the Garden" of paradise, however delightful? We cannot take the story at face value. The story itself internally corroborates this judgment, as does the earlier story of the creation in seven days, on one of which the sun was created, since a day itself is determined by the movements of a sun already created. Our exegesis, it might seem, must go deeper than St. Paul's, for we need to see his text too as requiring exegesis.

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We have seen how the Christian Gospel itself encouraged us in our transcendence of the principle of law as an ultimate ethical category. A correlate of law is obedience which thus, where law is transposed to ethics or theology, becomes a virtue, part of justice. It is certainly a virtue to obey human laws when they are well devised. The connection of religion with law is deep-seated and even etymologically reflected. But this inherent sociomorphism, again, merely invites us to step beyond religion. "Catholicism", remarked de Lubac, "is not a religion. It is religion itself." But we might equally call it theology, or true philosophy, as in the *Theologica Germanica*, a most practical handbook.

Obeying God might seem the very nerve of the Old Testament, so that this could not fail to find a central role in the New, which speaks of Christ who "became obedient unto death" and whom, only therefore, God exalts. Christ himself finds his closest brethren in those who "do the will of my father", this being his own "meat" or food.

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And at the end, "not mine but thy will be done." Union with God, St. John of the Cross will later remark, "is thus effected in the will."

All of which might seem an explicitation of the text "seek and ye shall find", as when in a novel about Aquinas (*The Quiet Light*, Louis de Wohl) the latter answers his sister's question as to how one becomes a saint by saying that one does so by wanting it. Wanting what, though? Wanting, purposing therefore, to do God's will is not the same as wanting God, the All, even if God and his will are the same in reality. Certainly one cannot sensibly, if one understands, want what God does not want. But one cannot, either, honestly arrive at this attitude without wanting God himself with all one's heart, this again being made possible by God's being the All. Here again the tragedy, the "curse" even, of law as a principle stands out.

Such considerations prepare us for a more immediate query, what might it mean to "obey" God? God does not speak. God *is*. The Koran, for example, cannot therefore have been literally kept from eternity in heaven, nor is the Christian Word of God distinct from God himself.

Obedience though is response to a command, order or injunction, even though the Gospel differentiates an obedience of sons (daughters) from that of slaves. "I was not disobedient to the heavenly vision," says St. Paul, and that takes us further still, further, for example, than obeying whatever he might have *heard* (in discourse) in such a vision. A command, unlike a law, can be particular, as when I say "give me your son". Seen thus the obeying of commands becomes more assimilable to the immediate intuitional responses of an adult freedom. We see that the content of obedience is not exhausted by any correlation with law; its essence remains after law is transcended.

But again, God does not speak. The impulse to sacrifice one's son would come from a deep, that is to say an intimate inspiration. If we say this impulse contradicts love, *a priori*, we might seem to be making a law out of love. But love is not law. It is the *form* of all law and virtue and as such transcends them both. This is its freedom, why it "blows where it will" and none can tell the shape it will take. Love is spirit, the spirit. It is not in essence an instrument in the service of societal securities, even though without love many people will kill their sons, however they may legislate against it. Abraham, the lover, we should not forget, did *not* kill his son. The son that was eventually offered up, in the Hebrew language of sacrifice, was not distinguished from God, from love, himself, an image and pattern therefore of that in some sense self-denying love of the All which is the very energy of our drive towards it as ultimate end, our readiness to "submit to death" to that end.

Are we ready to submit to death? Does this mean anticipating it?

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II. Against Moral Rights

An acquaintance asks if we have a right to suicide. From the position reached here, more a point in a trajectory than something static, one might find a difficulty in answering, at least at first. For one has to say that anyone can do whatever he likes, that is our situation as free agents. The ethical question is one of identifying what we would like, nothing else. In this way one is embarked upon a process of demythologizing the idea of offending God.

The language of right and duty has first been taken over from the forum of human or societal law in order to be then used as moral justification for legislation and the enforcement of laws. But apart from being circular this is far too simple. We have to try to identify moral realities in themselves, progressing beyond how they are in our notions of them, as Aristotle might have said. There is no need to relate this to the needs of moral pedagogy and it would be an arbitrary methodology that sought to base itself on the moral experience of children.[10] Children's behaviour is bound to be controlled by quasi-legal models insofar as it is conditioned by the need for continued acceptance in the society of their immediate superiors. In adult moral thinking, however, this need itself must form part of the object(s) to be identified, viz. whatever we really most want, our end or ends. It cannot be what constitutes ethics, as the needs of society constitute legal theory. Rather, it stands inside ethics as its extension (*Entfaltung*),[11] as an end.

It might be thought that the consequences for legal theory of denying the reality of moral rights (or correlative prohibitions, e.g. of suicide) would be a nihilistic positivism fatal to society's well-being. This is not so. The ethical background to the framing of law, as of people's conduct under the law, remains operative. The law, though, is conditioned by certain hypothetical ends of society or, more generally, of human life, while ethics is the theory *of* those ends, of "the good life". Only in this sense could it have been right to say that human positive law rests upon natural law for its validity. Any

[10] As does Maritain in *An Introduction to the Basic Problems of Moral Philosophy* (Paris 1950, transl. Albany, NY, 1990), ch. 6, an espousal of the modern anti-ontological valuephilosophy in apparent contradiction of all this arch-Thomist's other work, at least on this point, and as such only equalled in facing both ways by some of Karol Wojtyla's utterances. They seem to have forgotten Marcel's remark about how such use of the idea of value is "the sign of a fundamental devaluation of reality itself" (*Les hommes contre l'humain*), a reproach one may also level at Dietrich von Hildebrand (*Ethics* 1953) and, as indicated above, his disciple Seifert. But for a contrasting but equally positive evaluation of children's experience see Stephen Theron, "On Being so Placed", *New Blackfriars*, September 1980, pp. 378-385.

[11] Cf. M. Grabmann's comment on happiness as "höchste Entfaltung der Sittlichkeit", *Thomas von Aquin*, München 1959.

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idea of natural law, however, must be purged of all mythical forensic elements.

The law is merely (descriptively) that certain ways of behaving lead to life, others to death or loss of life. Nor is there here a built-in presumption of a particular extent to which behaviour is describable in universal and to that extent law-like terms, whatever the regulative necessities of our concept-forming apparatus may be thought to be. A case-law beyond casuistry can apply here, as a revolution once carried through is its own justification, at least in the sense of needing no other. Hence the corruption of a revolution is nothing other than a denial or practical betrayal of the individual revolution's *own* principles rather than of some or other extrinsic standards. Natural law, that is to say, can be added to by each piece of successful new behaviour (like the decisions of judges in Anglo-Saxon countries). A web of analogies is created for our reflective contemplation.[12]

We can thus understand why MacIntyre, a defender of natural law, dismissed human rights as a fiction on a par with Rawls's "original position". The language of human rights is an attempt to describe the response proportionate to human dignity, to the quality of our nature, no more. The forensic, quasi-legal reference is misleading, a metaphor. What would these rights be with which man is supposed to be created? We have rights under legal systems.[13]

The objection, indeed, to this myth is that it scales down and restricts the moral life, our response to all we encounter. Instead of repeating, with some annoyance, that someone has a right to his foolish opinion, or to his inconvenient life (or, conversely, to suicide) we should *see* him or her whole, and then we will anyhow respect the conviction or constraints of conscience from which he speaks, we will not want to snuff out his life, understanding that this would murder hope within ourselves first of all. The language of rights is utterly deontological, but we are denying the moral *deon*.

The impulse to obey the law is not itself a law.[14] But nor is it a quasi-formal dictate of reason, as Donagan,[15] Kant or R.M. Hare[16] try to say, bringing in a new constraint upon autonomy in the instant that they first achieve it, introducing a division into the very heart of man,[17] instead of "heteronomously". We choose freely to be

[12] Cf. J. Walgrave OP, "Reason and Will in Natural Law", *Lex et libertas*, Vatican City 1987 (Rolduc Symposium Acta), esp. pp. 74-75.

[13] For an earlier attempt to defend human rights against such criticism see Stephen Theron, *The Recovery of Purpose*, Frankfurt 1993, ch. 8.

[14] As was argued in our *Morals as Founded on Natural Law* (see note 1 above).

[15] A. Donagan, *The Theory of Morality*, Chicago & London 1977.

[16] R.M. Hare, *Freedom and Reason*, Oxford 1963.

[17] Cf. Pope John Paul II (K. Wojtyla), *Veritatis splendor* 48-50.

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lawabiding when and in so far as we consider that it will minister to our attainment of our end, to the good, self-fulfilled life. We choose to disobey law for the same reason. Criminality, as leaving one open to accusation (*crimen*), is essentially a misidentification of the end deriving, if deliberate, from a weakness of love. Where I lack love I become criminal, as some laws in society are themselves criminal.

So the recipient of a promise, for example, has no literal moral right to its discharge. The language is wrong, that is to say. Someone has failed to see the value, the dignity, of my humanity. It is no different in principle from an aesthetic insensitivity. In thus failing the promisebreaker has devalued himself more directly and substantially - he has only inconvenienced or disappointed the promissee. His *word* in particular has lost the currency value appropriate to human utterance.

There can of course be a choice to live bestially too, and we may need to choose to hunt down those who choose thus. But in fact where breach of promise has become an infringement of right it has *ipso facto* passed into the human legal system. So it remains that there is no purely moral right, or duty either. The fulfilment and goodness of life is determined by the purity and intensity of our wanting what satisfies. It is the hunger and thirst that beatifies, this, according to the present analysis, being the satisfaction of "what is right" (Matthew 5,6).

This position is in itself tenseless, considerations as to present or future duration belong rather to the material aspect of what is here established formally. Here lies the importance of hope as mediating between the form and the matter, as in "happy are you who weep now," another of the beatitudes.

Our position, then, is not that anyone has or has not a right to do whatever he wants but, a third option, that there can be no moral rights. Talk of rights here is the secular analogue of sin in religious discourse. Both ways of talking fail to meet the reality, ethical or "theic", as it is in itself. They are thus lazy ways. Laws here can only be general descriptive principles of being, as indeed human laws in the literal forensic sense are also, even most fundamentally, descriptive of the good society, i.e. of unimpaired social being. Here too the prescriptive dimension is accidental, a thought returning us to the scheme of Aquinas. Our point, though, whether or not coinciding with his final mind, is that just this entails that there is no prescription outside of the social sphere, no inward constraint of just that type. There is, rather, good advice, traditional warning, just as there are, corresponding to this, fixed tendencies in reality, such as that no man who hates his brother or who is by choice a murderer loves God or has eternal life within him. If he begs for it he begs to love, as he who asks has already received.

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III. Religious Reflection

God, then, does not legislate. The laws of logic, of metaphysical being, do not progress beyond the sheerly particular assertion that God is, since he is just HE WHO IS. This is not a bare act of being supposedly highlighting a Thomistic blindness to the importance of values.[18] It denotes rather the fullness of being, in which all value, the good, is comprised.

There is nothing outside of this, as we ourselves have our being *in* God. So the everything that is God is not the ephemeral world. God's commanding us to seek him is but a variant upon his constantly attracting us, as Aquinas himself points out, saying that God instructs us by law and helps us by grace, as we help ourselves by virtue. The idea of an external help from God is metaphorical, since God, all of God, is "closer to us than we are to ourselves". In this sense grace is not external, but the God within, in fact dissolving any idea of an externally prescriptive law such as we have in human societies.

We should not then wish that the maxim of our action could become a universal law. Things are better the way they are, where love alone moves to deeds and we would wish instead that our action could be something worth imitating, as influence rather than canon.

The high value of human freedom is thus safeguarded against an inert legalism. It is realised in a competition of good because creative actions essentially mirroring, though also giving rise to, the fraternal competitiveness of artists. In the history of music no satisfactory symphony repeats or copies another, but nor does it, nor can it ignore it. Rather, it performs a variation upon it, it turns the same screw tighter, or it pays its tribute by reacting against it. "In this is my father glorified."

It is a matter of freeing the divine reality from the constraints of human legal metaphor. We should not speak of divine sovereignty, for example, or of the decrees or "ordinances" of creation.

It can happen that in the whole of creation a certain principle holds good, descriptively at least. One says this is so because the divine nature is as it is, rather as Aquinas wanted to say that ultimately good behaviour is good when and if and because God commands it (as against Socrates in *Euthyphro*, perhaps). What we are missing here is that it is *our minds* that distil out the pattern observed as a "principle", which can then be accorded the active, Greek (archic) function of ordering.

[18] A suspicion voiced by Josef Seifert in "Esse, essence and Infinity: A Dialogue with Existentialist Thomism", *The New Scholasticism* LVIII, Winter 1984, pp. 84-98. But cf. Stephen Theron, "Does Realism Make a Difference to Logic?" *The Monist*, April 1986, pp. 281-295, esp. p. 286.

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So in the very act of imagining God controlling his creation by a set of ordering decrees we are controlling our image of God by foisting on it our mental necessity of abstraction, actually a sign of the weakness of our intellectual power as starting from things sensed. Attention to the difference between *ius* and *lex* (as Aquinas writes of them when discussing the virtue of justice in the main *Summa*) is needed here.

We seem indeed to arrive at the conviction that there is knowledge in God and that God is one with his single because infinite act of knowing. But that should give us enough to avoid the above mistake. Divine intellectuality is radically different from ours. We can only call it intellectuality by an analogous extension of the term. Whatever it is, there is no reason to and several reasons not to confine it within a legal metaphor which fits better, and even at times literally, with our own created mentality, as when Aquinas stresses that law is something belonging to reason.

So there are no divine decrees. Conversely, decrees are not divine; at most they would be faint types of the real divine motion within us better caught within the notion of grace or, yet better as avoiding the legalistic dilemma of due versus gratuitous, of energy, life, power, love, blowing where it will.

The situation is similar to our thoughtless use of the masculine pronoun for the divinity. In the German language this is less harmful. One calls God or the moon he as one calls a wasp or a cat or the sun she or a girl it. But in English if one says "he" one means a male, while "she" means a female, so there is no alternative there. We just have to remember that we have no literal pronoun for God.

How are we then to think of the divine intellectuality? As nothing other than being as free of restriction. We would have to call this intellectual since it as intellectual (and initially as cognitional generally) that we transcend so many of the bonds of our own being. Being intellectual, then, is not a special particular quality which God must have because we have it and it is a positive quality. Intellectuality generally just is any kind of openness to other being, and to one's own, at the ultimate level. An infinite being will in this sense be intellectual, whether human beings have ever existed or not. The argument for divine love is similar. For God not to affirm himself would be a blockage, a restriction.

The language of human rights is an attempt to define human dignity without recourse to love, which cannot be commanded since it is itself an energy, the energy of life affirmed. In such a life one does to others all that one would have be done to one's self, that all just being no other than one thing, an affirmation in love with all that love leads one to do. This is worlds away from just seeing that one does *not* do to another aanything one does not want them to do to one's self.

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It is not a matter of saying or thinking that, for example, out of love I give you the care that is anyhow due to you. In reality nothing is due to you unless you attract love, God's or mine, while for my love to become like God's is the way for me to have the life I love. One recalls the Socratic insight that the unloving wrongdoer is the one most to be pitied. But what, on these terms, is a wrongdoer. One without love, simply. One who blocks life's exchanges. It is when they are seen as doing that that actions first become wrong, that is, doomed to fail of their object, "miss the mark". It is only because lying, say, so often does that that lying comes to have a bad name.

IV. Law Transcended?

In St. Paul's Letter to the Romans, surely one of the most vivid of the documents preserved from classical times, we find him saying that the gentiles, by which he means non-Jews in general, have not just a but *the* law written on their hearts, directing them how to live, so that they are "without excuse" for, in his view, not having done so. He is thinking mainly of the abuse of idol-worship and, as a kind of analogue of that via the idea of a lie in action, of homosexual practices; two straight violations of Jewish taboos.

This clearly metaphorical notion of a law written on the heart is the main proof-text for the theological theory of natural law, later increasingly offered, e.g. within scholasticism, as a philosophical theory, however. One should note that the purpose for its introduction here, by St. Paul, is that of making it possible to find the gentiles just as guilty as the Jews of *breaking God's law*, this being the definition of sin as an infinite enormity, so that he can conclude that "all have sinned", thus making both the need for and the efficacy of Christ's redemptive act universal, as it should be if he is indeed to be seen as *the* new man, the second Adam, the full, unique and only Word spoken to human beings everywhere ("go and teach all nations") by God.

Although natural law is thus introduced in order to widen the scope of a sin-theology, it can be seen that in later development of the notion, e.g. by Thomas Aquinas, the idea of sin plays no essential role, even if it remain in a parallel *theological* system in the same thinker's mind. What counts rather is the necessity, the need, for certain virtues and patterns of behaviour, which as such can be denominated laws just as in natural science, for the attainment of the end, for human flourishing, that is to say. The laws are in fact the inclinations of our nature, rightly codified; they are the systematic description of what we most deeply want.

Now it is easy to feel that such views cut deeper into reality than the theological positivism from which St. Paul starts out. They might

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even be seen as the understanding into which faith is said to mature. He himself, however, is as it were forced to explain the human reality as an analogical or oblique application of what is only fully and explicitly verified in his own small nation, viz. the giving of the law. He ought, however (perhaps he does), logically, to allow for a law written on the hearts even of the Jews, both before and even after Moses. In virtue of this "conscience", surely, the claims of Christ are pressed, e.g. in *Acts*, as a man who "went about doing good."

The question will then arise as to which law has priority, the genuinely written and proclaimed, or that of the heart. All the later disputes about faith and reason, not to speak of refinements in regard to an "erring" conscience, are there in germ.

In itself there is no particular likelihood in the idea of what we call God being a law-giver in the sense of demanding obedience, this being the criterion for salvation or reprobation respectively. The Greek idea that whom the gods wish to destroy they first make mad seems to have just as much going for it. Laws, after all, as prescriptions, are encountered in human societies, nowhere else.

One might think it natural to view the Jewish story of the giving of the law, of a *revelation*, as a *post hoc* strategy for emphasising the sanction and respect which in reality already attach to ethical principles. "This do and thou shalt live" could be spoken by any Aristotelian of the virtues needed for happiness.

The effort of the orthodox, however, has always been in the contrary direction, of claiming that if we had greater insight we would see that what presents itself to us as generally desirable is really a detailed set of unbreakable laws,[19] the real situation only being truly reflected in the solemn promulgation of the Ten Commandments. This is the background to the remark of St. Paul's with which we began.

It might remind us of his other remark, about "God, from whom all fatherhood in heaven and earth is named", something we might want to accept as true, even while remembering that our word "father" always refers first and without analogy to our actual paternal progenitor. One can argue from all positive qualities we encounter to their maximal reality in an infinite being, thus fatherhood, thus even motherhood, thus love, mercy, justice, but not perhaps, and for example, bravery, as being a virtue specific to beings threatened by death; perhaps not even temperance.

Law, one might think, is specific to beings who abstract universal concepts. The divine analogue would be faithfulness and immutability. He keeps faith as we keep the law, but law, again, outside of socio-political contexts, is descriptive, giving the essence, how we

[19] See P.T. Geach, "The Moral Law and the Law of God" in *God and the Soul*, London 1969. Lawrence Dewan OP states somewhere that an angel can see that what we experience as inclinations are, when healthy, in fact laws, prescriptive and forensic he seems to mean.

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are. The upshot of the dialectic concerning law in the Bible, anyhow, is that the ultimate "law" is simply and entirely love, which is something not conceptualized at all but rather a self-diffusive energy, Spirit, "poured into the heart" says Aquinas, echoing scripture – hardly how one usually thinks of law, even grammatically. Love precisely does not follow a rule, but "blows where it will." Each new instance of it gives what is rather more like an accumulation of "cases", we noted above, the analogue of which in Church tradition is the varied lives of the saints, though not varied enough, many feel. It is, anyhow, a failure to understand if one sees the command of love as exactly univocal with the old commands, and then marvels that love can be commanded, before banishing it to a realm of "forced acts of the will" in the manner of Kierkegaard, Kant or indeed the aberrant, in this respect at least, mystical theology of the seventeenth century Fr. Augustine Baker's *Holy Wisdom*, from which the phrase is taken.

An indication of the error here can be gained, again, from considering the difference between *forbidding* people to do to others what they do not want done to them and *urging* them to do to and for others whatever they would wish these to do to and for them. The second posture alone of itself expands into a creative, imaginative programme, as pictured in the image of trading with talents, taking *initiatives*; just this is made the yardstick of success or failure.

And this indeed is not so much what is written on but what was hidden in the hearts of the gentiles, as they were therefore and only therefore able to recognize when they had it proclaimed to them, grace building on nature as Aquinas might say. He also says that if it were not natural to man to love God with all his heart and mind then charity, the new wine, would be perverse and irrational. Plato's *Meno* finds application here.

V. Sin, Law, Liberty

The topic of sin is not explicitly raised very often in philosophical ethics. Yet it is a real question whether breaches of a putative moral law, or of an ethical code, or instances of disregard for personal conscience, one's own or another's, are not in fact sins. So the topic needs considering.

The notion of sin includes the idea of an offence against a divine person, i.e. it is religious. A corollary traditionally drawn is that this offence is infinite as being against a person of infinite worth (the logic is not so very perspicuous here) and hence not open to forgiveness by finite beings. Here we are already in that legalist, sociomorphic world we have been decrying as somehow mythical. There may indeed be a need for personal salvation, but from just this

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predicament. Awaking "the sense of sin" has always been a problem for preachers.

Yet a large number of us could not truthfully say we have never felt this sense, a sense of condemnation (and not just self-condemnation), of being no good, failed, unclean even: there are ritual roots to the concept. The context indeed is typically sexual, centring around an initiation felt to be illicit. There we have the law again. Later one will be taught and try to believe that other sins, such as "spiritual" sins, are worse. But the notion gets its bite from our inadequacy in the face of sexuality, a situation palpably hovering around the Adam and Eve story, even after we have been assured that their sin was disobedience in eating of the wrong tree and not, for example, starting to find their nakedness titillating.

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We argue, it seems, for a kind of moral nihilism in the sense of a transcending of the principle of law as a guide to behaviour in the energy of a life of love. This is called in the religious sources the *new* life. Through love, through creative energy, one comes alive and gives proof of it. Law cannot be considered in abstraction from love without essential deformation, since love is the form of all virtue. Love itself is thus not a virtue merely, but an energy. This is true independently of any appeal to a doctrine of grace or "infused" virtue. The picture there is one of pouring (*infundere*) fuel into a machine; it is not easy to get behind the picture, as the Pauline paradox of "I live yet not I" testifies.

People may wish to claim that any grace in Socrates, say, depended upon the foreseen, unique merits of Jesus Christ and how he died. Yet is this even in Christian terms a correct representation of "the atonement"? It implies a very tortuous understanding of Jesus's simple declaration to people that their sins were forgiven, as if he were referring to some kind of application (forensic) of his future merits. Aquinas saw this at least partly when he said that one tiny drop of Christ's blood would have been more than enough atonement, yet he seems here too timid to drop the idea of sacrificial atonement altogether. As a result the whole doctrine of forgiveness seems muted in his writings, as it is not in the pages of the Gospel. Whether this is a difference of style or of substance is an important question for interpreters.

The claim, anyhow, is not of much relevance in view of the primacy of love, evident when once proposed. It is religious fear and lack of trust in providence which has kept people from seeing it.

The idea of sin, then, is closely bound up with that of law, of law indeed as a divine principle. It need not be, however. Jesus shows this, even though operating within a culture tied to sin as a legal notion. He stated that all sins will be forgiven except the sin against the Holy

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Spirit. To say this can well be understood as taking distance from the whole paradigm. Retaining the word in conjunction with the spirit lifts the notion to a new level. This move is nullified by peopletrying to identify the sin in question as one of the old list, e.g. as "resisting the known truth". This resistance is common enough. Can we not also hope that also this will be forgiven?

Sin against the spirit would rather be something like living without the spirit, not taking account of it, even resisting it of course. By spirit would be meant the spirit of love, its fruits, energies and "beatitudes" and not some authoritative proposition or other. The sin will not be forgiven in the sense that those who live without love have no life in them. They have to turn away on to a new path. To do this they may well need help from others.

One effect of the legal notion of sin is to set a gulf between Jesus and other human beings. "Which of you can convict me of sin?" he is represented as saying, and the whole idea has been institutionalized in the notion of original sin, from which Jesus alone (unless his mother) is held to be free. But if there is no law interposed between love and its object there is, in this sense, no sin either. It is stated of Jesus that he grew in virtue, i.e. he became more virtuous than at an earlier time. If this does not mean that he was sinful in the quasi-legal sense then it need not be true of us either.[20]

Of course one or other, even all, of us do or have done things we later bitterly regret, enshrining as they do, according to our analysis, acts of black hatred, shorn of all love. One thinks of murder, malicious talk, the various deceits and betrayals. We can turn away from, renounce these things, things which we suppose Jesus never did, though he is shown possessed of the passions from which these things can distortedly proceed, and some might well misjudge him as malicious, unbending, unforgiving and so on in his recorded dealings with the pharisees. "Like to us in all things except sin," it was said, but if sin evaporates as mere legal metaphor, apart from that real spiritual sin, then Jesus is just like us. Whatever our judgment of this, however, we seem to find in his teaching what is at least the germ of an ethic open to endless restatement without any successor or paradigm shift being easily imaginable. Love fulfils the law. But what fulfils love unless more of the same? The preeminence claimed for Jesus should lie in the claim that he loved those given to him "to the uttermost", for nothing else would have counted for much without that. But we are not required to deny that anyone else loved to the uttermost.

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[20] Maritain's *The Grace and Humanity of Jesus* looks like an unsuccessful attempt to face up to these considerations, fatal for that Chalcedonian paradigm to which he remained committed.

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We are not placed indifferently between good and evil, nor is this the essence of freedom. In fact any evil chosen is chosen *qua* good, not *qua* evil. The normal and natural thing is to follow the good in accordance with our inbuilt inclinations. This is the *regula*, the law. We pursue these ends freely as to manner, means, proportion and so on. So we need not write the possibility of sin into our account of moral reality, any more than the possibility of eating sawdust need come into our account of nutrition. All choice is itself built on the foundation of spiritual being, a good. God doesn't exist because he chose to exist, as it were antecedently; the understanding of his freedom is to be sought within his simple, necessary and therefore free act of being, however incomprehensible that be to us.

The sense in which it is possible to eat sawdust is not a sense involving any kind of inclination in the consumer's nature. There is no "indifference" here, no balance between two fundamental options of selflessness or "selfishness".

The scenario gets a kind of plausibility from our situation, to be sure. This can be interpreted to be one of desperate straits for man, in a fallen world where original sin reigns. This though has many of the marks of a *redescription of reality*, ideology in other words. It is hardly possible to draw an alternative picture of how things ought to have been, an effort for which the postulation of so-called preternatural gifts is no substitute. The Fall, where it works on writers' imaginations, is often simply assimilated to the mythical idea of a past golden age, as we find it in Lawrence's *Fantasia* or one of Greene's short stories. Chesterton indeed speaks of a golden ship that went down, Lewis imagines "unfallen" beings on other planets who in fact hardly differ from peasants loyal to a religious tradition as we find them on earth, the villains being those who decide for themselves, even though for Lewis the hero-defender of tradition has to decide for himself to fight the Devil with his fists, it being plain that those he defends are helpless prey to a tempter who persists long enough. But admitting so much comes close to finding fallen man guiltless because helpless, in which case there has hardly been a "fall".

Still, they point out, the tendency towards evil, against which we must choose, is a tendency we ought not to have. The error here though lies in postulating that we have such a negative tendency. The postulation is little more than an attitude, a mood of pessimism. The truth is more simple: virtue is difficult and there are limits to our striving. As Aquinas puts it, what can fail sometimes does. Errors right themselves, given time.

On both views wrongdoing emerges as analogous to the perverse, the *inexplicably* deviant and sterile. But no, it is not quite inexplicable if we keep ourselves free of traditionalist mystification. First, a lot of things they call evil are not really evil; secondly, our sense of self and freedom moves us at times to do something wilfully unusual,

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to testing of the boundaries, as all with children know, or as Eve had to test the divine prohibition, as it is represented as having been. Obviously her action was not as heinously evil as to cast a world in ruins. As orthodox writers themselves have said, she, like Satan before her, perhaps assumed God would forgive the odd, one-off act, and why, really, would he not? Unless, perhaps, she were not sorry, unless the story is saying in a disguised way that it was something she had to do, part of growing up. We are after all required to grow up, by nature herself, criterion of right and wrong:

> Quae quidem regula in his quae secundum naturam agunt, est ipsa virtus naturae, quae inclinat in talem finem.[21]

There is then an impulse to perversity, but it would be a mistake to equate this "imp of the perverse", as analysed in some of Poe's stories for example, with the much more wide-ranging orthodox conception of sin. The impulse has to be kept in check and can be merely playful. Sin comes in where one really hurts someone, or destroys something good without compensatory gain, and this, again, is traced back to a lack of love, not to perversity as such. A few little (or even big) kinks and hangups seem essential to individual personality. It is hard to see, therefore, how one can maintain the old doctrine about unnatural vice, violating the order of creation and so on. Man can in principle do anything conceivable, if he can but find the power. To fulfil himself in doing this he needs, again, to be driven by the energy which is love. That is the true picture, not one of confinement within the banks of law, natural or otherwise. We have found that natural law as presented by Aquinas actually should issue into this supralegalist position of ours.

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It was essential to the old notion of sin that one could not ascribe it to God, since its essence is to act against God. Nominalist theology pushed this to the limit in claiming that God could command evil acts. In fact, contrary to G.E. Moore's objection (and his positing of the "naturalistic fallacy" is ultimately argued for from a purely grammatical possibility), the goodness of any possible divine will cannot be questioned, it can be shown. God does whatever he wills in heaven and on earth and all his ways are true and good; that is what God is, if he is. Only the creature can sin. Being able to sin has something to do with being a creature, being derived.

But if the creature has his particular nature from which his operations proceed, then how is sin, as defiance of that nature, possible even to the creature? "Sin," said Aquinas, aware of this problem, "is

[21] Aquinas, *Summa theol.* Ia-IIae 21,1.

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ultimately not explained as disobedience to law," inexplicable if law is natural inclination, "but as unsuitability of action to end."

This might suggest sin were just a mistaken choice of means to happiness. It certainly is that, and a culpable ignorance and weakness plays its part in much of what is reckoned as sin. One might think though of a particular type of such unsuitability common to all sinning.

This would be itself based on an inclination of nature, not man's specific nature though but the common nature of creatureliness, of not being God, whether or not man is in fact the only rational or free being that experiences that situation. Sin might be a particular reaction to tension generated by existing without being God. God, after all, is the only naturally existing being (his essence is his existence). We others get it from elsewhere, on the Thomist analysis at any rate. We are obliged to God, in a word, to whom anyhow, as the All, we cannot but tend. Just this situation, demanding a response unknown in the divine nature, might come to seem intolerable. The rational creature has dominion over his own acts, yet he or she is *penitus nihil*, having nothing except as a gift. Is there not perhaps a "natural" temptation here? So natural perhaps as to be a simple act of growing up? Aquinas says the first sin, of an angel, could only have been pride followed by envy. The latter is easier to disapprove of: that someone should be sorry that he is not God, to the point of disdaining a type of participation than which no higher can be offered a creature. As for pride, it seems not much more than insanity if its essence is really a refusal to be "subject" to God, as Aquinas puts it. If the Devil was so clever he must have known that all his strength and dignity came from God. The whole picture there seems to depend on an anthropomorphic court-picture of God, before whom subjects, or those who should be subject, appear.

Finding a misery in one's non-divine self is a mood that can occur to any creature, whether it be likely or not. If it issues in a refusal to gladly take part in life we are back with that failure of love we have found essential. Is such envy though the cause of it or does the causality work the other way? The latter view is the right one. Envy, sadness at another's good, grows in the absence of love. We were right to make love primal. Here too the apparatus of law or the table of virtues even seems found to be unnecessary.

VI. Conclusion

All of the above is a theoretical statement, not a programme for moral education. One may hope, however, that our view of the latter will not be unaffected by the theoretical advance, which represents unification at a higher level. Not only do we take seriously the

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dominical saying that "all the law and the prophets" hang on the two Old Testament commandments of love. We also listen to the "new commandment" of the Johannine Christ to "love one another as I have loved you", interpreted by Aquinas and others not as something written as these words are written. It is not written because it is not writeable, and so not a commandment in any ordinary univocal sense. It is the "new life" or rather life, essentially eternal as it always was. This is the hidden meaning of saying that this commandment was not given at the beginning of the world because of sin.[22] Our consciousness needs millenia, or decades of an individual life, to grow up to an understanding transcending the legalistic, anthropomorphic or sociomorphic.

But may we not then harm even our children by confronting them with "norms" presented as denials of their impulses, impulses which we should not seek to tame but rather to affirm and educate, if anything increasing their potency. Thus one initiates the violent and destructive child into games of noble conflict, played out in the harmonious atmosphere of sportsmanlike magnanimity; one initiates erotically befuddled youngsters, both in reality and in art and theatre, into the drama, the joys and the risks, of a social life founded upon mutual love, microcosm of a Church one might well say.

We deeply betray democracy, freedom and toleration, those great revolutionary achievements seen by Maritain as fruit of the Gospel, when we present them just as "values" obediently to be accepted. They are energies rather, sufficient to replace living according to a rule, any rule. Hence they are creative and perpetually selftranscending. So people become affronted in the depths of their autonomy as spiritual beings when they find "the establishment" wanting to force or dictate to them such "values", to force them, say, to welcome the refugee, to put up with homosexual vagaries or abstain from punishing refractory children. De Tocqueville[23] rightly noted that the inner dictatorship of an imposed egalitarianism can be harsher than any previous tyranny, and Solzhenitsyn made the same observation in regard to the dissenters from Leninism as compared to how offenders under Czarism were treated. What this indicates is that to take over democracy as just an ideology is to be putting new wine into old bottles. It is, rather, a way of being and living which is better caught in the English notion of kindness[24] or in the picture of the Nietzschean superman who is above revenge. It is not, again, just a new set of rules. The witch-hunting severity of American Puritanism sets

[22] *Summa theol.* Ia-IIae 106, 3 ad 3um.

[23] A. de Tocqueville, *Democracy in America*, 1830.

[24] Much more than English of course. Zechariah the Jewish prophet spoke of a "spirit of kindness" being poured out upon people in consequence of some great divine act (*Zechariah* 12,10).

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limits to democracy's, we might say to the kingdom's, realisation. The spirit, that is to say, is not to be forced, and ideological governments imposing what according to traditional ideas are extreme programmes are soon turned upon by their populations. Imposition belongs to the old scheme of things. Hence becomes apparent the fittingness for Christians of a morality of exhortation alone (*paranese*) and of example at a level no longer affording opportunity for the passing of judgment so deprecated in the "Sermon on the Mount".

The *point* of liberty, equality, fraternity (they are one), is just this, to realise fraternity, that we are one family, whether or not we find this, with Schiller, to imply a common father *überm Sternenzelt*. In a family a justice existing on its own, uninformed by love, finds no hold, no object who is "other" (*justitia est ad alterum*). This was already the lesson of *The Merchant of Venice*, that "the quality of mercy is not strained" and not strange either.[25] Democracy,[26] our preferred name today for this new type of existence, is an *invitation*, not a rule or discipline (though discipline be always needed), still less an ideology, and hence the character of what we are invited to, the great supper or communal feast of life, is frontally assaulted by any idea of imposing it. If we ever compel anyone to come in then we have to be able to persuade him or her to put on a wedding garment first.

We have of course to deal with offenders, both at home and abroad (someone has to), but not by the method, the mystification rather, of moralism and precept. Declarations of human rights even, we have seen, if taken as minimalist ideological prescriptions rather than as charters of freedom inviting and directing to a maximal magnanimity, can signal a new degeneration back into such moralism and precept. It is instructive that Aquinas sees the death penalty, which he accepted as legitimate, not as a punishment but, in common with modern ideologies, as a removal of someone harmful from society when all else has failed and thus as falling under epieicheia rather than under retributive justice.[27] It is thus an admission of failure which we can resolve never to make. Let Judas rather himself hang himself, if he insist, and hope up to the end that the last piece of old snow will finally melt as spring gets increasingly under way.

[25] To dismiss this play as "anti-Semitic" is utterly crass, as if Shylock were not balanced by Jessica, though even if he were not it should be obvious that the theme of the play cuts much deeper than incidental prejudices of time and place.

[26] I use the term, building upon Maritain's insight mentioned above (see his *Christianity and Democracy*, London 1945), as one heavy with analogical ramifications. The connection lies to hand, for example, of the rule of the people with the universal priesthood and kingship and prophethood of believers, of those who have received the new life or what is life indeed or truly.

[27] Cf. *Comm. in II Cor. cap. 11.*

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This is to say, either our institutions are alive, *informed* by love and its infection,[28] or they are not. It is disgust with a hidden egoism and cowardice in those who would lead but who in fact bury the talent in a self-protective privacy belying their proclamations which produces such negative manifestations as Nazism old or new. Yet behind the bluster lies a timidity matching that of those they scorn, a fear of extending community beyond the biologically and culturally similar, a belief that they are doing what everybody (of their own "race") really wants. They are like the temptation to sleep, to stay at home on the big day, whatever it is.

Moral philosophy moves at the level of inner attitude, which positive law should reflect. Social contract theories reflect this, that we should freely engage to observe the laws, at least from a prudent wish to avoid needless trouble, and Hobbes was not wrong to interpret right and obligation in this way. There is no absolute or purely "moral" principle that we should obey law, pay tax etc. and, morepositively, coastguards and other officials need, if they are not to fail, to be ruled by love and not by an abstract zeal to comply with regulations. If we believe in our society we will want to pay tax.[29] If the coastguards or their masters think it for the refugees' best they may set about sending them home, or even tightening their own borders. Love knows no rule, again.

However we look at things, natural law is transcended. We are, rather, involved in a particular and creatively unfolding drama none of the responses to which are foreseeable in advance. There is one light, a "kindly light" (Newman), which we need to navigate by in this drama, and which we have tried here to characterize.

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[28] Cf. Maritain's "civilization of love" in *True Humanism* and other writings, from the aim of which he says we can only retreat (into a limited ideal of "civic friendship") to the scandal of mankind.

[29] This is the positive element in the often absurd feeling among, for example, some Scandinavian socialists that it is immoral to plan your finances so as to minimize tax. They might approve this in a society with which they felt less identified, e.g. if they lived in Saddam's Iraq and felt they were being forced to finance germ warfare.

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