

2013

# Thinking Together about the Common Good: The Political Implications of Thomas Aquinas's Theory of Conscience

Angela Concetta Miceli

*Louisiana State University and Agricultural and Mechanical College*, [angelamiceli@gmail.com](mailto:angelamiceli@gmail.com)

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THINKING TOGETHER ABOUT THE COMMON GOOD: THE POLITICAL  
IMPLICATIONS OF THOMAS AQUINAS'S THEORY OF CONSCIENCE

A Dissertation

Submitted to the Graduate Faculty of  
Louisiana State University  
Agricultural and Mechanical College  
in partial fulfillment of the  
requirements for the degree of  
Doctor of Philosophy

in

The Department of Political Science

by

Angela Concetta Miceli  
B.A., Thomas More College of Liberal Arts, 2005  
M.A., Louisiana State University, 2010  
May 2013

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## Acknowledgements

I have written a dissertation in which I have reflected on how human beings depend upon one another for all the essential things in life. Writing a dissertation, while perhaps not an essential thing in life is such a task that indeed cannot be done in isolation, and I have depended upon the goodness and love of many to complete this project.

First, I must acknowledge my debt of greatest gratitude to my parents, Louis and Virginia, who sacrificed much so that I could be educated and could pursue every happiness, opportunity, and success. They continue to love, encourage, and support me in all that I undertake, and I am most grateful for the embodiment of sacrificial and unconditional love they have always given to me and my siblings, Theresa, Joseph, and Regina. It is to them that I dedicate this dissertation.

I thank my advisor, Dr. Ellis Sandoz, who has shown me the true meaning of pursuing the truth in freedom and who has always encouraged me to speak that truth with courage. I am so grateful to him for his gentle encouragement, his teaching, and his understanding.

To the members of my committee:

Dr. James Stoner, whose mentorship, guidance, and example have inspired my work as a scholar in ways that I hope will continue to animate my career.

Dr. Cecil Eubanks, whose profound care for students, advice, and wisdom has shown me in many ways how to be a teacher. His respect, attention, and care for me and to all of his students extend beyond the classroom, and I am so grateful for the opportunity to work with him.

Dr. Leonard Ray and to Dr. Mark Gasiorowski, I thank them both for their kindness, patience, flexibility and advice throughout my time at Louisiana State University.

Each member of my committee has given me an example of integrity and intellectual honesty that I hope to give to my students.

To Tara Montelaro and Lezlie Haynes for always helping me and answering all of my questions. To Wanda Ashley or 'Miss Wanda,' who attended to my many needs as a student.

To my teachers at the Thomas More College of Liberal Arts who formed within my heart a love of learning and study: Dr. Peter Sampo, Dr. Mary Mumbach, Dr. Paul Connell, Mr. Brian Shea, Ms. Deborah Enos, Miss Mary Bonifield, and Mr. Karl Cooper.

To the H.B. Earhart Foundation, who generously funded my years in graduate school at Louisiana State University. This opportunity to study would not have been possible without their support.

To the Intercollegiate Studies Institute, whose conferences I attended throughout graduate school, which allowed me to forge lasting friendships with some of the most wonderful people I have ever met and with colleagues that I will always cherish.

To the members of the University of Notre Dame community, most especially to Dr. Mary M. Keys. She invited to me sit in on a class on Aquinas in the spring semester of 2011, and then helped me to find a welcoming community of friends at Notre Dame. Dr. Keys did everything that she could to facilitate and encourage me in my writing process.

I must thank both the Jacques Maritain Center and the Center for Ethics and Culture at the University of Notre Dame for their support of my writing and research. Dr. John O'Callaghan and Mrs. Alice Osberger gave me not just resources, study space, but more importantly conversation, support, and friendship. Because of their support, I was not only able to write this dissertation, but I also was able to write and publish my first article and book chapter. Through the Jacques Maritain Center, I also met Dr. Peter Koritansky, who not only helped me translate some particularly difficult passages from Aquinas's *Scriptum Super Libros Sententiarum*, but has also extended his generous friendship and counsel.

The Notre Dame Center for Ethics and Culture generously supported me in my last semester with the Inaugural Edith Stein fellowship, providing me with the time, resources, and financial support I needed to finish writing this dissertation. To O. Carter Snead, Angela Engelsen, Tracy Westlake, and Stephen Freddoso, thank you. I could not have completed this without the provision that you facilitated.

To others at the University of Notre Dame who helped me in as many ways that they could: Steve Reifenberg and my colleagues that the Helen Kellogg Institute for International Studies, Heather Denton in the department of Political Science, and Charlene Bollman at the Office of Research.

To those with whom I had a brief but powerful conversation about my dissertation, Professor Zachary Calo, Professor Rémi Brague, Professor Alasdair MacIntyre, Rev. Richard Hyde. Your answers to my questions impacted me so profoundly and very often helped me to discover new and exciting insights.

To all my family members and dear friends who supported and encouraged me, conversed with me, prayed for me, and have always shown me understanding: Joseph Miceli, Theresa Miceli, Regina Miceli, Pam and Randy Stout, Heidi Stout Tretheway, Holly Stout, Ashleen Kelly, Veronica Roberts, Randy and Tamara Smith, Esther Terry, Craig Iffland, Omer Shaukat, Karen Duker, Joan Burkardt, Amy Triche, Rocky Thompson, Margaret Perry, Elise Italiano, Gail Alcaez O'Donnell, Flora Arzanipour, Kate Fairbairn, Mary Dustin, Heather Le, and Maureen Noonan.

In a special way, I would also like to thank my neighbors, the Nagy family, who always shower with me affection and whose children have taught me by their love both a practical application of my dissertation and that there is much more to life than writing a dissertation.

To my students at Louisiana State University, Purdue University-Calumet, Indiana University-South Bend, Holy Cross College, and the University of Notre Dame: thank you for your questions, your joy, and your passion. You kept me encouraged, and it is for you especially that I write this dissertation.

I profoundly thank my loving fiancé, Alan N. Stout for his constant encouragement, joy, faith, love, and support of me in this process.

To the many that I have not named here, know that I am grateful for every way that you aided me in this process.

Finally and most importantly, I acknowledge my deepest gratitude to Almighty God, who in His Goodness, has shown me ever new His faithfulness and love in His constant provision and providential way of unfolding His plan. May I be ever aware of and trusting in His holy and loving Providence.

## Table of Contents

Acknowledgements.....	iii
Abstract.....	vii
Chapter I: The Crisis of Conscience in the Modern World .....	1
I. A Crisis of Conscience .....	1
II. What is Conscience?: A Theoretical Background .....	16
III. Why Aquinas?.....	23
IV. Aquinas and Contemporary Politics .....	28
V. Chapter Descriptions.....	50
Chapter II: Theoretical and Historical Foundations of Conscience.....	52
I. Theoretical and Historical Background.....	54
A. Classical Sources.....	54
B. Aristotle and Conscience.....	61
II. Theoretical and Historical Background .....	79
A. Patristic Sources: Origins of ‘Synderesis’ in the work of St. Jerome .....	79
B. Augustine’s Contribution to Conscience.....	83
Chapter III: Conscience in the Early Work of Aquinas: <i>Scriptum Super Libros Sententiarum</i> and <i>De Veritate</i> .....	92
I. Introduction: Aquinas on Man and Politics.....	92
II. The Structure of the Soul and of Moral Thinking for Aquinas.....	101
III. Thomas’s Early Development of Conscience: Conscience in the <i>Scriptum Super Libros Sententiarum</i> .....	109
IV. <i>De Veritate</i> : Conscience, Reason, and the Supremacy of Conscience.....	114
Chapter IV: Conscience, Law, Prudence, and the Common Good: Aquinas’s Account of Conscience in the <i>Summa Theologiae</i> and <i>Super Romanos</i> .....	127
I. Reason as the Basis for Moral Choice and Freedom.....	127
II. Freedom, Law, Practical Wisdom, and the Place of Conscience in the <i>Summa Theologiae</i> and <i>Super Romanos</i> .....	135
A. Synderesis and Conscientia in the <i>Prima Pars</i> and in <i>Super Romanos</i> .....	135
B. Conscience in the <i>Prima Secundae Pars</i> : The Treatise on Law .....	150
C. Conscience in the <i>Secunda Secundae Pars</i> : Judgment of Conscience and the Virtue of Prudence.....	160
Chapter V: Thinking Together about the Common Good: Toward a Renewed Understanding of Conscience .....	166
I. Politics and Conscience.....	166
II. The Enduring Problem of Synderesis .....	169
III. An Anamnetic Politics: A Reorientation toward the Common Good .....	184
Bibliography .....	190
Vita.....	199

## Abstract

This dissertation examines the problems confronted by claims of ‘freedom of conscience’ in contemporary political society, and argues that freedom of conscience is a critical foundational component of any free political regime. Yet, conscience is often invoked as the final authority or justification for any choice, regardless whether the action or choice violates the common good. In this case, there is a risk that conscience can become identified with subjectivism, radical individualism, or autonomy. I suggest that a re-examination of the theory of conscience found in Aquinas, especially as it relates to human reason, natural law, and prudence, contributes toward a better understanding of conscience and its place in political life, especially in shaping the common good. I argue that Aquinas’s understanding of conscience points to critical individual, relational, and transcendent elements that constitute and form conscience.

The first chapter examines what many scholars consider the contemporary ‘crisis of conscience’ that has been experienced acutely in the twentieth and twenty-first centuries, and I introduce Aquinas as the interlocutor whose understanding of conscience I examine. The second chapter analyzes the sources that Aquinas draws from to formulate his own twofold theory of conscience as consisting of *synderesis* and *conscientia*. Specifically, I examine the important contributions of Aristotle, Cicero, Jerome, Origen, and Augustine. The third and fourth chapters focus on Aquinas’s texts. Chapter three evaluates the development of Aquinas’s work on conscience in two of his earlier works, viz. *Scriptum Super Libros Sententiarum* and *De Veritate*. The fourth chapter examines the *Summa Theologiae* and the *Commentary on Romans*, wherein Aquinas situates conscience within the framework of natural law. The final chapter juxtaposes Aquinas’s terminology of the primary level of conscience, *synderesis*, with an alternative concept, viz. *anamnesis*. Political philosopher Eric Voegelin has also proposed this term as a way of understanding human nature *qua* rational and political. This chapter considers



both the possibility and implications of this alternative term for the primary level of conscience and helps to clarify the place of conscience in political discourse.

## Chapter I: The Crisis of Conscience in the Modern World

“Could...religious people be granted *exemption or exemptions from generally applicable laws, if they went against a religious conscience*? This may not have seemed so pressing in a country whose legislators were explicitly motivated by Christian principles, and whose laws applied to a broadly Christian society, where the main disagreements were between Christian denominations.... It is different in the twenty-first century, when political debate is characterized by deep disagreement between people with very different worldviews. The issue *of the possible protection of a religious conscience from the impact of generally applicable laws has become a major problem.*”<sup>1</sup>

### I. A Crisis of Conscience

In the American political experience, freedom of conscience has been considered to be of primary importance within the constitutional framework of the political regime. We need only consider the text of the First Amendment of the US Constitution, which guarantees and enshrines freedom of conscience in the free exercise and establishment clauses.<sup>2</sup> We may also recall James Madison’s First Inaugural Address in 1809, wherein he states his confidence in the new republic’s commitment “to avoid the slightest interference with the rights of conscience or the functions of religion, so wisely exempted from civil jurisdiction.”<sup>3</sup> More generally, the importance of freedom of conscience in the liberal political tradition has been espoused by Enlightenment liberal thinkers such as John Locke or John Stuart Mill.<sup>4</sup> Yet, in the contemporary liberal political context, when ‘the primacy of conscience’<sup>5</sup> is invoked as a justification for political action or inaction (as might be the case of conscientious objector to war,

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<sup>1</sup> Trigg, Roger. *Equality, Freedom, and Religion*. (Oxford: Oxford University Press, 2012), 87-88.

<sup>2</sup> The original language in the Bill of Rights that actually referred to freedom of conscience was deleted, cf. E.A. Smith. “Religion and Conscience in Constitutional Law.” *Church-State Relations in Ecumenical Perspective*, Ed. E.A. Smith. Pittsburgh: Duquesne University Press, 1966.

<sup>3</sup> Madison, James. “First Inaugural Address, March 4, 1809.” Retrieved from Liberty Fund’s Online Library of Liberty:

[http://oll.libertyfund.org/?option=com\\_staticxt&staticfile=show.php%3Ftitle=1939&chapter=119064&layout=html#a\\_2402984](http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Ftitle=1939&chapter=119064&layout=html#a_2402984)

<sup>4</sup> Cf. John Locke *A Letter Concerning Toleration* and J.S. Mill *On Liberty*. We must, however, acknowledge here that that modern liberalism is varied and the two thinkers listed here are examples, and not meant to be an exhaustive representation of the stance of the liberal tradition on conscience.

<sup>5</sup> Cf. Lewis, Brian. “The Primacy of Conscience in the Roman Catholic Tradition.” *Pacifica* 13, October 2000. 299-309.

for example), there seems to be a lack of a clear sense of both the meaning of conscience and the pre-eminent source of authority that it claims. What does it mean to say that one should follow his own conscience? From where do these promptings of conscience originate? Is conscience simply one's own subjectivity or private opinion that allows an individual to act as he pleases without reference to or consideration of anyone outside of himself? Does conscience give a person license to act in whatever manner he feels prompted to act? Does conscience make a man a law unto himself? If every man is a law unto himself, then how could a political society define a common good, since each person would have his own idea of what should be considered good? These questions require us to ask further: what is conscience, why is it considered to be free, and why should any political regime protect its freedom?

One theory could argue that conscience appeals to a 'higher law' than human law or political regime as the source of its authority. We may recall Antigone's defiance of Creon's law in favor of the law of the gods, the "unwritten and unchanging laws" that oblige her to bury her fallen brother against Creon's decree.<sup>6</sup> Yet, an appeal to a higher law is distinctly problematic, because we are faced with the task of identifying the source, legitimacy, and authority of this higher law. Furthermore, if conscience receives its knowledge and insight from a higher law, how does a person have reliable access to it? If the divine is the authentic source of the law, as Antigone claims, then this presupposes that everyone in any given society must share at least some minimal belief in the same source of divinity. In the contemporary, liberal, pluralistic political setting, such is not often the case. Perhaps the authority of conscience comes from within the human person himself: "More often than not, it [that is, the source, legitimacy and authority of a higher law] will be said to have its immediate source in man himself, either alone

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<sup>6</sup> Sophocles. *Antigone*. Trans. Ian Johnston. Text found at <http://records.viu.ca/~johnstoi/Sophocles/Antigone.htm>. Quotation from line 512 English text and 455 Greek text.

or in society, and assumes the form of an inviolable dictate of conscience to which priority is given over all man-made laws.”<sup>7</sup> However, when one lives in political community, do we not expect that the common good, which is protected by agreed upon laws, should take precedent over any individual good presented by the dictates of conscience?

To remedy the problem of a higher law usurping legal and political authority, Ernest Fortin points out that contemporary social science largely retreated to the theory of “legal positivism... [That] denies the very possibility of an appeal from established law to an elusive ‘higher law’ whose existence is alleged never to have been demonstrated and on whose principles there is supposedly no general consensus among men.”<sup>8</sup> Legal positivism posits law as pure convention, based upon the will of the ruler or a ‘general will’ of the citizens: “The will of the state, the formal general will of the citizens, is the source and criterion of law.”<sup>9</sup> Legal positivism ultimately flows from a rejection of the intelligibility of any metaphysical order, even to the point of rejecting its existence.<sup>10</sup> Yet, despite the rise of legal positivism and its attempt to eradicate reference to a ‘higher law,’ that is to the natural law, human inquiry about the existence of the natural law remains: “[The natural law] has always managed to resuscitate itself and emerge revitalized from its occasional moments of eclipse.”<sup>11</sup> Such a higher law is meant to govern right and wrong actions in society, and it circumscribes the limits of both the political regime and the citizens within the regime. But this too is problematic, given that many of us live in pluralistic cultures, and the dominant liberal ideology of our current political regime prides

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<sup>7</sup> Fortin, Ernest L. “The Political Implications of St. Augustine’s Theory of Conscience.” *Augustinian Studies* Vol. 1, 1970, 133

<sup>8</sup> Fortin, Ernest L. “The Political Implications of St. Augustine’s Theory of Conscience,” 134. Fortin also points the reader to F. Oppenheim’s *American Political Science Review* 51 (1957) article entitled “The Natural Law Thesis: Affirmation or Denial.” Pp. 41-53.

<sup>9</sup> Rommen, Heinrich A. *The Natural Law*. Trans. Thomas R. Hanley. (Indianapolis, IN: Liberty Fund, 1998), 110.

<sup>10</sup> Rommen, Heinrich A. *The Natural Law*, Chapter VI.

<sup>11</sup> Kries, Douglas. *The Problem of Natural Law*. (New York: Lexington Books, 2007), xiii.

itself on being able to accommodate “fundamental disagreements over the nature of the good.”<sup>12</sup> Contemporary Western societies have “socially [divorced rules] defining right action on the one hand and conceptions of the human good on the other.”<sup>13</sup>

However, this ideological strategy presents an even more serious systemic dilemma. How could it ever be possible to live peacefully in a political community that encourages and embraces fundamental disagreements about the nature of the human good? The endpoint of such logic is an effort to define right action and a coherent conception of the human good that “makes it impossible to build up and preserve the moral order of individuals and communities.”<sup>14</sup> Some might question why we ought to find an inconsistent notion of the human good a problem. Leo Strauss explains this problem from the perspective of the social sciences. According to Strauss, the distinction between facts and values, especially as espoused by Max Weber, is the root cause of the political problems experienced in the modern era. The fact/value distinction, according to Strauss, advances a theory of a ‘value-free’ methodology to the study of the social sciences.

Strauss explains that:

[Weber] denied to man any science, empirical or rational, any knowledge, scientific or philosophical, of the true value system: the true value system does not exist; there is a variety of values which are of the same rank, whose demands conflict with one another, and whose conflict cannot be solved by human reason. Social science and social philosophy can do no more than clarify the conflict and all its implications; the solution has to be left to the free and rational decision of each individual. I contend that Weber’s thesis necessarily leads to nihilism or to the view that every preference, however evil, base, or insane, has to be judged before the tribunal of reason to be as legitimate as any other preference.<sup>15</sup>

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<sup>12</sup> MacIntyre, Alasdair. “The Privatization of Good: An Inaugural Lecture.” *The Review of Politics* 52:3, 1990. 344-361. Quote taken from page 355.

<sup>13</sup> MacIntyre, Alasdair. “The Privatization of Good: An Inaugural Lecture,” 346.

<sup>14</sup> Pope John Paul II. *Veritatis Splendor* Encyclical Letter given on 6 August 1993. (Boston: St. Paul Media, 1993), 93.

<sup>15</sup> Strauss, Leo. *Natural Right and History*. (Chicago: University of Chicago Press), 41-42.

This promotion of a ‘value free’ political science ultimately leads to the principal crisis of political science that Strauss identifies as the inability of political science to confront and to condemn the various manifestations of corruption within political society (e.g. totalitarianism), affirming that “A social science that cannot speak of tyranny with the same confidence with which medicine speaks, for example, of cancer, cannot understand social phenomena as what they are. It is therefore not scientific. Present day social science finds itself in this condition.”<sup>16</sup>

Other scholars, such as John Haas, argue that this modern political problem pointed out by Strauss in the above passages is fundamentally a “crisis of conscience” that has caused a much deeper political and cultural crisis, “because the failure of conscience is not seen simply in wicked men choosing to embrace evil in pursuit of their own selfish interests, but rather in the attempt of *entire societies* [emphasis mine] to forge their common life without recourse to objective standards of right and wrong.”<sup>17</sup> Here we are confronted by another important element in our discernment of the nature of conscience and what its political significance should be. Despite what is described above as a ‘crisis of conscience,’ viz. the inability for whole political societies to identify a common human good, contemporary political liberalism continues to claim that it values the freedom of conscience as the very basis of human rights.<sup>18</sup> Andrew Edward comments:

The basic liberal right is freedom of conscience, but it is unclear to what extent freedom of conscience is limited to the sphere of belief and thought, and whether it encompasses freedom of association as well as freedom of speech, and whether it extends to conscientious objection and civil disobedience. Our claims of equality are gauged in terms of conscience.<sup>19</sup>

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<sup>16</sup> Strauss, Leo. *What is Political Philosophy?* (Chicago: University of Chicago Press, 1988), 95

<sup>17</sup> Haas, John M. “Crisis of Conscience and Culture.” *Crisis of Conscience*. Ed. John M. Haas. (New York: The Crossroad Publishing Company, 1996), 24

<sup>18</sup> Cf. Edward, Andrew. *Conscience and its Critics: Protestant Conscience, Enlightenment Reason, and Modern Subjectivity*. (Toronto: University of Toronto Press, 2001), 3. See also the Introduction.

<sup>19</sup> Edward, Andrew. *Conscience and its Critics*, 6.

Edward points out both that the very understanding of what conscience *is* (although considered sacrosanct for many contemporary liberals) and *why* it is politically important, remains unclear. Does freedom of conscience simply mean freedom for subjective thinking or opinion? Does freedom of conscience mean freedom to worship in whatever religion of your choosing? Or, does freedom of conscience refer to the freedom to order one's life *as a citizen of a particular political society*, governed by particular laws and rules, in whatever way is deemed morally acceptable to an individual? Often in contemporary politics, conscience is invoked as the final authority or as the justification for any choice, regardless of whether the action or choice taken by the individual violates the law or the common good. We hear of the inviolability of the 'primacy of conscience' that must be protected even if the action taken is commonly considered to be immoral.<sup>20</sup> In this case, there is a risk that conscience can become identified with subjectivism, radical individualism, or autonomy. At worst, conscience is reduced to being identified as emotions, feelings, opinions, or personal preference. Have the claims of conscience morphed from being "a bulwark against government encroachment into a more generally applicable right to individual autonomy?"<sup>21</sup> Alasdair MacIntyre identifies this truncated sense of conscience as emotivism, that is "the doctrine that all evaluative judgments and more specifically all moral judgments are *nothing but* expressions of preference, expressions of attitude or feeling, insofar as they are moral or evaluative in character."<sup>22</sup>

For adherents of these particular manifestations of conscience, the primary political problem is a lack of consensus on a common notion of the human good because each person judges what is good based on opinions, preference, attitudes, conviction or feelings. However,

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<sup>20</sup> Cf. footnote 4 above.

<sup>21</sup> Vischer, Robert K. *Conscience and the Common Good: Reclaiming the Space between the Person and the State*. (Cambridge: Cambridge University Press, 2010), 3.

<sup>22</sup> MacIntyre, Alasdair. *After Virtue*. Notre Dame, IN: University of Notre Dame Press, 1984.

as MacIntyre and others believe, conscience is not merely a means to confirm our subjective desires or opinions, but rather it is and should be the means of discovering truth. Ernest Fortin sums up this critical point, stating:

[Conscience] is not just an innate moral sense found in all or most men or a general awareness of certain broad limitations to which human conduct is subject. Nor is it a mere reflection or internalization of the ethical values and standards of a given society. It cannot for that matter be reduced to a question of loyalty to oneself and to one's commitments, whatever those commitments might be. And it is even less a simple matter of sentiment divorced from reason and superior to it, as the romantic notion popularized by Rousseau would have it. What it basically assumes is that man's life as a whole is governed by rational principles that are naturally known and universally valid even under the most extreme circumstances.<sup>23</sup>

If this view of conscience is lost in a political society, that is to say, a view of conscience that is governed by shared, universally known *rational* principles, this loss results in a lack of *homonoia*, that “life of the spirit, which is common to all, [through which] the existence of man becomes existence in community.”<sup>24</sup> In other words, if, as Aristotle says, that “every city is some sort of partnership [that is] constituted for the sake of some good,” a political community without agreement on the common good finds itself in serious crisis.<sup>25</sup> This is particularly the problem of liberalism, according to Alasdair MacIntyre, “for it is a central tenet of recent liberal moral and political theory that public institutions and more especially the institutions of government should be systematically neutral as between rival conceptions of what the human good is.”<sup>26</sup> Perhaps John Locke best captures this liberal understanding of conscience, arguing that it is “nothing else but our own opinion or judgment of the moral rectitude or pravity of our

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<sup>23</sup> Fortin, Ernest. “The Political Implications of St. Augustine’s Theory of Conscience,” 144.

<sup>24</sup> Voegelin, Eric. “On the German University and the Order of German Society: A Reconsideration of the Nazi Era.” *The Collected Works of Eric Voegelin: Published Essays 1966-1985*. Volume 12. Ed. Ellis Sandoz. (Baton Rouge: Louisiana State University Press, 1990), 7.

<sup>25</sup> Aristotle. *Politics*. Trans. Carnes Lord. (Chicago: University of Chicago Press, 1984), 1252a.

<sup>26</sup> MacIntyre, Alasdair. “The Privatization of Good: An Inaugural Lecture,” 346.



own actions.”<sup>27</sup> However, this view remains a rather narrowly subjective concept of conscience. The danger, at least as some have articulated such danger, is that the “resulting variations among individual consciences [render] it almost useless for creating the measure of agreement necessary to society.”<sup>28</sup> In short, if conscience claims simply mean personal preference, then conscience claims become meaningless, and the claim with most force (whether persuasive or coercive force) wins.

A related problematic understanding of conscience perceives it simply as the freedom or right to do as one pleases, since it has come from one’s own conscience. In the opinion of some scholars, such a formulation is a radical *deformation* of the nature of conscience:

The erroneous conscience.... [appears] as subjectivity’s protective shell, into which man can escape and there hide from reality. Liberalism’s idea of conscience was, in fact, presupposed here.... It is the faculty that dispenses with truth. It thereby becomes the justification of subjectivity, which would not like to have itself called into question. Similarly, it becomes the justification for social conformity. As mediating values between the different subjectivities, social conformity is intended to make living together possible. The obligation to seek truth terminates, as do any doubts about the general inclination of society and what is has been accustomed to. Being convinced of oneself, as well as conforming to others, is sufficient.<sup>29</sup>

Joseph Ratzinger’s preceding quote points to two glaring contemporary problems. First, conscience as radical subjectivism or radical autonomy becomes meaningless lending itself to be easily swept up into social conformity—perhaps even an ideological social conformity that is dangerous or unjust. Let us consider an historical example that illustrates the political manifestation of this ‘problem of conscience’ discussed above. We need not look very far back into history to see that the ideological ethics manifested in modernity led to a crisis in both the

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<sup>27</sup> Locke, John. *Essay Concerning Human Understanding*. I, ii, 8. Quoted in Sheldon S. Wolin, *Politics and Vision: Continuity and Vision in Western Political Thought*. (Boston: Little, Brown and Company, 1960), 337.

<sup>28</sup> Wolin, Sheldon. *Politics and Vision*, 337.

<sup>29</sup> Ratzinger, Joseph. “Conscience and Truth.” *On Conscience*. (San Francisco: Ignatius Press, 2007), 16-17. On the liberal transformation of conscience into social conformity, see Sheldon S. Wolin *Politics and Vision*, Chapter 9.

knowledge and practice of sound moral judgment and actions. In 1963, Hannah Arendt published her coverage and reflections of the Eichmann trial, entitled *Eichmann in Jerusalem*, and stunned her readers with the harrowing conclusion that Nazi commanders such as Eichmann carried out their crimes with a banal attitude of indifference toward the clear violation of human dignity and the destruction of human life. The trial of Eichmann exemplified as she says, the “strange interdependence of thoughtlessness and evil.”<sup>30</sup> According to Arendt, the most perplexing and disturbing question at the center of the Eichmann trial was his complete lack of a ‘crisis of conscience’ (meaning he experienced no moral qualms) for his role in the death of millions. Arendt writes: “[And] as for his conscience, [Eichmann] remembered perfectly well that he would have had a bad conscience only if he had not done what he had been ordered to do—to ship millions of men, women, and children to their death with great zeal and the most meticulous care.”<sup>31</sup> In his defense, Eichmann argues that he was simply following the Kantian principle that “a law was a law, there could be no exceptions.”<sup>32</sup> Eichmann, it would seem, escaped the prompting of conscience in this matter, by appealing to legal positivism. Those who put him on trial did not find such a defense very convincing.

Eichmann suffered no ‘crisis of conscience’ not because he lacked the capacity, but rather because his willful acceptance of the Nazi ideology had dulled and deformed his conscience so that the social and political values of the Nazis, i.e. hatred and liquidation of Jews, had been “internalized and, as such, [operated] as the individual’s conscience. Conscience thus [became for Eichmann] social rather than individual.”<sup>33</sup> This deformation of conscience into a social

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<sup>30</sup> Arendt, Hannah. *Eichmann in Jerusalem: A Report on the Banality of Evil*. (New York: Penguin, 1994), 288.

<sup>31</sup> Arendt, Hannah. *Eichmann in Jerusalem*, 25.

<sup>32</sup> Arendt, Hannah. *Eichmann in Jerusalem*, 137. Arendt does try to exonerate Kant from Eichmann’s invocation, remarking that Eichmann distorted Kant’s philosophy to become what she calls “a version of Kant ‘for the household use of the little man.’” See page 137.

<sup>33</sup> Wolin, Sheldon S. *Politics and Vision*, 343.

collectivism, with its emphasis on social conformity to an ideology certainly does not and did not exonerate Eichmann, for as Eric Voegelin rightly reminds us, “No one is obliged to take part in the spiritual crisis of a society; on the contrary, everyone is obliged to avoid this folly and live his life in order.”<sup>34</sup> Where was this interior order in Eichmann that should have caused him to act differently? The problem in the case of Nazi Germany was the complete and willful closure of the mind of an entire society to the promptings of conscience, and the equally willful acceptance of a collectivist ideology in its place. If false conscience is explained here as social or collectivist conformity, then perhaps by contrast we might discern some sense of what authentic conscience actually *is*. Traditionally, conscience has been understood as the ability to discern between good and evil and to choose what is good accordingly.<sup>35</sup> It thus has both a legislative and active connotation. Conscience tells the individual what is right or wrong, and dictates appropriate action based on this judgment. It is not simply a means of “[confirming] our subjective desires, [but rather] the means of discovering objective truth and acting upon it.”<sup>36</sup> Of course both before the Nazi regime and after it, the very idea of ‘objective truth’ has become controversial for most of Western societies. After all, the Nazis claimed an ‘objective truth’ based upon on what they believed were empirically, biologically, and scientifically verifiable facts about the superiority of the Aryan race. Yet without a doubt, we know they were wrong. But their claim to an objective truth was channeled a priori through a seemingly legitimately, collectively defined and politically acceptable process of legal positivism. Can any person or any body politic validly claim authority on truth objectively by pursuing this strategy?

The example of the totalitarian Nazi regime expresses another related way in which the meaning of conscience is violated. In the Eichmann example, there is a clear lack or a willful

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<sup>34</sup> Voegelin, Eric. *Science, Politics, and Gnosticism*. (Wilmington, DE: ISI Books, 2004), 17.

<sup>35</sup> Cf. John M. Haas. “Crisis of Conscience and Culture.”

<sup>36</sup> Haas, John M., “Crisis of Conscience and Culture,” 22.

ignorance of the proper function of conscience that discerns right from wrong and directs action accordingly. But many within this regime objected to the Nazi atrocities precisely *on the basis of conscience*, such as the Scholl siblings, Hans and Sophie.<sup>37</sup> They were categorically denied the capacity of conscience to validly question or reject the ideology and actions of the Nazi regime, illustrating a fundamental and required characteristic for any ideologically based regime: the destruction of the freedom of conscience that governments should protect.<sup>38</sup> Joseph Ratzinger comments, “The destruction of conscience is the real prerequisite for totalitarian followers and totalitarian rule. Where conscience prevails, there is a limit to the dominion of human command and human choice, something sacred that must remain inviolate and that in its ultimate sovereignty eludes all control, whether someone else’s or one’s own.”<sup>39</sup>

While the extreme example of totalitarianism may seem obvious to us, and even passé for contemporary Western political societies, there are perhaps several new frontiers that threaten the freedom of conscience even within our own American regime. For example, Ryan T. Anderson writes that the recent passage of the Obama administrations’ health care plan (the Patient Protection and Affordable Care Act or PPACA) significantly attenuates the protection of conscience for health care professionals who may object to the assertion that abortion should be provided as essential basic health care for women. Anderson writes, “While the Senate was drafting the bill, it explicitly rejected the Weldon Amendment, long accepted language that provides conscience protection for those opposed to abortion, particularly for health care providers. . . . Conscience protections that apply in most other areas of federal law do not apply

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<sup>37</sup> I chose the Scholl siblings as my example since their pamphlets directly mention conscience. On the Scholl siblings’ objection to the Nazis on the basis of conscience, see the six leaflets of the White Rose Society from 1942, especially the second and fourth leaflets at [www.whiterosesociety.org/WRS\\_pamphlets\\_home\\_html](http://www.whiterosesociety.org/WRS_pamphlets_home_html).

<sup>38</sup> On the guarantee of the protection of conscience by governments, see for example, the UN’s Universal Declaration of Human Rights, particularly Article 1: <http://www.un.org/en/documents/udhr/> and the First Amendment of the United States Constitution.

<sup>39</sup> Ratzinger, Joseph. “Conscience in its Time.” *Church, Ecumenism, and Politics: New Endeavors in Ecclesiology*. Trans. Michael J. Miller et. al. (San Francisco: Ignatius, 2008), 160.

to PPACA.”<sup>40</sup> Even more recently, the department of Health and Human Services in the United States issued a mandate that some religious organizations and institutions have called a flagrant violation of conscience protection and religious freedom in the United States.<sup>41</sup> This mandate, delivered by the Secretary of the Department of Health and Human Services, Kathleen Sebelius, requires that nearly all health insurance plans offer and pay for contraceptive services, sterilization procedures, and abortifacient drugs to women of reproductive age. Such actions seriously violate the consciences of Catholics, other Christians, Jews, Muslims, and other religious and non-religious citizens alike.<sup>42</sup> These religious organizations, institutions, businesses, and individuals claim a violation of conscience because they will be forced by the coercive power of a federal mandate to provide, to promote, and to pay for services for their employees that they declare morally objectionable on the grounds of their religious faith. The alleged compromise offered for conscience protection that the current administration has contrived excludes religiously-affiliated hospitals, universities, and other institutions as well as individuals or families from exemption. Nor have any rules been put in place for such a compromise.<sup>43</sup>

The current debate on healthcare in the United States raises several fundamental issues regarding the idea and fundamental expression of freedom of conscience. This controversy

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<sup>40</sup> Anderson, Ryan T. “Protected in Law, Cared for in Life.” *First Things* 215: (2011). P. 44.

<sup>41</sup> Cf. [www.usccb.org/news/2012/12-012.cfm](http://www.usccb.org/news/2012/12-012.cfm).

<sup>42</sup> Cf. Sebelius’s mandate: [www.hhs.gov/news/press/2012pres/01/2012012a.html](http://www.hhs.gov/news/press/2012pres/01/2012012a.html) and response from United States Conference of Catholic Bishops <http://usccb.org/issues-and-action/religious-liberty/conscience-protection/upload/preventiveservicesbackgrounder-3.pdf> and response from Evangelical and Jewish leaders <http://www.jasonboyte.com/docs/To%20President.NonCatholics.RelExemptionSigned.pdf>.

<sup>43</sup> Cf. Document published by the United States Conference of Catholic Bishops: <http://usccb.org/issues-and-action/religious-liberty/conscience-protection/upload/preventiveservicesbackgrounder-3.pdf>. In August 2011, the Senate introduced a bill to protect conscience under the new PPACA: S. 1467 The Respect for Conscience Act of 2011. At this writing, the bill is in committee. <http://www.govtrack.us/congress/billtext.xpd?bill=s112-1467>. The White House also issued a statement of ‘compromise,’ on this issue, but many remain skeptical. Cf. Yuval Levin on the compromise: <http://www.nationalreview.com/corner/290763/compromise-yuval-levin>. An accommodation was declared by the administration in February 2013, but this proposed ‘accommodation’ still has many problems. Cf. [www.usccb.org/news/2013/13-037.cfm](http://www.usccb.org/news/2013/13-037.cfm).

initially brings into focus the issue of why the objection of conscience should be held as essential in any free society, especially when conscientious objection could be used by some to shirk their civic responsibilities or to deny any citizen what the state deems an essential good or service that should be available to all by law. It could be argued that justice demands that all citizens must contribute to the common good of their political community, even if that contribution makes demands on them that they would prefer not to perform, such as taxation, an example quite familiar to Americans. How ought a political society both promote and protect the common good and the rights of individuals, including the rights of conscience? This debate must also consider the relationship of religious beliefs and creeds to the very idea of conscience and the right to religious freedom. Religious freedom, of course, is deeply engrained in the American political psyche via the First Amendment of the United States Constitution; and Americans have historically protected and promoted religious freedom through preferential policies both at home and abroad.<sup>44</sup> Former American diplomat Thomas Farr even argues that promotion of religious freedom in countries such as China, Iran, and Saudi Arabia should be a primary goal of American foreign policy. Rather than promoting a secular worldview that views religion as “inherently irrational and emotive,” Farr argues that the United States should promote religious freedom ‘properly understood.’<sup>45</sup> Farr explains:

Properly understood, then, freedom of religion is the right to pursue the religious quest, to embrace or reject the interior and public obligations that ensue, and to enter or exit religious communities that reflect, or do not reflect, one's understanding of religious truth. If people are not free in all these senses, they cannot be said to be living a fully human life. To restrict this right unduly, or to persecute someone for exercising it peacefully, is to mount an assault on human dignity. In political terms religious freedom

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<sup>44</sup> This is not to argue that the United States has always promoted an absolute or unqualified freedom of religion. Even at the time of the American Founding, several states had established religions in their constitutions. For a thoughtful take on the development of religious freedom in America, cf. Philip Hamburger's *Separation of Church and State*. Cambridge, MA: Harvard University Press, 2002.

<sup>45</sup> Farr, Thomas. *World of Faith and Freedom: Why International Religious Liberty is Vital to American National Security*. (Oxford: Oxford University Press, 2008), 47 and Introduction.

is the right of every person to an immunity from coercion by civil or other human authority in pursuing, or not pursuing, the truths of religion.<sup>46</sup>

Religious freedom presupposes another, more fundamental right, viz. the right of conscience.

The right of conscience “has a natural public dimension. Moral obligations flow from a conscience that is bound by its apprehension of religious truths, whether derived by faith, reason, or both. Those obligations often require a religious believer to take or refrain from taking certain actions. Accordingly, freedom of conscience implies a right to live publicly in accord with the truths one has discovered during the religious enterprise and to enter the public square with those truths.”<sup>47</sup> Farr offers several contemporary examples of nations that do not allow such freedom of religion or the freedom of conscience.<sup>48</sup>

The protection of the conscience also conflicts with the deeply held democratic value of equality. Roger Trigg explains that since equality is connected with political justice, “which entails equal treatment before under the law,” oftentimes ‘conscientious objectors’ to a particular public policy may find their position in conflict with the pursuit of equal treatment of all citizens under the law.<sup>49</sup> Let us consider a very pertinent and recent example in the United States: same-sex unions and marriages. On June 19, 2012, a female employee (Jane Doe) of St. Joseph’s Medical Center in Westchester County, New York filed a class action suit against the center because she could not get medical insurance benefits for her spouse, a woman (Jane Roe).<sup>50</sup>

Although same-sex marriages are now recognized in the state of New York, St. Joseph’s Medical Center—a Catholic institution—is regulated by the federal, not the state government; thus it is

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<sup>46</sup> Farr, Thomas. *World of Faith and Freedom*, 22.

<sup>47</sup> Farr, Thomas. *World of Faith and Freedom*, 22-23.

<sup>48</sup> Farr examines the political suppression of religion (or certain religions) in countries such as Saudi Arabia, Afghanistan, Iran, and China.

<sup>49</sup> Trigg, Roger. *Equality, Freedom, and Religion*, 127.

<sup>50</sup> *Roe and Doe v. Empire Blue Cross Blue Shield and St. Joseph’s Medical Center*: <http://graphics8.nytimes.com/packages/pdf/nyregion/2012/20120619stjosephscomplaint.pdf>. There are other recent examples dealing with marriage and conscientious objection by a business owner including the New Mexico case *Elane Photography vs. Willock*.

lawfully protected by the Defense of Marriage Act conscientiously to object, on the grounds of its religious creed, to providing such benefits to same-sex partners.<sup>51</sup> Janes Doe and Roe are challenging the Catholic institution and the constitutionality of the Defense of Marriage Act.

The argument is as follows:

New York State law consummates and recognizes the marriage of same-sex couples as legal and binding and requires that those marriages should be accorded the same rights, benefits and privileges as a heterosexual marriages pursuant to the Marriage Equality Act [Marriage Equality Act is New York state law]. Because DOMA [Defense of Marriage Act, i.e. federal law] unlawfully discriminates against same-sex spouses, it is unconstitutional and therefore should not be used as a basis to deny Plaintiffs their right to medical benefits under the Plan. In the absence of DOMA, ERISA [Employment Retirement Security Act of 1974] would (and should under the Tenth Amendment) follow the law of New York and thus mandate non-discriminatory coverage.<sup>52</sup>

Roe and Doe claim that they are subject to a discriminatory law and are not being treated equally under the law. This case illustrates how these two different rights claims, viz. conscience rights and equality rights, are often in conflict with one another in democratic societies. Janes Roe and Doe claim that a right to marriage and its benefits is being denied to them. Theirs is an issue of equal treatment and justice. However, St. Joseph's Medical Center claims that the right to freedom of conscience and freedom to exercise their religious beliefs precludes them from legitimizing the rights claims of Roe and Doe. Roger Trigg explains:

Rights, in this instance those of homosexuals, often appear to trump any claim to a right of religious freedom [and of conscience]. When such rights clash, it seems, the solution is for one to win, and not for any attempt to be made to satisfy both sides.... Much depends on how highly we rate individual freedom, and the freedom of institutions, particularly religious ones. When the issue of equality is to the fore, bringing in its trails appeals to human dignity and human rights, it may be tempting always to override such considerations.<sup>53</sup>

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<sup>51</sup> Cf. New York Times article: "Employee Sues for Benefits to Cover Same-Sex Partner." June 19, 2012 by Sharon Otterman.<http://www.nytimes.com/2012/06/20/nyregion/st-josephs-medical-center-sued-over-benefits-by-same-sex-couple.html>

<sup>52</sup>Roe and Doe v. Empire Blue Cross Blue Shield and St. Joseph's Medical Center, §26-27.<http://graphics8.nytimes.com/packages/pdf/nyregion/2012/20120619stjosephscomplaint.pdf>

<sup>53</sup> Trigg, Roger. *Equality, Freedom, and Religion*, 8-9.



Mary Ann Glendon points out the problem of framing public discourse in the context of rights, arguing that it has led to an overall impoverishment of political discourse in America. She writes that the framing of American public discourse in terms of clashing ‘rights’ leads to:

An intemperate rhetoric of personal liberty [that] corrodes the social foundations on which individual freedom and security ultimately rest. . . . It is a crisis at the very heart of the American experiment in self-government, for it concerns the state of public deliberation about the right ordering of our lives together. In the home of free speech, genuine exchange of ideas about matters of high public importance has come to a virtual standstill.<sup>54</sup>

Since conscience protections, the freedom of conscience and of religion, and the very nature of political and human *rights* are increasingly questioned and at odds with each other (and in some places even denied) in many nations, including, it would seem, in our own American regime, perhaps a deeper investigation of the meaning, intellectual roots, and political relevancy of conscience is in order.<sup>55</sup>

## II. What is Conscience?: A Theoretical Background

In the previous section, I have outlined what many scholars consider the contemporary ‘crisis of conscience’ that has been experienced acutely in the twentieth and twenty-first centuries. In summary, three main factors have been identified that are linked to an obfuscation of the meaning and political role of conscience. First, the lack of a shared sense of the common good has led to what some call a ‘crisis of conscience’ in contemporary liberal democracies. This shared sense of the common good has traditionally been based upon a philosophical anthropology assuming a rational basis for morality, which seems to be increasingly rejected in favor of individual autonomy, personal preference, and individualism. A political regime that

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<sup>54</sup> Glendon, Mary Ann. *Rights Talk: The Impoverishment of Political Discourse*. (New York: The Free Press, 1991), x.

<sup>55</sup> The HHS Mandate is the most contentious issue being debated about religious freedom. For a response from the secular press on this issue, cf. Kadlec, Charles: <http://www.forbes.com/sites/charleskadlec/2012/02/13/the-audacity-of-power-president-obama-vs-the-catholic-church/>.

tries to protect the rights of conscience risks that conscience claims may be wrongfully or unjustly used to promote a radically displaced autonomy. The political community may lack the means to discern or rebuke this abuse of conscience protection, a protection that establishes the appeal to the common good that serves the community and its laws. Second, the example of totalitarianism discloses how the ideological commitments of a regime destroy conscience by insisting on the total adherence to its own collectivist ideas as a substitute for individual conscience. Third, when the right to freedom of conscience is not promoted or protected by the law, then there is no other safe or reliable method for anyone to object to any perceived injustice perpetrated by the regime. Without such safeguards, political society becomes detrimentally dependent upon “the law of the stronger [rather than] the strength of the law.”<sup>56</sup> Put differently, instead of a government of laws, the regime becomes a government of men, arbitrarily based on the will of the powers that be. This synopsis illustrates an intimate connection between the freedom of conscience and social and political life. However, a more complete understanding of this relationship requires knowing what conscience is.

The idea of conscience first emerges from the combination of two ancient Greek words, viz. *oida*, meaning ‘I know,’ and the prefix *sun* or *syn*, meaning ‘together,’ as Eric D’Arcy, W.D. Davies, and C.A. Pierce each discuss in their studies on the origin of conscience.<sup>57</sup> The Greek term for conscience, *syneidesis*, was used initially less as a technical or philosophical term and more as a term in popular parlance. For example, Eric D’Arcy, Douglas Kries, and Ernest Fortin point out that the Greek term for conscience, *syneidesis* (and later used by the medieval

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<sup>56</sup> Ratzinger, Joseph. “That Which Holds the World Together: The Pre-Political Moral Foundations of a Free State,” in *The Dialectics of Secularization: On Reason and Religion*. Joseph Cardinal Ratzinger and Jürgen Habermas. Trans. Brian McNeil, C.R.V. (San Francisco: Ignatius, 2006), 58.

<sup>57</sup> Cf. D’Arcy, Eric. *Conscience and its Right to Freedom*. New York: Sheed and Ward, 1961; Davies, W.D. “Conscience.” In *The Interpreter’s Dictionary of the Bible*. Ed. Buttrick, George Arthur et al. New York: Abingdon Press, 1962; Pierce, C.A. *Conscience in the New Testament*. London: SCM Press, 1955. of C.S. Lewis’s *Studies on Words*. Cambridge: Cambridge University Press, 1960.

Scholastics as *synderesis*) is rarely used in Plato and never used in Aristotle.<sup>58</sup> The Greek word was used to mean “to share knowledge with oneself,” “to know with oneself,” or “to be a witness for or against oneself.”<sup>59</sup> This understanding of *syneidesis* points toward the common understanding of conscience as something that exists at the core of each individual person, hearkening to him about a particular action or choice. However, the Greek term could also mean “[to] know together with” or “[to] share (with someone) the knowledge that.”<sup>60</sup> This meaning points to the reality of thinking together with others about something. C.S. Lewis also points out that the prefix *sun* can have “a vaguely intensive force, so that the compound verb [i.e. *sunoida* or *synoida*] can simply mean ‘I know well,’ and perhaps a little more than ‘I know,’” thus pointing toward an interior awareness or consciousness in an individual human person. The corresponding Latin term *conscientia* becomes the literal translation for *syneidesis*, and it is a compound word comprised of ‘*cum*’ meaning with and ‘*scire*’ meaning to know. *Conscientia* was first used in a philosophical sense by the Epicureans.<sup>61</sup> Both in the Latin and Greek classical usage, the sense of the word also implied a kind of secret knowledge shared between two or more persons or a sense of being in someone else’s confidence.<sup>62</sup> In the typical Classical usage, this knowledge is also presumed “to be of evil unless the reverse is explicitly stated.”<sup>63</sup> The critical point for understanding this pre-Christian Greek meaning and use of *syneidesis* is to note

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<sup>58</sup> Cf. Kries, Douglas. *The Problem of Natural Law* chapter 1; D’Arcy, Eric. *Conscience and its Right to Freedom*, chapter 1; and Fortin, Ernest. “Augustine, Aquinas, and the Problem of Natural Law.”

<sup>59</sup> Cf. Potts, Timothy C. *Conscience in Medieval Philosophy*. Cambridge: Cambridge University Press, 1980. P. 2. Potts quotes W. D. Davies from the 1962 edition of *The Interpreter’s Dictionary of the Bible* on the definition of *syneidesis*. Importantly, Potts also points us to another late Greek term, *synteresis*, which, he writes could also be a corruption of *syneidesis*. However, he notes that *synteresis* “most commonly means ‘preservation’ or maintenance’.... But the ‘syn-’ prefix can also have a reflexive force, which gives it the sense of observing or watching over oneself and, perhaps, thereby preserving oneself from wrongdoing.” p. 10

<sup>60</sup> Lewis, C.S. *Studies in Words*, 181.

<sup>61</sup> Potts, Timothy C. *Conscience in Medieval Philosophy*. (Cambridge: Cambridge University Press, 1980), 2. Also see Fortin, Ernest. “The Political Implications of St. Augustine’s Theory of Conscience.” The term is also widely used in the Cynic and Stoic writers,. I will examine these sources in the next chapter.

<sup>62</sup> Cf. Lewis, C.S. *Studies in Words*, 184-185.

<sup>63</sup> Lewis, C.S. *Studies in Words*, 188.

that it was specifically evoked as some interior faculty or some shared knowledge that painfully chastised and judged a person for his evil actions. Additionally, it is often associated with the divine for example; the Furies attack Orestes for his conscience in the Aeschylus's *Orestia*.<sup>64</sup> D'Arcy and Davies both demonstrate that the ancient use of the term *syneidesis* does not necessarily act as a guide for future actions or contain a positive connotation of a 'good conscience' that guides action.<sup>65</sup> A 'good conscience' in this Classical sense exists when a person is aware of no evil deed that he has done. Conscience in its ancient, pre-Christian sense, functions in a 'judicial' manner by passing judgment on a past action and causing pain in the soul if the action is found to be evil.<sup>66</sup>

The meaning of *syneidesis* and *conscientia* shifts significantly in the writings of St. Paul. According to Eric D'Arcy, the idea of conscience is transformed and expanded in St. Paul's writings to mean a moral guide for discerning appropriate human actions. D'Arcy demonstrates that conscience, "is to play a *directive* role before an action takes place... in St. Paul, conscience is credited with a legislative function, and it induces an obligation in the proper sense."<sup>67</sup> However, as Ernest Fortin points out, St. Paul does not develop a comprehensive theory of conscience but frames his discussion of it as it relates to the place of the Gentiles in the Church and their relationship to the tenets of Mosaic Law.<sup>68</sup> It is in the early Christian Church Fathers that we see the beginning of the cultivation and expansion of a theory of conscience that incorporates its significant role in the discernment between right and wrong moral action, as well

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<sup>64</sup> Cf. Davies, W.D. "Conscience." In *The Interpreter's Dictionary of the Bible*. Ed. Buttrick, George Arthur et al. New York: Abingdon Press, 1962. For a general overview of the ancient Greek connotation of conscience, see especially section 2 of this entry.

<sup>65</sup> Davies, W.D. "Conscience," 673.

<sup>66</sup> D'Arcy, Eric. *Conscience and Its Right to Freedom*, 8.

<sup>67</sup> D'Arcy, Eric. *Conscience and Its Right to Freedom*, 11-12. It is however, interesting to note C.A. Pierce in his study *Conscience in the New Testament*. London: SCM Press, 1955, posits that St. Paul only begins to use the word *synderesis* because it was in popular use among the people of Corinth. Cf. especially chapter VI.

<sup>68</sup> Fortin, Ernest L. The Political Implications of St. Augustine's Theory of Conscience." *Augustinian Studies* Vol. 1, 1970, 135.

as a judicial role on past actions. A robust theory of conscience that operationally blends the judicial, directive, and legislative functions of conscience, according to D'Arcy, begins in the early Church Fathers.<sup>69</sup>

The etymology of the word points to a very important aspect not explicitly stated in the previous section. Both the Greek *syneidesis* and the Latin *conscientia* are compound words that denote a *shared* knowledge, whether that knowledge is shared with another, with the divine, or with oneself. Perhaps part of what makes conscience so difficult to define is this very etymological meaning. On the one hand, this knowledge can be shared with someone else (making it common with someone other an individual) or it is shared with another or others or with the divine. Thus, conscience has both an individual, social-relational, and a transcendental dimension. Robert Vischer explains what he calls the 'relational' dimension of conscience:

Conscience cannot be adequately explained as a freestanding individual construct. It might be expressed and defended by the individual, but its substance and real-world implications are relational by their very nature. Cultivating and maintaining the conditions necessary for these relationships to thrive should be a priority for our society if we are serious about freedom of conscience. . . . Conscience, by its very nature, directs our gaze outward, to sources of formation, to communities of discernment, and to venues for expression.<sup>70</sup>

Vischer points out perhaps one of the most critical points for understanding conscience: by its nature, it points beyond itself. Even though it is expressed in an individual human person's judgments and actions, these judgments and actions are made within the context of something or someone else. In effect, a proper understanding of conscience will require an investigation of this relational dimension of conscience.<sup>71</sup> The relational dimension, or perhaps more aptly the relational dimension of conscience is somehow influenced and formed by human relationships,

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<sup>69</sup> D'Arcy, Eric. *Conscience and Its Right to Freedom*, Cf. Chapter 1.

<sup>70</sup> Vischer, Robert K. *Conscience and the Common Good*, 4.

<sup>71</sup> I have chosen to use Vischer's term 'relational' instead of social or communal because the word 'relational' captures a deeper sense of community and real, concrete, lived interpersonal relationships with others.

and by institutions of civil society such as churches, universities, and businesses as well as by political institutions. Gaining a better sense of the foundational elements of conscience to understand both the individual and the relational dimensions will enable us to accurately address the current crises of conscience, especially with respect to why the freedom of conscience ought to be politically protected. Put differently, “if our society is to facilitate an authentic and robust liberty of conscience, it cannot reflexively favor individual autonomy against group authority; it must also work to cultivate the spaces in which individuals come together to live out the shared dictates of conscience.”<sup>72</sup>

Thus far, we have ascertained two different *functional* properties of conscience, viz. the ancient judicial function of conscience and the Pauline directive or legislative functions. We have recognized that the claims of conscience have been invoked politically by individual citizens as a protection against government coercion. We have also identified a relational dimension to conscience, as individuals make moral decisions in the context of their relationships and communities. However, these still do not determine what the essence of conscience *actually is*. For this assessment, it will be helpful to consider medieval Scholasticism because for the medieval scholars, classifying the different functions of conscience had become a standard practice.<sup>73</sup> When the concept of conscience began to be more deeply explored in the medieval universities, the academic literature relied largely on scriptural commentaries produced by two of the early Christian Church Fathers, Origen and Jerome. We will also examine these texts in the following chapter, but for now, suffice it to say that both Origen and Jerome classified conscience as an integral and indispensable element of the human psyche. As medieval scholars developed theological and philosophical anthropologies based upon the

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<sup>72</sup>Vischer, Robert K. *Conscience and the Common Good*, 6.

<sup>73</sup>Potts, Timothy C. *Conscience in Medieval Philosophy*.

Scriptural commentaries of these and other Patristic writers, and theorized about the structure of the human soul, their specific academic study of conscience reached its zenith in the medieval universities, becoming “a standard component...[in] university seminars (written up as *Debated Questions*) and textbooks (*Summae*).”<sup>74</sup> Between the years 1145-1151, Peter Lombard wrote the standard textbook on theology for the medieval university, and it was a compulsory prerequisite for the ‘masters’ students to write a commentary on this text. This commentary included a significant contribution to be made on the topic of conscience.<sup>75</sup> Within Peter Lombard’s work, drawing from the Patristic sources, the medieval theory of conscience began to develop its two-fold classification to describe its function. The primary, ineradicable structural element of conscience is the defined by the term Greek *synderesis* (the corruption of *syneidesis*) as mentioned above. The Latin term *conscientia* is used to describe a second component of conscience, which is the component part of conscience that applies to human acts. The medieval debate concerning conscience largely centers on where these two elements of conscience reside in the soul (the will, the reason, etc.) and how they both function in guiding human choice and human action, especially in relation to the experience of evil.

One distinguished medieval scholar, Thomas Aquinas, takes up this question of conscience not only in his scholarly commentary on Peter Lombard’s work, but also in his own academic disputations and Scriptural commentaries, and perhaps most famously, in his own textbook for beginning theology students, the *Summa Theologiae*. It is essential for our political investigation of Aquinas’s idea of conscience that we look to the context of both his philosophical anthropology and his discussion of law. Aquinas connects his philosophical anthropology to law and politics in several critical ways that prescribe the limits that politics

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<sup>74</sup> Potts, Timothy C. *Conscience in Medieval Philosophy*, 1.

<sup>75</sup> Potts, Timothy C. *Conscience in Medieval Philosophy*, 1. The text upon which the medieval students produced commentaries was from Peter Lombard’s *Judgments or Sentences* 2.39.

must observe with respect to the human person; and these limits are based upon both respect for and observance of the freedom of conscience as embodied in the law and in legal practice.

Aquinas's respect for the freedom of conscience is based in his understanding of the human person. I will argue that the relational dimension of conscience is also to be found in Aquinas's work, also based upon his understanding of the human person, particularly on his fundamental assertion of a *shared* rational basis for moral thinking. Therefore, this dissertation will probe the political implications of Thomas Aquinas's discourse on the idea of conscience in order to comprehend his distinctive contributions to our understanding of the role of conscience as a fundamental, valid, and authoritative factor influencing political thought, political philosophy, and political society. I will examine the ways in which the philosophical anthropology of Aquinas, one that offers a vision of the human person as both a rational and political being, contributes to a balanced understanding of both the individual and relational aspects of conscience.

### III. Why Aquinas?

At first glance, it may seem odd that Aquinas be considered a suitable source to engage the political problems of conscience that are endemic to modernity, especially when we consider that his most influential work, the *Summa Theologiae*, is a text directed to beginning theology students in the medieval university. Although he included in this work a 'Treatise on Law', he wrote no treatise on politics proper. He left his commentary on Aristotle's *Politics* almost entirely unfinished, commenting on only the first two and half books of the text.<sup>76</sup> Aquinas never dedicates a complete work to the political question *par excellence*: "What is the best

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<sup>76</sup> Cf. Mary M. Keys *Aristotle, Aquinas, and the Promise of the Common Good*. Cambridge: Cambridge University Press, 2006. From page 18: "Yet Aquinas left his *Commentary on the 'Politics'* radically incomplete. Of the eight books of the *Politics*, Aquinas treats only the first two and half, his text finishing with an explication of Book III, chapter 8. . . . Then his commentary ceases."



regime?"; and when he does deal with this question, he gives seemingly contradictory remarks.<sup>77</sup> However, we can begin to appreciate the idea of the political significance of Aquinas's work with a brief consideration of some relevant biographical facts about his life.<sup>78</sup> The exact date of Thomas Aquinas's birth is unknown, but it is thought to be between 1224 and 1225. The thirteenth century into which Thomas was born was not a quiet or congenial time:

What we must expect to find in the thirteenth century is constant change; changes produce movements, and movements occasion clashes.... Among them must be noted the conflict between secular and papal powers, evangelism and the rise of mendicant orders, spread of the mystical and prophetic doctrines of Abbot Joachim, and the growth of scholasticism in the schools of Western Europe.<sup>79</sup>

The rise of scholasticism, to which Thomas himself heavily contributed and helped to define, was the West's intellectual response to the re-introduction of the Aristotelian corpus by prominent Muslim and Jewish scholars. Thomas came into this academically vigorous and politically restive cultural milieu as one of nine children born to nobleman Landulf d'Aquino and Theodora in Roccasecca, Italy. Thomas was a younger son and therefore not to inherit the family estate, so his parents inclined him toward a distinguished 'career' in religious life that would befit a nobleman at the near-by Benedictine monastery of Monte Cassino. They brought him there around the age of five to begin his education as a future Benedictine monk. It is said that his parents had hoped he would become abbot of that influential monastery, and they were quite devastated when Thomas acted against their wishes and chose instead to enter the mendicant order of the Dominicans in 1244, with which he became acquainted while he was studying arts and philosophy at the University of Naples from 1239-1244.<sup>80</sup> As a man of noble

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<sup>77</sup> Cf. Aquinas's account in his treatise *On Kingship* compared with his account in the *Summa Theologiae* I-II 95: 4 and I-II 105:1.

<sup>78</sup> For the biographical information in this section, however, I will rely primarily on James Weisheipl's work, particularly from chapter 1. Any other citations will be annotated separately.

<sup>79</sup> Weisheipl, James O.P. *Friar Thomas D'Aquino: His Life, Thought, and Works*. (New York: Doubleday, 1974), 2.

<sup>80</sup> It is here that most scholars believe Thomas was also first introduced to the work of Aristotle, which was forbidden in Paris at the time. Cf. Weisheipl, James p. 15.

birth, Thomas was expected to maintain a nobleman's office, such as abbot of one of Italy's finest monasteries – a monastery to which the family of Aquino had given much of their wealth. Thomas, however, was himself a man of conscience. He rejected such an office and such a life, instead embracing a humble lifestyle as an impoverished monk. It is famously told that Thomas's brother, Reginaldo was sent by their mother to kidnap Thomas when he left to join the mendicant Order of Preachers so that the family could attempt to convince him otherwise.<sup>81</sup>

The radicalism of Thomas's conscientious decision cannot be overstated. During this period of history, the Roman Catholic Church was perhaps one of the wealthiest and most powerful political forces in medieval Western Europe. The D'Aquino family was very involved in the politicking between popes and emperors, and Thomas's brother Reginaldo, a courtier of the emperor, was put to death in 1246 for having conspired with the papacy to murder the emperor Frederick. Placing Thomas in the abbey of Monte Cassino was a politically astute move for the Aquino family, who sought to promote best the family and expand its fortune. Yet, Thomas's opinion on these religious and political disputes is made obvious not only in his defiance of the family's wishes when he left the Benedictines for the Order of Preachers, but also in his academic writings. For example, in his commentary on the *Sentences of Peter Lombard*, Thomas writes that, "the Pope, in virtue of his canonical office, is the spiritual head of the Church and nothing else; every other political or worldly accretion to this essential spiritual authority is a historical accident."<sup>82</sup> Such a comment at this time in the history of Christendom was in fact quite radical.

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<sup>81</sup> There are many anecdotes about the kidnapping of Thomas by his family. Almost all biographers of Aquinas note that while he was on his way to Paris with the Dominicans, his relatives kidnapped him to try to convince him to remain with the Benedictines at Monte Cassino. Cf. Weisheipl, James. Chapter I.

<sup>82</sup> Quotation is a summary of Thomas's *Scriptum Super Libros Sententiarum*, II, Distinction 44 found in Weisheipl, James, 8. Interestingly, when Thomas was captured by his brother, who was at the time at the emperor Frederick's service, the Dominicans appealed to the papacy to free Thomas from his family. Papal emissaries were sent to

Not only was Thomas defying his family's wishes by joining a mendicant order, but he also challenged medieval society at large and especially the academic culture that emerged at the new universities, who were all skeptical of the newly established mendicant orders. Thomas Aquinas experienced the outright animosity from the 'secular' clergy (meaning that these were not members of religious orders but were still priests) toward the mendicants in the university.<sup>83</sup> In 1256, Thomas, along with Bonaventure, a Franciscan, were both denied membership in the theology faculty at the University of Paris because they were mendicant friars, and so they had to wait until the next year when they were begrudgingly accepted by Canon Christian de Verdun under the firm command of the Bishop of Paris and several papal Bulls.<sup>84</sup> During the rest of his academic career, Thomas was constantly balancing his written academic treatises with treatises and disputations defending the mendicant orders, especially their place in the university and in the Church, and particularly against accusations that they were antichrists invading the university and perniciously infecting the life of the whole universal Church.<sup>85</sup>

The character and nature of Thomas's work also illustrates his resolute adherence to the promptings of his own conscience. As a Dominican scholar, he allied with fellow mendicant orders such as the Franciscans in the fight for their rightful place in the university; but when it came to the study and exegesis of Aristotle, Thomas certainly came into conflict with both his fellow mendicant and diocesan 'secular' colleagues. Aquinas engaged the works of Aristotle and his non-Christian commentators with a respectful rigor and an honest commitment to truth during a time when Aristotle's work was considered heretical by many members of the academy,

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Frederick to no avail, since he both knew about the incident, and because Frederick "had no friendly feeling for the Dominicans, anyway, since they represented papal authority in his own realm." Weisheipl, James, 33.

<sup>83</sup> In this context, secular does not refer to non-religious, but means those priests who were not members of religious orders. These priests were diocesan clergy members.

<sup>84</sup> Cf. Bourke, Vernon J. *Aquinas' Search for Wisdom*. (Milwaukee: Bruce Publishing Company, 1965), 59-63.

<sup>85</sup> Cf. Bourke, Vernon J. *Aquinas' Search for Wisdom*, 56.

thereby earning him a reputation among his colleagues as being academically dissident and dangerous.<sup>86</sup> According to Vernon Bourke, Thomas's reputation as dangerous can be summarized in three points. The first point just mentioned above, that as a mendicant religious, fellow professors were suspicious of him. Secondly, he was severely criticized for his interpretation of Aristotle by the 'Latin Averroist' school led by Siger de Brabant. The Latin Averroists and Aquinas differed on matters relating to the structure of the human intellect, the eternal status of the world, and the function of the human will. The Latin Averroists taught that "the human will is a passive potency that is actuated in its volitions by intellectual judgments regarding good and evil. To many [medieval] theologians, this was tantamount to denying free will."<sup>87</sup> Aquinas's reply to this particular conflict (he argued that the will was partly passive and partly active) caused grave suspicion of him among the more conservative theologians in the medieval university.<sup>88</sup> This points to the third element marking Thomas as 'dangerous': "More and more he became an object of suspicion to the more traditional theologians in the Orders, both Dominican and Franciscan, and to the diocesan authorities."<sup>89</sup> This conflict culminated in 1277 when Bishop Etienne Tempier of Paris issued a condemnation of 219 philosophical postulates including 20 academic theories based on the insight and teaching of Aquinas. A fellow colleague at the University of Paris, John Peckman, who later became the Archbishop of Canterbury, used his Episcopal authority to condemn many of Thomas Aquinas's ideas in his diocese.<sup>90</sup> This historical background information illustrates that despite considerable

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<sup>86</sup>Bourke, Vernon J. *Aquinas' Search for Wisdom*, Chapter 14.

<sup>87</sup>Bourke, Vernon J. *Aquinas' Search for Wisdom*, 162.

<sup>88</sup>Bourke, Vernon J. *Aquinas' Search for Wisdom*, 162.

<sup>89</sup>Bourke, Vernon J. *Aquinas' Search for Wisdom*, 168.

<sup>90</sup>Bourke, Vernon J. *Aquinas' Search for Wisdom*, 171 and 222-223. From 223: "Within fifteen years of his death, a portion of Thomas Aquinas' doctrine was under condemnation by three bishops—one a former diocesan professor of theology, the second a fellow Dominican, the third a noted Franciscan scholar. By 1277, under serious ecclesiastical penalties, Thomistic views were forbidden to be taught at the two greatest universities in Christendom, Paris and Oxford."

opposition, Thomas tenaciously pursued truth as honestly as possible and in accord with his own conscience. Furthermore, it provides an excellent support to our premise of the importance of his ideas upon the proper understanding of conscience within the order of political society.

#### IV. Aquinas and Contemporary Politics

It was not until after Thomas was elevated to sainthood in the Roman Catholic Church in 1325 that his teachings were no longer condemned as heretical. Despite the lifting of this stigma of heresy, Thomas Aquinas was not then and certainly not even today always appreciated or fully embraced by many scholars. After a surge in Thomistic studies in the twentieth century post World War II, many contemporary scholars, and especially political theorists remain skeptical about Aquinas' contribution to political philosophy *qua* philosophy. There are some who even insinuate that the doctrine of natural law and especially the Thomistic treatment of conscience, for instance, are untenable without the aid of revealed theology, and therefore should be considered unscientific and unacceptable as a philosophical theory based purely on a common human reason. For example, Leo Strauss argues in *Natural Right and History*:

The Thomistic doctrine of natural right, or more generally expressed, of natural law is free from the hesitations and ambiguities which are characteristic of the teachings, not only of Plato and Cicero, but of Aristotle as well. . . . The doctrine of *synderesis* or of conscience explains why the natural law can always be duly promulgated to all men and hence be universally obligatory. It is reasonable to assume that these profound changes were due to the influence of the belief in biblical revelation. If this assumption should prove to be correct, one would be forced to wonder, however, whether the natural law as Thomas Aquinas understands it is natural law strictly speaking, i.e., a law knowable to the unassisted human mind, to the human mind which is not illumined by divine revelation.<sup>91</sup>

Strauss is uncomfortable with the doctrine of conscience, or '*synderesis*,' a term for one level of conscience employed by Aquinas, not only because this idea does not appear in any Classical texts, but also because it demands that the precepts of natural law, which are universally

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<sup>91</sup> Strauss, Leo. *Natural Right and History*, 163.

available and knowable to all men in all times be absolute, unmalleable, and unchangeable. Yet, he writes, such precepts “must be mutable in order to cope with the inventiveness of evil.”<sup>92</sup>

Instead of natural law based on precepts known to men through their consciences, Strauss opts for what he calls Classical *natural right* theory, a theory which avoids the extremes of both the absolutism of natural law (or at least absolutism as he perceives it) and of moral relativism, which claims no distinction between right and wrong.

According to Strauss, the natural right theory of Plato and Aristotle is mutable because it recognizes:

A universally valid hierarchy of ends, but [according to natural right] there are not universally valid rules of action.... [W]hen deciding what ought to be done, i.e., what to be done by this individual (or this individual group) here and now, one has to consider not only which of the various competing objectives is higher in rank but also which is most urgent in the circumstances. What is most urgent is legitimately preferred to what is less urgent, and the most urgent is in many cases lower in rank than the less urgent. *But one cannot make a universal rule that urgency is a higher consideration than rank* [emphasis mine]. For it is our duty to make the highest activity, as much as we can, the most urgent or the most needful thing. And the maximum of effort which can be expected necessarily varies from individual to individual. The only universally standard is the hierarchy of ends. This standard is sufficient for passing judgment on the level of nobility of individuals and groups and of actions and institutions. But it is insufficient for guiding our actions.<sup>93</sup>

Closer scrutiny of this passage from Strauss gives a better sense of his rejection of the doctrine of conscience, especially in relationship to the natural law. According to Strauss’s analysis of Aquinas, conscience is what makes intelligible to all human beings the basic precepts of the natural law. Natural law commands an absolute set of precepts that give to us universal rules governing human action. Strauss assumes a perspective in his assertion that any set of absolute or universal rules governing human action is unacceptable to and incompatible with the shifting

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<sup>92</sup> Strauss, Leo. *Natural Right and History*, 161. It is interesting to note here that Strauss does not particularly elaborate on what he means by this bold statement.

<sup>93</sup> Strauss, Leo. *Natural Right and History*, 162-163.

currents of political reality. Political reality, in his view, requires that certain individuals, groups, or institutions exist under particular conditions, and therefore must disregard universal rules in favor of universal hierarchy of ends for the preservation of society.<sup>94</sup> What is acceptable for political society is a ‘universally valid hierarchy of ends,’ or a way of determining the ‘less urgent’ ends from the ‘more urgent’ ones. Yet, Strauss at the end of this passage introduces another element in the determination of urgency; that is, our duty to make the highest activity the most urgent and the judgments we make of the nobility of individuals, groups, and institutions. What remains unclear in this Straussian schema is a method or criteria by which to determine the most urgent ends or highest activity to achieve these ends within a society. His natural right theory claims no such capacity. Strauss leaves us wondering what, if anything, can provide such criteria.

Strauss relates another more significant objection to natural law and the doctrine of conscience. He contends that the Thomistic view of natural law, one that proposes real, tangible, and universal criteria for judging right and wrong moral action, is based upon biblical revelation, and therefore inaccessible to those who do not profess belief in such revelation.<sup>95</sup> Revelation is dependent upon a divine source for its legitimacy and not all may agree on the nature and authority of such a divine source. It is this problem that Strauss’s student, Harry Jaffa, explores more extensively in his *Thomism and Aristotelianism*. Jaffa explicitly compares the writings of Aristotle with Aquinas’s commentaries on Aristotle to disclose a more accurate description of the difference between natural right and natural law. Like Strauss, Jaffa recognizes that modern social science operates by a rejection of systems of values, and is challenged by “any effort to

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<sup>94</sup> Cf. Strauss’s discussion of Marsilius of Padua and Averroes on pages 158-159 in *Natural Right and History*.

<sup>95</sup> Cf. Strauss, Leo. *Natural Right and History*, 164.

bring ‘values’ within the compass of science.”<sup>96</sup> Contemporary social science presumes all value judgments that determine what ‘ought’ to be done as essentially arbitrary and radically unscientific.<sup>97</sup> How to determine whether a system of values is actually *true* is a territory that the social sciences acutely avoid.

Jaffa more forcefully contends that any promotion of values in the public sphere associated with religion must be avoided. He acknowledges that religious faith may determine values within its believers, but a fundamental principle of contemporary democratic liberalism is to keep religious values outside the public sphere and inconsequential to political decisions. Jaffa proposes instead a reconsideration of Aristotelian political and moral philosophy based upon natural reason as the primary guide for value judgments and objective political decisions. According to Jaffa, Aquinas’s system does not offer the same basis. He writes:

[I]n Thomas’ own system theology, or, more correctly, revealed theology, takes precedence over the teachings of natural reason. And, although Thomas affirms the independence and the separability from revealed theology of the teachings of natural reason, those who dissent from his theology have the understandable suspicion that such ‘harmony’ as Thomas finds between the teachings of reason and of revelation is primarily due to a corruption of the former.... [This may have also led] to the further suspicion that the doctrine itself, to be susceptible to such ‘harmonization,’ must somehow be deficient. If it can be ‘harmonized’ with a system of revealed theology which appears in all its vital aspects so manifestly opposed to it, how can it have any real inner core capable of providing independent practical guidance?<sup>98</sup>

Jaffa’s essential question regarding the appropriateness of the application of Aquinas’s thought to political science is whether there is “anything in the nature of man...which leads him to know the goodness and desirability of certain kinds of moral conduct, analogous to the way in which

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<sup>96</sup> Jaffa, Harry. *Thomism and Aristotelianism: A Study of the Commentary by Thomas Aquinas on the Nicomachean Ethics*. (Chicago: University of Chicago Press, 1952), 4.

<sup>97</sup> Jaffa, Harry. *Thomism and Aristotelianism*, 12.

<sup>98</sup> Jaffa, Harry. *Thomism and Aristotelianism*, 19-20.



he is led to recognize the intrinsic goodness of theoretical knowledge?”<sup>99</sup> Thomas Aquinas answers affirmatively to this question, pointing to conscience, or more precisely, the primary level of conscience called *synderesis* as the *natural habit* of the human person by which human beings know naturally (that is, instinctive to their nature as human beings) the first principles of practical reason as expressed in the natural law. *Synderesis*, therefore, acts as a guide to recognize and discern moral choice and action.<sup>100</sup> Jaffa questions the existence of such a natural habit: “Is there a natural habit by which we are commanded to do the acts of the virtues, and by which we have a sufficient knowledge of these actions to be able to carry out the commands? This would evidently have to be the case if the natural law is promulgated; and of course, if it were not promulgated it would not have its strictly legal character.”<sup>101</sup> For Aquinas, *synderesis* is connected to human knowledge of natural law, which directs human choice and action. It is through conscience that all human beings apprehend the first principles of practical reason.

However, Jaffa rejects the place of natural law as a guiding system of values for the social sciences. *Synderesis*, he contends, is too vague a concept and it is not found among the Classical authors, particularly not in Aristotle:

One thing...is perfectly clear, namely: that there is no mention of *synderesis* (or of any possible equivalent) by Aristotle.... Thomas borrows the idea of a natural habit of the principles relative to the end, which Aristotle sets forth with regard to speculative knowledge, and says that the same thing *must* be true of moral action. Why it must be true Thomas nowhere says. Nor does he offer any evidence *that* it is true.<sup>102</sup>

If human beings do not have a clear knowledge of natural law, how then are moral choices to be made? What determines the criteria and standards for morality? Further, how can communities and society at large think together about the common good? Jaffa offers a solution based upon

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<sup>99</sup> Jaffa, Harry. *Thomism and Aristotelianism*, 171.

<sup>100</sup> Cf. Aquinas, Thomas. *Summa Theologiae*. I. Q. 79, art. 12.

<sup>101</sup> Jaffa, Harry. *Thomism and Aristotelianism*, 172.

<sup>102</sup> Jaffa, Harry. *Thomism and Aristotelianism*, 173-174.

his reading of the natural right tradition of Aristotle. He advocates a Classical natural right approach that provides a regime-centered morality. It is worth quoting Jaffa at length to understand his point:

[L]egal justice commands all the acts of all the virtues from the point of view of the common good, as conceived by any given political order or regime. But some political orders are better than others. Therefore, the general character of morality will vary from regime to regime. *Now if the general character of morality varies, then the precepts of a universal code cannot determine what is naturally just for all men everywhere* [emphasis mine]. Thomas' rigid scheme is inconsistent with Aristotle's principle that what is just is roughly equated with what is legally just, if what is legally just depends upon the nature of the regime and *not* upon a code of natural right. But what if it be supposed that the constitution or regime is a very poor one? We refer, first, to Aristotle's statement at the end of Book IV, concerning shame: the good man will defer to the standard of common opinion, even if it be wide of the truth . . . . The good man, therefore, defers to the law of imperfect communities, and hence to its moral code; and what the good man does *is* morally right. In other words, not to obey the law and the customs of one's community is usually unjust, and hence contrary to *natural right*. As natural right enjoins obedience to any legal justice which may reasonably be said to aim at the common good, it would seem to follow that for the most part, it would seem to follow that for the most part, the mutability of natural right follows, *pari passu*, the mutability of constitutions. . . . The common good is the end of the political community. Some communities have very imperfect notions of what constitutes the common good, yet the preservation of that imperfect order may yield more of what is truly good than any attempted change.<sup>103</sup>

Jaffa proposes the Aristotelian paradigm of a *regime* centered morality, one that is deeply rooted in the common good of the community, even if that concept of the common good could be distorted, unjust, or imperfect. A universal code of morality, one that would be accessible to all human beings by nature through their conscience poses a problem and a direct challenge to a moral code determined by a political regime—a moral code that may require simply by its day-to-day demands on its citizens a violation of a fundamental tenet of that moral code, viz. to promote and to secure the common good.

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<sup>103</sup> Jaffa, Harry. *Thomism and Aristotelianism*, 181-182

In her study *Aristotle, Aquinas, and the Promise of the Common Good*, Mary Keys closely examines Jaffa's challenges to Aquinas and offers an alternative interpretation of Aquinas's work in relation to political science. She argues that Aquinas's insights into political life, specifically his emphasis on virtue and the common good can help to "moderate as well as ennoble civic endeavors."<sup>104</sup> Keys first explains more fully the meaning of the common good, especially as contemporary liberal democratic societies conceive of it. She specifically calls attention to the American example, which seeks to reconcile the claims of individual rights and responsibilities and the comprehensive concept of the common good of all citizens. She challenges the American regime's conception of the 'common good.' By emphasizing the insistence in American politics on a strict separation between Church and State, Keys illustrates the difficulty for us today to imagine "a virtue-promoting, morally substantive, version of the concept that is not religious or a religious one that is not unreasonable and repressive when it informs practice."<sup>105</sup> Aquinas's natural law theory is often conflated with such religious belief that is 'unreasonable and repressive.' But Keys rejects the imposition of this interpretation of Aquinas, and argues instead that it is precisely because of his religious orientation, that Aquinas is able to explore "new panoramas and possibilities for philosophic questioning and development, many of which remain socially and politically relevant even for those who did not share his religious convictions."<sup>106</sup> As an explanation of how Aquinas is able to achieve this, Keys argues that he examines three Aristotelian political-philosophic foundations; viz., the idea that human beings are by nature political beings, the classification of regime types corresponds to the "conceptions of citizenship and civic virtue," and the idea that political science should

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<sup>104</sup> Keys, Mary M. *Aristotle, Aquinas, and the Promise of the Common Good*, 4.

<sup>105</sup> Keys, Mary M. *Aristotle, Aquinas, and the Promise of the Common Good*, 12.

<sup>106</sup> Keys, Mary M. *Aristotle, Aquinas, and the Promise of the Common Good*, 20.

offer an account for the best possible regime.<sup>107</sup> Keys asserts that the Aristotelian account particularly of the second and third foundations is unsatisfactory for Aquinas, because Aristotle does not take seriously enough the “*common* good of justice and its *transpolitical* reach,” but rather “[forsakes] foundational work too quickly in favor of focusing on regime particularities and preservation. Where the political dialectic of regimes leads Aristotle to a thorough inquiry of the best regime...in *Politics* VII and VIII, for Aquinas it prompts a return to the source, to the common and even universal moral dimensions of social and civic life.”<sup>108</sup>

Keys continues to examine Aquinas’s concept of the common good and universal moral dimensions of social life found particularly in his account of the natural law: “Aquinas’s natural law theory comprises a subtle yet significant philosophic revision of Aristotle’s framework, incorporating a new theory of principles of *practical* reasoning to complement Aristotle’s speculative first principles and adding an account of *synderesis* and conscience to Aristotle’s psychology.”<sup>109</sup> Why does Aquinas introduce these new elements of a natural law, viz. principles of practical reason, conscience, and *synderesis*? Why and how would these ‘new foundations’ help to amplify and to clarify our understanding of political reality? Although Keys argues that Aquinas shifts the emphasis of morality to the interior of the human person, how might his understanding of the common good contribute to a relational sense of conscience?

In Strauss, Jaffa, and Keys’ accounts of Aristotelian political science, the focus is on “the specific principles, aims, institutions, flaws, and mechanisms for strengthening the various regime types, including oligarchy and tyranny.”<sup>110</sup> The result of such a focus is a regime-centered determination of morality that may too easily transgress the freedom of the human

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<sup>107</sup> Keys, Mary M. *Aristotle, Aquinas, and the Promise of the Common Good*. Quote from page 61; Cf. pp. 60-62 for discussion of three Aristotelian political-philosophic foundations.

<sup>108</sup> Keys, Mary M. *Aristotle, Aquinas, and the Promise of the Common Good*, 88.

<sup>109</sup> Keys, Mary M. *Aristotle, Aquinas, and the Promise of the Common Good*, 67.

<sup>110</sup> Keys, Mary M. *Aristotle, Aquinas, and the Promise of the Common Good*, 66

person, especially in an unjust regime, such as oligarchy or tyranny. What would be the fate, for example, of the conscientious objector in such an unjust regime? We have had many recent answers to this question in the Middle East where in the past two years, we have seen a majority of the people in Tunisia, Libya, Egypt, Syria, and Yemen objecting to (and in some cases, ousting) their political leaders, most of whom are considered corrupt dictators or even tyrants. In these regimes conscientious objection was disapproved and incapacitated with the only possible resolution being subversion and revolution. Aquinas's theory of natural law moves beyond regime particularities and offers other criteria upon which we can know the common human good and how to achieve it. It places "greater emphasis on the interiority of the individual and on the court of conscience where that individual is always responsible to others."<sup>111</sup> The critical insight for Aquinas's account is the *transpolitical* end (*telos*) of all human beings. Therefore, Aquinas emphasizes that "[the] political community aims at or seeks the common good, the highest good to be found and approximated or achieved in human affairs and by human actions. Political community does not itself constitute that good."<sup>112</sup>

Ernest L. Fortin, along with Mary Keys, also stresses the importance of a theory of conscience as an element of the human person that essentially limits the scope of positive law and political regimes. According to Fortin, the political importance of conscience is based upon its "appeal to a higher law in the light of which particular laws and the acts commanded by them are deemed objectionable or unjust. . . . The crucial political implication [of conscience] is that human life requires a universality that it did not have and could not have as long as the polis and its regime represented for most men a total way of life. Civil society is displaced as the locus of

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<sup>111</sup> Keys, Mary M. *Aristotle, Aquinas, and the Promise of the Common Good*, 124.

<sup>112</sup> Keys, Mary M. *Aristotle, Aquinas, and the Promise of the Common Good*, 86.

virtue and the object of man's deepest and most noble attachments."<sup>113</sup> Fortin explains that one of the central insights of Aquinas's contribution to political philosophy is his theory of natural law that allows for the realization and actualization of

[A] human excellence [that is] no longer defined or circumscribed by the conditions of political life. Through knowledge of the natural law man accedes directly the common order of reason, over and above the political order to which he belongs as a citizen of a particular society. By sharing in that law he finds himself, along with all other intelligent beings, a member of a universal community or cosmopolis ruled by divine providence and whose justice is vastly superior to that of any human regime. . . . Civil society ceases to be uniquely responsible for the totality of moral virtue and is itself judged by a higher standard to which human actions must conform universally.<sup>114</sup>

What is emphasized in Aquinas's account of our knowledge of the natural law is not only the idea of conscience, but also its foundation in shared human reason which points all human beings to a shared end—an end that is not and cannot ever be fulfilled by any political regime. This is a critical element in Aquinas's notion of conscience, and it is one that distinguished his own theory from those of his contemporaries.

Fortin elaborates his assertion that Aquinas's most unique contribution to political science is the natural law. Some justification for this assertion can be seen by considering Aristotle's externally directed question, "What is a good man?" Aquinas refines the question slightly by adding a new dimension, "Why should one be a good man?" and "How does one choose moral good?" The new dimension turns the question to the interior life of the individual human person, and the guide to that interior life is defined by Aquinas as conscience, which, he describes as a habit of reason. But for Aquinas, there is an additional dimension to conscience, viz. the connection between human reason and the Divine. Conscience points the person beyond his own beliefs or individual preferences. Fortin explains:

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<sup>113</sup> Fortin, Ernest. "The Political Implications of St. Augustine's Theory of Conscience," 133, 144.

<sup>114</sup> Fortin, Ernest. "The Political Thought of Thomas Aquinas." *Classical Christianity and the Political Order: Reflections on the Theologico-Political Problem*. (New York: Rowman and Littlefield, 1996), 160-161.

As a law of *nature*, the natural law shares in reason and cannot be reduced exclusively to the will of God. The actions that it commands or forbids are intrinsically good or bad; they are not good or bad simply as a result of their being commanded or forbidden by God. As a *law*, however, it also contains an explicit reference to God's will, to which it owes its moving force. It thus stands midway between the natural right doctrine of the nonreligious philosophic tradition on the one hand and the strict voluntarism of the nonphilosophic religious tradition on the other."<sup>115</sup>

The very notion that natural law is grounded in human reason yet still capable of being influenced by a Divine source of authority is precisely what makes it a difficult theory for contemporary political science.

Yet the idea of a universality of the natural law as proposed by Aquinas leads to another political problem. Fortin and Keys posit that Aquinas is not satisfied with the Aristotelian, or even the more general Classical account of political life that places the consummate human good within a political regime. Any moral order determined solely by a political regime is problematic for Aquinas. Aquinas emphasizes in his account of political life the shift away from the exterior political regime to the interior dimension of the individual human person, and that interior life is guided by the principles of conscience that transcend the social-political order in which the individual lives and participates. Thereby, Aquinas's theory of conscience advances the contention that one's adherence to conscience over the positive law merits the respect if not the approval of society at large since the man who appeals to its dictates is presumably faithful to a law that transcends both himself and society.<sup>116</sup> Further, this law that transcends any particular political regime is accessible to all and shared by all – pointing toward the relational element of conscience.

The appeal to conscience has its authority in some greater, interior law that commands our obedience even to the point of disobeying the legally coercive power of a given positive law.

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<sup>115</sup> Fortin, Ernest. "The Political Thought of Thomas Aquinas," 170.

<sup>116</sup> Cf. Fortin, Ernest. "The Political Implications of St. Augustine's Theory of Conscience," 133.

Yet, those who enforce the positive law are not always accepting of an appeal to conscience; for, as Fortin points out, “it is frequently impossible to determine with any degree of certitude whether [a conscientious] dissenter is sincere or merely guided by selfish motives, especially if the law from which he seeks exemption makes harsh or unpleasant demands on him.”<sup>117</sup>

With this argument, both the existence and legitimacy of appeals to conscience are frequently denied. We might consider the famous example of Socrates who was charged with transgressing the laws of Athens. Rather than disobey the promptings of his conscience (or his *daimon* since the terms ‘conscience’ is not a word that Socrates used), Socrates suffers the penalty of death. Socrates’ death dramatically illustrates that when the power of conscience threatens the power of a political regime, conscience often loses.

Fortin claims that Aquinas’s unique and most essential enterprise was his integration of Christian principles into Aristotelian and Neo-Platonic philosophy. This vision differed from his contemporaries, who viewed the sciences of the world from a more Augustinian point of view, which interpreted the sciences as illuminating man’s final end—the sciences form an integrated whole illumined by faith. Aquinas, on the other hand, makes a clear distinction between the science of faith and those of philosophy, although like Augustine before him, however, he assumes no fundamental disagreement between faith and reason.<sup>118</sup> However, when the perennial questions are posed about how human beings ought to live and to order themselves both individually and in communities, this vision of Aquinas anticipates that different answers offered by faith and by reason become more acute. Reason may answer that the right order to life is based on convention, or advocate that the natural right tradition may offer the solution that

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<sup>117</sup> Fortin, Ernest. “The Political Implications of St. Augustine’s Theory of Conscience,” 133.

<sup>118</sup> Fortin, Ernest. “The Political Thought of Thomas Aquinas,” 155.



human beings should live according to the true principles of nature. But those principles are accessible to only a few of the truly wise philosophers.

Faith, or more precisely, Christian faith, offers a vision of living well that is accessible to all because Christ came to save all and all human beings share the same *telos* of eternal life. Thus, there is a shared sense of the common good that all humans have. Living well means following Christ and acting in accordance with the will of God that is known through “the grace of the Spirit [that] constitutes supreme virtue or the best life possible for a human being. [However,] is it possible to claim that [these] seemingly quite different ways of life can be the best possible ways of life?”<sup>119</sup> Natural law seeks to alleviate the tension between the presumable conflicting answers of faith and reason by integrating both in the account for basic human inclinations. However, still unaddressed are two essential contentions concerning the theory of natural law, specifically, the epistemological questions of the knowledge it contains and the mode of intelligible access to its precepts. In other words, how can individual human beings, each of whom may disagree about the nature of the good, uniformly know the basic moral principles offered in the natural law? In answer, Aquinas points to conscience.

Yet again we come full circle as we regard the assertion of Douglas Kries. Kries contends that it is precisely the idea of conscience that the contemporary scholars of political science finds difficult to accept. Natural law assumes a basic knowledge of moral principles based on the doctrine of *synderesis*. The doctrine of *synderesis* assumes that the knowledge of moral principles is no longer “the purview of philosophers alone. . . . The strenuous ascent out of the cave through the dialectical process embedded in liberal education is not essential; synderesis gives the human intellect the basic tools for solving the problems. Nor is the

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<sup>119</sup> Kries, Douglas. *The Problem of Natural Law*, xv.

knowledge of natural right any longer limited to philosophers.”<sup>120</sup> Kries further clarifies this hesitation to accept such knowledge of moral principles:

Theologians, particularly those of the Reformed Tradition of Christianity, tend to reject natural law teaching because, as a concept imported into Christianity from arrogant philosophy, it underestimates the complete fallenness of human nature, including the human intellect’s inability to grasp moral truth on its own. Philosophers, on the other hand, particularly those who adhere to ancient or classical natural right teaching and suspect that natural is a concept imported into philosophy from irrational Christianity [i.e. political philosophers who follow the thinking of Leo Strauss on this particular topic], tend to reject natural law because it overestimates the intellectual abilities and proclivities of human beings who are not philosophically adept.<sup>121</sup>

Kries argues that for natural law to have any authority in the public sphere, it will have to either “reconsider or even set aside certain aspects of its teaching on conscience.”<sup>122</sup> He examines several contemporary schools of thought that conflict with natural law specifically because of its insistence on a universal knowledge of basic moral principles through conscience, and he argues that simply “bracketing the claims about conscience” could perhaps allow for a stronger consensus on moral claims.<sup>123</sup> The weakness of Kries’ conclusion is that he does not explain how the claims of conscience could be ‘bracketed out’ or what the implications of doing so would be. What kind of moral consensus could be made if it remains unclear as to how and whether human beings can know anything about morality? Significantly, he also does not examine whether or not the claims of conscience, particularly as given in Thomas Aquinas’s account of the natural law, are in fact a true.

Additionally significant to this debate concern the matter of conscience is presented by Alasdair MacIntyre. In *Whose Justice, Which Rationality?*, Alasdair MacIntyre situates his treatment of Aquinas’s account of conscience in the context of his account of human

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<sup>120</sup> Kries, Douglas. *The Problem of Natural Law*, 54.

<sup>121</sup> Kries, Douglas. *The Problem of Natural Law*, xvii.

<sup>122</sup> Kries, Douglas. *The Problem of Natural Law*, xix.

<sup>123</sup> Kries, Douglas. *The Problem of Natural Law*, 116.

inclinations, moral knowledge, and action. Aquinas teaches that human beings engage in practical rational activities, especially in ethical decision-making. Ethical decision making, that is to say, the decisions made with the consultation of conscience, is therefore intimately linked to natural human inclinations and to human reason. MacIntyre explains:

There is the directedness of each person *qua* being toward persisting in that being, toward self-preservation. There is the directedness of each person *qua* animal expressed in the purposiveness of the bearing and education of children to participate in the forms of human life. And there is the directedness of each person *qua* rational and social being in the purposiveness of the pursuit of those rational goods which include the pursuit of knowledge of God.<sup>124</sup>

According to MacIntyre, it is essential that our human inclinations are ordered, and the order of these inclinations determines our pursuit of particular goods. Yet, the order of these inclinations (and hence of the human good) requires the proficient exercise of our rationality when we are faced with a decision regarding a variety of goods. For example, “We subordinate our need for self-preservation if the lives of our children or the security of our community are gravely endangered.”<sup>125</sup> The choice to subordinate our own good (i.e. self preservation) for the good of another requires the exercise of ethical (i.e. practical) reasoning. But how does one make this choice? MacIntyre replies, “Each individual has within him or herself, on Aquinas’ view, a capacity for giving the right answers, but this capacity has to be elicited.”<sup>126</sup> Conscience is the wellspring of this capacity. MacIntyre’s response to what conscience elicits is couched within the context of the knowledge of good and evil, which directs moral action. If, as Thomas Aquinas asserts, the first principles and precepts of natural law are universally known to

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<sup>124</sup> MacIntyre, Alasdair. *Whose Justice? Which Rationality?* (Notre Dame, IN: University of Notre Dame Press, 1988), 173-174. Cf. Aquinas, Thomas. *Summa Theologiae*, I-II, Q. 94, art. 2, Corpus. MacIntyre is paraphrasing Aquinas.

<sup>125</sup> MacIntyre, Alasdair. *Whose Justice? Which Rationality?*, 174.

<sup>126</sup> MacIntyre, Alasdair. *Whose Justice? Which Rationality?*, 174.

individual human beings because they are self-evident, how can moral disagreements exist? Or, as MacIntyre explains,

If Aquinas's account is true, we should, so it seems, expect to encounter a much higher degree of uniformity in moral belief and moral judgment than we actually find. It is also that on Aquinas's account the primary precepts of the natural law satisfy the requirements of practical reason and all sets of precepts incompatible with them fail to do so. We should also expect...that in rational enquiry and debate the superiority of those precepts would generally become evident without any great difficulty. But this too is not the case. So there is a problem.<sup>127</sup>

The question of moral consensus presupposes at least three other fundamental questions, viz. what is good and how do human beings know what is good, and further, how might we discern the ways to pursue good and to avoid evil?<sup>128</sup>

John Finnis also offers a unique view of the natural law and how it fits into to contemporary political dialogue. Known as one of the 'New Natural Law' proponents, Finnis's central argument regarding the natural law is the rejection of the influence of either an account of nature or metaphysics that grounds the natural law.<sup>129</sup> He bases his argument by drawing both from Aristotle's *Nicomachean Ethics* and Thomas Aquinas's commentary on this text. Aristotle and Aquinas identify four distinct 'orders' of science. He writes:

Central to [Thomas Aquinas's account of social theory, political theory, legal theory, and theory of justice] is the conclusion that the sciences are of four irreducibly distinct kinds: (1) Science of matters and relationships unaffected by our thinking, i.e. of the 'order of nature'...; (2) the science of the order we can bring into our own thinking, i.e., logic in its widest sense; (3) the sciences of the order we can bring into our deliberation, choosing, and voluntary actions, i.e. the moral, economic, and political sciences compendiously called *philosophia moralis*; (4) the sciences of the multitude of practical

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<sup>127</sup> MacIntyre, Alasdair. "Intractable Moral Disagreements." *Intractable Disputes about the Natural Law: Alasdair MacIntyre and Critics*. Ed. Lawrence S. Cunningham. (Notre Dame, IN: University of Notre Dame Press, 2009), 11.

<sup>128</sup> Cf. Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 94, art. 2.

<sup>129</sup> Other important New Natural Law philosophers are Germain Grisez, Robert George, Joseph Boyle, and Chris Tollefson. I have chosen Finnis since his philosophical schema is one of the primary foundations of the New Natural Law school of thought.

arts, the technologies or techniques which, by bringing order into matter of any kind external to our thinking and willing, yield ‘things constituted by human reason.’<sup>130</sup>

There are several key points that are essential to understanding social and political life according to Finnis’s account. First, he places human actions and political society “constituted by human actions” in the third order listed above, i.e. in the order of deliberation, choosing, and voluntary action. This is central to Finnis’s argument, for he contends that “human actions and societies cannot adequately be described, explained, justified, or criticized unless they are understood as also, and centrally, the carrying out of free choices. For neither the making of free choices nor any of their consequences regarded as such can be reducible to nature, logic, or technique,” that is to say, the making of free choices cannot fit into any other order of reality as classified above.<sup>131</sup> It is precisely the element of free choice, writes Finnis, that many political scientists since Thomas Hobbes reject when theorizing about social and political phenomena.<sup>132</sup>

For Finnis, it is essential that the *philosophia moralis* is placed in this ‘third order,’ the realm that relates to human actions and is governed by practical reason. He insists that it remains entirely outside of and unconnected to questions about what *is* (which would pertain to the first order according to this schema). To sum up the point, Finnis maintains that an ‘ought’ cannot be derived from an ‘is.’<sup>133</sup> He writes:

[The] epistemic source of the first practical principles is not human nature or a prior, theoretical understanding of human nature (though a theoretical knowledge of the efficacy, as means, of certain chooseable conduct is relevant to our knowledge of first practical principles). Rather, the epistemic relationship is the reverse: any deep understanding of human nature, i.e. the capacities which will be fulfilled by action which participates in and realizes those goods, those perfections, is an understanding which has

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<sup>130</sup> Finnis, John. *Aquinas: Moral, Political, and Legal Theory*. (Oxford: Oxford University Press, 1998), 21.

<sup>131</sup> Finnis, John. *Aquinas: Moral, Political, and Legal Theory*, 22.

<sup>132</sup> Finnis, John. *Aquinas: Moral, Political, and Legal Theory*, 22.

<sup>133</sup> This hearkens back to Leo Strauss’s grappling with the fact/value distinction. Cf. pages 24-25 above.

amongst its sources our primary, undemonstrated by genuine practical knowledge of those goods and purposes.<sup>134</sup>

These first practical principles are listed as the precepts of the natural law in Aquinas's *Summa Theologiae*.<sup>135</sup> According to Finnis, the first principles of practical reason are not dependent upon a theoretical knowledge of human nature. They are pre-philosophical and self-evident principles that guide human action through the natural law. But how can we call these first practical principles the principles of *natural* law if they are not based upon a theoretical understanding of human nature? Finnis answers: "One understands human nature by understanding human capacities, those capacities by understanding human acts, and those acts by understanding their objects."<sup>136</sup> By arguing that, "capacities are known from their activities and natures from their capacities," Finnis constructs his argument so that practical and theoretical intellects are autonomous.<sup>137</sup> Finnis's point is an epistemological one: "His point is that we come to knowledge of human nature from knowledge of human action; therefore we do not come to knowledge of human action or of what we ought to do from nature."<sup>138</sup> This would seem to solve the problem of deriving a moral directive (ought) from a claim of nature (is).

An additional critical question that Finnis raises is "Is that pre-philosophical grasp of first principles independent of our knowledge of brute facts about the world?"<sup>139</sup> Further, how would conscience fit into knowing these first principles and how they relate to the 'brute facts' about the world? Thomas Aquinas never anticipated a 'naturalistic' fallacy of deriving an 'ought' from an 'is, and according to Ralph McInerny, the fixation of the New Natural Law proponents on the

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<sup>134</sup> Finnis, John. *Aquinas: Moral, Political, and Legal Theory*, 91

<sup>135</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 94, art. 2.

<sup>136</sup> Finnis, John. *Aquinas: Moral, Political, and Legal Theory*, 90.

<sup>137</sup> McInerny, Ralph. *Aquinas on Human Action: A Theory of Practice*. (Washington, D.C.: Catholic University of America Press, 1992), 184.

<sup>138</sup> McInerny, Ralph. *Aquinas on Human Action: A Theory of Practice*, 189.

<sup>139</sup> McInerny, Ralph. *Aquinas on Human Action: A Theory of Practice*, 191.

fact/value distinction (or the is/ought problem) presents a dubious theory of practical reason because its capabilities have been truncated. McInerny explains:

A view of practical reason which regards knowledge of the world to be irrelevant to it is clearly a view different from what we encounter in Aristotle or St. Thomas. The theory of practical reason developed by St. Thomas is a good deal more complicated than the...view Grisez and Finnis seem to espouse.<sup>140</sup>

McInerny asserts that Aquinas presents a much more substantial theory of practical reason than the New Natural Law theorists allow for; and their rejection of certain facts about the human person as ‘morally irrelevant’ undermines Aquinas and seriously weakens the impact of the New Natural Law theory as presented by thinkers such as John Finnis and Germain Grisez.<sup>141</sup> Our own assumption argues that more complete treatment of these controversial questions relating to human nature, its relationship to natural law, and the relationship between conscience, practical reason, natural law, and moral action can be found in a closer re-examination of Aquinas’s treatment of them.<sup>142</sup> The New Natural Law theory attempts to fuse the process of ethic decision making to a particular understanding of practical reason, but Gerald McKenny observes that perhaps there are simply too many disagreements about the nature of human reason, and it has become “futile...simply to appeal to reason in the face of moral disagreement today. In this respect, the Christian natural law tradition appears to share the fate of the Enlightenment project itself, which proved unable to ground moral and political values in reason alone.... Both fail to

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<sup>140</sup> McInerny, Ralph. *Ethica Thomistica: The Moral Philosophy of Thomas Aquinas*. (Washington, D.C.: The Catholic University of America Press, 1982), 1<sup>st</sup> Edition, 54-55

<sup>141</sup> Cf. Ralph McInerny. *Ethica Thomistica: The Moral Philosophy of Thomas Aquinas*, 56.

<sup>142</sup> To my knowledge, the New Natural Law school has not worked out a theory of conscience as it relates to the natural law. Germain Grisez in his *The Way of the Lord Jesus Christ* Volume I includes a 20 page section on conscience as it relates to Catholic moral theology (Chicago: Franciscan Herald Press, 1983), and John Finnis has written a short critical essay, “Conscience and the Letter to the Duke of Norfolk,” offering a critique of John Cardinal Newman’s view of conscience that is printed in a collection of essays entitled, *Newman After a Hundred Years*, Eds. Ker and Hill, Oxford: Oxford University Press, 1990. By my reading, the New Natural Law school seems to conflate conscience as Aquinas explains it with how they explain practical reason. Compare Grisez, Boyle, and Finnis’s article “Practical Principles, Moral Truths, and Ultimate Ends” in *American Journal of Jurisprudence* (32): 1987, pp. 99-152 to Ralph McInerny’s chapter on “Prudence and Conscience” in *Ethica Thomistica: The Moral Philosophy of Thomas Aquinas*, Washington, D.C.: Catholic University of America Press, 1982.

show in a convincing way how this tradition [i.e. the natural law tradition] can effectively overcome moral disagreements today.”<sup>143</sup>

In *Whose Justice? Which Rationality?*, Alasdair MacIntyre restates this same position but connects to the particular component of justice within the framework of politics. He contends that there are many variations on the meaning of justice, causing an atmosphere of “conflicting conceptions of justice” which stems from the underlying problem that Gerald McKenny points to above, viz. the discord about the meaning of practical rationality.<sup>144</sup> We should consider how MacIntyre makes this connection. While MacIntyre certainly acknowledges that the questions related to theories of morality and to the meaning of justice are legitimate matters for speculative inquiry, he makes a critical connection between these two theoretical questions and their practical implications:

Fundamental moral disagreements are indeed a matter for theoretical, philosophical enquiry, just because in such moral disagreement each contending party presupposes a view of human nature for which *truth* is claimed.... But disagreements concerning the truth of this or that theoretical account of the human end initially come to our attention, not directly but indirectly, at first in the form of practical disagreements about how we ought to act here and now.<sup>145</sup>

MacIntyre suggests that our encounters with critical moral, social, and political disagreements are intricately linked to the disagreements about human ends, and this debate leads to conflict about what ought to be done here and now. One of these very disagreements is precisely about the capabilities of our practical reason. Here, we pose the question, what has any of this to do with our conscience? Aquinas answers by indispensably situating conscience into a resonating

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<sup>143</sup> McKenny, Gerald. “Moral Disagreements and the Limits of Reason: Reflections on MacIntyre and Ratzinger.” In *Intractable Disputes about the Natural Law: Alasdair MacIntyre and Critics*. Ed. Lawrence S. Cunningham. (Notre Dame, IN: University of Notre Dame Press, 2009), 224.

<sup>144</sup> MacIntyre, Alasdair. *Whose Justice? Which Rationality?*, 1.

<sup>145</sup> MacIntyre, Alasdair. “Intractable Moral Disagreements,” 15.



relationship with practical reason. Therefore any proper understanding of conscience presupposes a proper understanding of practical reason.

The foregoing discussion reviewed the treatment of Aquinas within contemporary political science. His work and ideas continue to provoke vigorous debate within political philosophy. We considered how Strauss and Jaffa hold that the doctrine of *synderesis* (and of natural law) is a specifically Christian accretion that deviates from the Classic tradition of Plato and Aristotle. Kries' solution to this problem is simply to set aside or bracket out the claims of *synderesis*: "If the traditional emphasis upon the universal knowledge of natural law is bracketed, then, the realm of what could be asserted as belong to the natural law would be broadened."<sup>146</sup> Yet, other scholars like Mary Keys and Ernest Fortin take very seriously the critiques of Strauss and Jaffa, but assert that the strength of the natural law foundation of Aquinas's political philosophy is its "greater emphasis on the interiority of the individual and on the court of conscience where that individual is always responsible to others, whether individuals or communities."<sup>147</sup> We examined how other scholars such as John Finnis and the New Natural Law co-theorists solve the problem by arguing that the contents of *synderesis* are universally knowable, although they believe that it is not necessary to offer any account of metaphysical reality.<sup>148</sup> Alasdair MacIntyre, while sympathetic to the goals of the New Natural Law project, remains skeptical that an accurate or adequate account of natural law can be given without reference to some kind of expression of metaphysics. Russell Hittinger further criticizes the New Natural Law theorists on this point: "Any effort to extract a part of the ethic [in this case, the ethic of natural law] in the absence of its proper foundations, or to assign that part to some

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<sup>146</sup> Kries, Douglas. *The Problem of Natural Law*, 114.

<sup>147</sup> Keys, Mary M. *Aristotle, Aquinas, and the Promise of the Common Good*, 124.

<sup>148</sup> Finnis, John. *Natural Law and Natural Rights*, 48-49. Quoted in Alasdair MacIntyre *Whose Justice? Which Rationality?* P. 187. Cf. also Hittinger, Russell *A Critique of the New Natural Law Theory*. (Notre Dame, IN: University of Notre Dame Press, 1987), 160-176.

other foundation, is tantamount to constructing a materially different ethic.”<sup>149</sup> The fundamental question is, “to what degree is practical reasoning itself dependent on an order of being that is not simply arbitrary but one with its own intrinsic order in nature, in human nature?”<sup>150</sup> We are led once again to the problem posed by Jaffa and Strauss: Is the natural law and doctrine of *synderesis* intelligible without reference to divine Revelation, or at least to some theory of metaphysics? Medievalist Brian Tierney offers a helpful view on this matter. In his study *On the Idea of Natural Rights*, Tierney argues that the medieval philosophers (of which Aquinas is one) were not arguing only from the assumption of “Christian revelation or from some all-embracing natural-law theory of cosmic harmony but from an understanding of *human nature* as *rational, self-aware, and morally responsible*” [emphasis mine].<sup>151</sup> He proposes that to understand Aquinas’s vision of conscience and natural law, we ought to examine his account of a shared human nature as *rational*. This theme will be explored throughout the dissertation.

However, it cannot be denied that Thomas Aquinas is unapologetically Christian. As such, he also argues that there is indeed a highest human good (*summum bonum*) for the human person that cannot be fulfilled by the political regime.<sup>152</sup> The highest good and last end of the human person for Aquinas is achieved “through union with God...in which along man’s happiness consists.”<sup>153</sup> The highest human good for Aquinas is the Beatific Vision – a friendship (relationship) with God formed through faith in love. I suggest that although Aquinas writes within a fully Christian tradition, his work is an “essential resource for political theorists today, precisely because it delves deeply into the philosophic-anthropologic and ethical foundations of

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<sup>149</sup> Hittinger, Russell. *A Critique of the New Natural Law Theory*, 195.

<sup>150</sup> Schall, James. “The Intellectual Context of Natural Law.” *American Journal of Jurisprudence* 38 (1993), 102.

<sup>151</sup> Tierney, Brian. *The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law 1150-1625*. (Atlanta, GA: Scholars Press, 1997), 76.

<sup>152</sup> Cf. *Summa Theologiae*. I-II, Q. 1, articles 4-8.

<sup>153</sup> Cf. *Summa Theologiae*. I-II, Q. 3, art. 8.

social and civic life, and so better enable us to envision the purpose of politics.”<sup>154</sup> These deeper philosophic-anthropologic and ethical foundations, I argue, are precisely Aquinas’s most essential insights into human conscience. Specifically, by a deeper examination of how Aquinas classifies the two-fold nature of conscience as *synderesis* and *conscientia*, especially relating them to a shared rationality as expressed in the natural law, Aquinas offers a balanced (and timely) approach to the individual, relational, and transcendent dimensions of conscience. By examining his theory in these contexts, I aim to offer a robust re-consideration of the political relevance of conscience and to offer a concrete vision of how Aquinas might help enable us to think together about the common goods in our shared moral, social, and political life.

## V. Chapter Descriptions

In the next chapter, I will give a more detailed historical analysis of the sources that Aquinas draws from in order to construct his own theory of conscience, arguing that Aquinas’s most innovative contribution is his reliance upon Aristotle, particularly Aristotle’s account of reason, and upon Augustine’s theological framework. The third chapter will focus on the intrinsic connection of conscience to practical reason and how Aquinas posits that human beings come to know moral precepts in his two earlier works on conscience, viz. his *Commentary on the Sentences of Peter Lombard* and his *Disputed Questions on Truth*. The fourth chapter will examine the connection Aquinas makes between conscience and law, particularly the natural law, and it will also address how Aquinas would argue for freedom of conscience in political life. I will examine *the Summa Theologiae* and Aquinas’s *Commentary on Romans*. The fifth and final chapter will juxtapose Aquinas’s terminology of the primary level of conscience as *synderesis* with an alternative term proposed by Joseph Ratzinger, J. Budziszewski, and Eric Voegelin, viz. *anamnesis*. I aim to examine whether *synderesis* or *anamnesis* best contributes to

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<sup>154</sup> Keys, Mary M. *Aristotle, Aquinas, and the Promise of the Common Good*, 4.

a robust theory of conscience that encapsulates all of its dimensions: individual, relational, and transcendental. Political philosopher Eric Voegelin has also proposed the term *anamnesis* as a way of understanding human nature *qua* rational and political. This concluding chapter will consider the implications of this alternative term for the primary level of conscience and seek to re-propose the importance of the primacy of conscience for our own political discourse.

## Chapter II: Theoretical and Historical Foundations of Conscience

“We must allow the innermost element within us to speak. And that element knows that the Good exists.... Now this Good does not hover vaguely somewhere in remote and inaccessible space. It is in contact with me; it touches me. There exists in me something that responds to the Good, as the eye responds to light—Conscience.”<sup>1</sup>

When we consider the political relevance of a theory of conscience, we should recall an essential element of free government, viz. government based on consent. This consent, argues Charles N.R. McCoy is “based on man’s *moral* freedom.”<sup>2</sup> Consent also requires others with whom you consent about common shared goals. Conscience, I argue, is the bulwark of man’s moral freedom upon which *free* government is based and by which government is also limited, providing a “safeguard against mere conformity and conventionality.”<sup>3</sup> In this chapter, we will examine the foundational framework and sources from which Aquinas structures his theory of conscience in order to understand the connection he makes between human conscience and human freedom. This will give critical insight into the function of conscience in the formation of the law and in the promotion of freedom of the human person. Thomas explains conscience in the *Summa Theologiae* in the context of human nature and law (particularly the natural law). Thus, in this dissertation I will examine the political implications of Aquinas’s particular context when he discusses conscience. However, the *Summa Theologiae* is not the first place where he outlines his views on the matter, and his own thinking develops as new academic discoveries come to the medieval academy, particularly the introduction of Aristotle’s writings and the Islamic and Jewish commentaries on Aristotle. However, before we investigate the particular

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<sup>1</sup> Guardini, Romano. *Conscience*. (London: Sheed and Ward, 1932), 23-24.

<sup>2</sup> McCoy, Charles N.R. *The Structure of Political Thought: A Study in the History of Political Ideas*. (New York: McGraw-Hill, 1963), 136.

<sup>3</sup> McCoy, Charles N.R. *The Structure of Political Thought*, 154. Also see Ratzinger, Joseph “Conscience and Truth” in *On Conscience*. (San Francisco: Ignatius Press, 2007), 11-42.

works in which Aquinas develops his theory of conscience, we should first consider the sources from which he draws that influenced his own formulation.

Aquinas draws from two important sources in the development of his theory of conscience, viz. Classical sources, most importantly Aristotle, and the early Christian Patristic sources, perhaps most importantly, Augustine. I argue first that Aquinas's interpretation of Aristotle's work is a critical element to understanding the specifically *political* significance of Aquinas's account of conscience. Aquinas was also heavily influenced by Neo-Platonic sources and ancient Roman sources, but I will focus primarily on how Aristotle influenced Thomas's formulation on conscience. The Patristic sources are equally important for Aquinas, especially the contribution of Augustine. I will examine how Augustine's emphasis on free will plays an important role in the formation of Aquinas's theory of conscience that Aquinas uniquely connects with Aristotle's understanding of human reason. The work of two other crucial Patristic sources, viz. Jerome and Origen, launched the very idea of conscience (particularly of *synderesis*) as a matter of inquiry and investigation for medieval university scholars. While this chapter will briefly survey the some of the other critical Classical and Patristic sources upon which Aquinas draws, I will focus the majority of this chapter on the important contributions of Aristotle and Augustine, as these two thinkers were at the center of the academic controversies during Aquinas's time.<sup>4</sup> Aquinas's great genius is the synthesis of Aristotle's "view of practical reasoning and...[Augustine's] development of the Pauline doctrine of the defective human will."<sup>5</sup> The chapter will be divided into two main parts examining the theoretical and historical background of the term *synderesis*, which is used by the Scholastics to explain conscience and its

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<sup>4</sup> Cf. Vernon K. Bourke, *Aquinas' Search for Wisdom* and G.K. Chesterton's volume *St. Thomas Aquinas: 'The Dumb Ox,'* New York: Doubleday, 1933, 1956. Although this latter book was written for a popular audience, Chesterton explains succinctly the complicated academic conflicts in which Aquinas participated.

<sup>5</sup> MacIntyre, Alasdair. *Whose Justice? Which Rationality?*, 184.

function in moral and political life. The first section will address the Classical sources, especially the Aristotelian contributions. The second section will focus on the Patristic contributions, particularly the use (and subsequent corruption of) of the term *syneidesis* by Origen and Jerome, and Augustine's contribution to understanding conscience.

## I. Theoretical and Historical Background

### A. Classical Sources

Although a theory of conscience is not explicitly elaborated by the Greek philosophers, I will argue that some critically important elements of Aquinas's account of conscience depend much upon Aristotle's moral theory, particularly Aristotle's articulation of practical reason.<sup>6</sup> I will also briefly sketch the roots of conscience in ancient Roman philosophy—translated as *conscientia*. D'Arcy helpfully characterizes the Classical use of *synderesis/conscientia* as 'judicial,' meaning judgment of past actions, and Davies explains the Hellenistic roots of the idea of conscience and points to important Epicurean sources for the term.<sup>7</sup> Most scholars agree that in each of these Classical sources "the use of conscience in a moral context refers primarily, if not exclusively, to a sanction or reward for past acts."<sup>8</sup> The Greek word *synderesis* used by the Scholastics is a corruption of the word *syneidesis*. Although not considered a purely philosophical term, in ancient Greek works spanning from the sixth century BC to the seventh century AD, the term *syneidesis* and its derivatives appear in "every possible sort of writer...It is in fact an 'everyday' [word], and belonging rather to 'folk-wisdom.'"<sup>9</sup> C.A. Pierce argues that

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<sup>6</sup> Michael B. Crowe argues that Aquinas's theory of natural law depends heavily on Neo-Platonic elements. I will examine this thesis in the final chapter where I will compare the Scholastic term *synderesis* with the Platonic term *anamnesis*.

<sup>7</sup> Cf. D'Arcy, Eric. *Conscience and its Right to Freedom*. London: Sheed and Ward, 1961. Chapter 1 and Davies, W.D. "Conscience." *The Interpreter's Dictionary of the Bible*. New York: Abingdon Press, 1962. Vol. 1.

<sup>8</sup> Doherty, Reginald, O.P. *The Judgments of Conscience and Prudence*. River Forest, IL: Aquinas Library, 1961. P. 30.

<sup>9</sup> Pierce, C.A. *Conscience in the New Testament*. London: SCM Press, 1955. P. 17. Pierce also has a list of Greek references on pages 132-147 of this book.

the Greek term *syneidesis* does not have a systematic philosophical development prior to its Christian usage, but instead was used colloquially and picked up by St. Paul in his pastoral letters. The common usage connoted three important elements with respect the nature, reference, and function of *syneidesis*.<sup>10</sup> First, it was considered to be “an element of human nature as such; but at the same time of human nature as integrally involved in an ordered universe.”<sup>11</sup> This is a very important piece of evidence, because this usage connects the term to a sense of some kind of natural law (an ordered universe) within which human nature participates. Natural law is considered by some to be a purely Christian invention, but Pierce cites a writer as early as Xenophon (410 B.C.) for this use of the word in this sense, certainly predating Christianity.<sup>12</sup> Secondly, the use of the prefix *syn-*, which is a reflexive pronoun, illustrates that the term is concerned solely with an individual man’s interior acts: “the knowledge a or awareness that a man has, the witness that he is in a position to bear-is internal.”<sup>13</sup> According to Don Marietta, the term “*syneidesis* is derived from the verb *synoida*, a compound of *oida* (*eidennai*), which means to know immediately or intuitively, as opposed to acquiring knowledge through reasoning (*noein*). This sense of the verb continues to be basic to the meaning of the nouns *syneidesis*, *synesis*, and *syneidos*. Conscience is a form of knowing.”<sup>14</sup> The meaning of these terms have various usages typically referring to consciousness or awareness, according to Marietta,

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<sup>10</sup> Cf. Pierce, C.A. *Conscience in the New Testament*. (London: SCM Press, 1955), Chapter IV.

<sup>11</sup> Pierce, C.A. *Conscience in the New Testament*, 40. Pierce cites Xenophon’s *Apology* 24 (Ex 23) wherein Socrates states that he is content to let the *syneidesis* of his accusers punish them for conjuring perjured evidence against him. He says that he satisfied that “in the nature of things they will suffer greatly from such knowledge within themselves of sacrilege and injustice.” (p. 40).

<sup>12</sup> Cf. Discussion of Jaffa and Strauss in chapter 1. This statement should be qualified to say that the ancient Greek understanding of nature certainly differs from how a Christian would view nature, especially given their respective notions of the Divine. The sense of nature that C.A. Pierce ascribes to the Greeks is a “fixed and determinant order of things-as-they-are.” Cf. p. 40. For a further explanation on the matter of nature and natural law, refer to the introduction to Michael B. Crowe’s *The Changing Profile of the Natural Law*.

<sup>13</sup> Pierce, C.A. *Conscience in the New Testament*, P. 41.

<sup>14</sup> Marietta, Don E., Jr. “Conscience in Greek Stoicism.” *Numen* 17 (3): 1970, 177.



gradually came to be used as meaning an awareness of one's evil deeds.<sup>15</sup> He argues that the development of the moral meaning of *syneidesis* derives from the

Hellenistic concern for ethics and the individual's inner attitudes fostered the development of the concept of conscience. The term *syneidesis* and its cognates were used in reference to both ethical and non-ethical matters. The Greeks did not distinguish between conscience and consciousness as speakers of English do. The ethical and non-ethical aspects (which are distinguished by the English word "conscience") were conveyed by the same word, and only the context indicated the moral quality of the object of the consciousness. This shows that *syneidesis* was basically a form of awareness or knowing.<sup>16</sup>

The ancient usage of the word, however, is almost always of past actions. Thus, the reference of *syneidesis* "is to the specific *past* act or act...committed by the *subject himself*.... [N]ormally the act, acts, condition or character are *bad*."<sup>17</sup> Conscience in the Classical usage and reference, albeit popularly so, has a judicial quality that judges a person for his own bad actions that transgressed the order of nature as it is. As a result, the function of conscience is that it causes pain and torment in the psyche of the one who suffers its pangs. The ancient Greek connotation of *syneidesis* is "the pain suffered by man, as man, and therefore as a creature involved in the order of things, when, by his acts completed or initiated, he transgresses the moral limits of his nature."<sup>18</sup>

When the term is translated in the Latin *conscientia*, Cicero is the primary pre-Christian author in whose writing the term *conscientia* is frequently found.<sup>19</sup> The term *conscientia* is usually thought to be developed most prominently by the Stoic thinkers of antiquity, particularly

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<sup>15</sup> Marietta, Don E., Jr. "Conscience in Greek Stoicism," 177.

<sup>16</sup> Marietta, Don E., Jr. "Conscience in Greek Stoicism," 178.

<sup>17</sup> Pierce, C.A. *Conscience in the New Testament*, 45. However, Marietta offers evidence that the Greek term *syneidesis* can also act as judge of good actions, and hence give peace instead of pain. Cf. Marietta, Don E., Jr. "Conscience in Greek Stoicism," 181 and following.

<sup>18</sup> Pierce, C.A. *Conscience in the New Testament*, 54.

<sup>19</sup> Davies, W.D. "Conscience." *The Interpreter's Dictionary of the Bible*. New York: Abingdon Press, 1962. Vol. 1, 672. According to Davies, Cicero uses the term 75 times throughout his corpus.

the Roman Stoics. However, scholarship in the latter half of the twentieth century on the topic of conscience suggests that there is not a strong Stoic development of the term, but instead an Epicurean usage that is much more pronounced.<sup>20</sup> W.D. Davies writes:

When we ask whether the Latin writers reveal in Stoicism an emphasis on conscience, the answer is in the negative.... [T]he use of ‘conscience’ in Stoicism cannot have been central, and whenever the term does occur in Stoic connections, it undergoes modification. Thus the strong conscience, desiderated by Seneca, really signifies strong character. The Latin writers, therefore, lend no support to the view that conscience was a peculiarly Stoic doctrine, while they suggest that, in its Latin form at least, conscience was a concept much employed in literary circles.<sup>21</sup>

Further, when Cicero does mention conscience, it is usually when explaining or responding to the Epicureans.<sup>22</sup> For the Epicureans, conscience has a particular purpose, one that perhaps tends toward an *anti-political* end. According to Ernest Fortin, the “hallmark of the Epicurean doctrine [of conscience] is that it integrates conscience into a hedonistic framework.”<sup>23</sup> To illustrate the point, I will consider the first book of Cicero’s *De Finibus* wherein the interlocutor Torquatus gives a summation of the Epicurean view of philosophy in an effort to convince Cicero of its veracity. In his account, Torquatus defends the view that man’s final end and ultimate good is the pursuit of pleasure and avoidance of pain. Not to be considered simplistically as an intemperate man, Torquatus qualifies the argument:

What does [a person] perceive and judge as the basis for pursuing or avoiding anything except pleasure or pain? Some Epicureans wish to refine this doctrine: they say that it is not enough to judge what is good or bad by the senses. Rather they claim that intellect and reason can also grasp that pleasure is to be sought for its own sake, and likewise pain

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<sup>20</sup> Don E. Marietta, Jr. makes the case that the Stoic philosopher’s contributed an important element to the philosophical formation of conscience, but the literature in general does show that even if the Stoics do mention conscience, they tend to do so in response to the Epicureans.

<sup>21</sup> Davies, W.D. “Conscience,” 672. See also C. A. Pierce *Conscience in the New Testament*, especially chapter 1 entitled, “The Fallacy of Stoic Origin.”

<sup>22</sup> Fortin, Ernest. “The Political Implications of St. Augustine’s Theory of Conscience,” 140.

<sup>23</sup> Fortin, Ernest. “The Political Implications of St. Augustine’s Theory of Conscience,” 138.

to be avoided. Hence, that there is as it were a natural and innate concept in our minds by which we are aware that one is to be sought, the other shunned.<sup>24</sup>

Torquatus next offers a utilitarian method of discerning pleasure and pain. Painful things or situations can only be pursued if they lead to a more pleasurable end; pleasurable things or situations should be avoided if they cause a more painful end. He elucidates his point by using as examples the four cardinal virtues, wisdom, temperance, courage, and justice.<sup>25</sup> Each virtue demonstrates a particular way in which pleasure is better than pain. According to the Epicurean view, “the root cause of life’s troubles is ignorance of what is good and bad.... It is only the wise person, by pruning back all foolishness and error, who can live without misery and fear.”<sup>26</sup> Wisdom ought not to be pursued for its own sake, but for the sake of the pleasure it yields by removing fear and misery. Likewise, temperance ought to be pursued to keep a person from pursuing pleasures so indiscriminately that he becomes a slave to the passions. Courageous actions lead to glory—again still a greater pleasure than the act of courage itself, by Torquatus’s telling.

The interesting case Torquatus makes is with respect to justice, because he does not actually address specific ways in which just actions can give pleasure, but he does address how unjust actions in the form of dishonesty, foolhardiness, lust, and cowardice (which are vices associated with the other cardinal virtues) can give pain. It is in this context that Torquatus mentions conscience. Justice, he argues, contains in itself pleasure, because it never harms anyone, brings benefits, and quiets the spirit.<sup>27</sup> Then Torquatus adds, “Foolhardiness, lust, and

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<sup>24</sup> Cicero, *De Finibus*. Trans. Raphael Woolf. Ed. Julia Annas. (Cambridge: Cambridge University Press, 2001), Book I, 32. It is interesting to note how similarly this language sounds to the first precept of the natural law in Aquinas, wherein good to be done and pursued and evil to be shunned. However, the difference in this case is that Torquatus (holding the Epicurean view) is replacing good with pleasure and evil with pain.

<sup>25</sup> Cf. Cicero, *De Finibus*, Book I, §42-53.

<sup>26</sup> Cicero, *De Finibus*, Book I, §43; 44.P. 17.

<sup>27</sup> Cicero, *De Finibus*, Book I, §50.

cowardice unfailingly agitate and disturb the spirits and cause trouble. In the same way, when dishonesty takes root in one's heart, its very presence is disturbing. And once it is activated, however secret the deed, there is never a guarantee that it will remain secret."<sup>28</sup> Torquatus deflects from the question of justice and turns instead to other vices such as he names above—considered by him to be vices because they disturb the spirit with the fear of being found out: “But even if those who appear to be well enough fortified and defended against discovery by their fellow humans still live in fear of the gods.... Any contribution that wicked deeds can make to lessening the discomforts of life is outweighed by the bad conscience, the legal penalties, and the hatred of one's fellow-citizens.”<sup>29</sup> Conscience does function ‘judicially’ as a judge of past actions, punishing with fear the person who acts with ‘dishonesty, foolhardiness, lust, or cowardice.’ However, it is not because the Epicurean believes that these acts are bad in themselves, rather because the person committing them will always fear that his actions will be discovered. The pangs of conscience that the Epicurean may suffer are simply based on the fear of being found out or discovered, either by his fellow men or by the gods, but they do not alert him to disorder in his soul. None of the virtues are pursued for their own sake, but simply as a means to an end, “Those who accept [the virtues] do so only by necessity or for the sake of a lesser evil. Far from being a primary phenomenon, [the virtues arise] out of the situation created by man's universal desire for his own advantage, if need be at the expense of others.”<sup>30</sup> For the Epicurean, conscience seems to have a role that alerts a man when his interests could be at stake because of a past action he committed.

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<sup>28</sup> Cicero. *De Finibus*, Book I, §50.

<sup>29</sup> Cicero, *De Finibus*, Book I, §51.

<sup>30</sup> Fortin, Ernest. “The Political Implications of St. Augustine's Theory of Conscience,” 138.

Cicero specifically replies to Torquatus's emphasis on a guilty conscience, calling it a weak and feeble argument.<sup>31</sup> In his *De Legibus*, Cicero offers a very different view of moral virtue, particularly of justice. While by the Epicurean account, justice is used as a means, Cicero advocates a view of nature that human beings are "born for justice, and that right is based, not upon men's opinions, but upon nature."<sup>32</sup> Justice is thus natural to human beings, and they are so constituted,

As to share the sense of Justice with one another and to pass it on to all men. And in this whole discussion I want it understood that what I shall call Nature is [that which is implanted in us by nature]; that, however, the corruption caused by bad habits is so great that the sparks of fire, so to speak, which Nature has kindled in us are extinguished by this corruption, and the vices which are their opposites spring up and are established. But if the judgments of men were in agreement with Nature, so that, as the poet says, they considered 'nothing alien to them which concerns mankind,' then Justice would be equally observed by all. For those creatures who have received the gift of reason from Nature have also received right reason, and therefore they have also received the gift of Law, which is right reason applied to command and prohibition. And they have received Law, they have received Justice also. Now all men have received reason; therefore they all have received Justice.<sup>33</sup>

It is not conscience, but rather right reason that for Cicero guides man to live according to virtue and to act justly. Moreover, this right reason is given to all human beings and is reflected in both nature and in law. He does, however, mention conscience in connection with remorse of acts of vice. A guilty conscience, according to Cicero, reflects Nature's injunction to act justly by tormenting one who acts against it.<sup>34</sup> Cicero's emphasis, especially contra the Epicureans, is that *by nature* human beings are enjoined to be just, "Justice does not exist at all, if it does not exist

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<sup>31</sup> Cicero. *De Finibus*, Book II, §53 and 54.

<sup>32</sup> Cicero. *De Legibus*. Trans. Clinton Walker Keyes. (Cambridge, MA: Harvard University Press, 1943), Book I, § X, 28.

<sup>33</sup> Cicero. *De Legibus*. Book I, § XI, 33.

<sup>34</sup> Cicero. *De Legibus*. Book I, § XIII, 40. Itaque poenas luunt non tam iudicii (quae quondam nusquam errant, hodie multifariam nulla sunt, ubi sunt, tamen persaepe falsa sunt), set ut eos agitent insectenturque furiae non ardentibus taedis sicut in fabulis, sed angore conscientiae fraudisque cruciatu. Quodsi hominess ab iniuria poena, non natura arcere deberet, quaenam sollicitudo vexaret impios sublato suppliciorum metu?

in Nature,” or perhaps more properly “in our natural inclination to love our fellow-men.”<sup>35</sup> What we see in Cicero are several important developments. First, he insists that virtue and particularly justice are not means to an end or for the purpose of serving utilitarian ends, but are natural to human beings and in accordance with *right* reason. This right reason is based upon law that is applied to command and prohibition as quoted above. These developments we will see are incorporated into Aquinas’s account of conscience, especially as it relates to the natural law.

## B. Aristotle and Conscience

The Classical author who is the most influential on Aquinas’s thought is Aristotle, and it is my argument that of the Classical sources, Aristotle’s work contributed most significantly to Aquinas’s theory of conscience. Such a consideration is not typically explored by scholars, as many believe that Aristotelian natural right and Aquinas’s natural law are based upon two opposite sources, viz. natural insights and observation of the world and special revelation, respectively. Ross J. Corbett puts it succinctly, “Natural law does require...that its contents be knowable by natural lights, meaning without special revelation.”<sup>36</sup> But is such a ‘natural law’ found in Aristotle’s work? The key discussion on natural law and natural right is found in Aristotle’s treatment of political justice in Book V of the *Nicomachean Ethics*. Aristotle states that “What is just by nature in the political sense can be subdivided into what is just by nature and what is just by convention.”<sup>37</sup> What is just by nature, while “not dependent upon any human opinion for its being right,”<sup>38</sup> is “nevertheless changeable, as are all things human.”<sup>39</sup> For Aristotle, what is just or right by nature is tied to a particular regime, and while it may change,

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<sup>35</sup> Cicero. *De Legibus*. Book I, § XV, 42.

<sup>36</sup> Corbett, Ross J. “The Philosophic Context of the Development of Natural Law.” Paper Presented at the 2012 Midwest Political Science Association Meeting, Chicago, IL. Retrieved from: <http://conference.mpsanet.org/OnlineDirectory/Search.aspx?section=34&session=1>. It is worth noting that Corbett believes that the key discussion on natural law in Aristotle can be found in books II and III of the *Nicomachean Ethics*.

<sup>37</sup> Aristotle. *Nicomachean Ethics*, 1134b

<sup>38</sup> Jaffa, Harry V. *Thomism and Aristotelianism*, 174.

<sup>39</sup> Aristotle. *Nicomachean Ethics*, 1134b.

there is a regime that is best by nature in all circumstance. The critical point here is that natural right is tied to *political* justice.<sup>40</sup> Unlike natural law, natural right as it is contingent upon political regime; it is changeable, and further, it is not necessarily accessible to all and may not necessarily inform moral choices. For example, Ross Corbett writes, “Not all morally serious people would agree that it was originally a matter of indifference whether one sacrificed a goat or two sheep (cf. *Nicomachean Ethics* 1134b 25-35). All morally serious people do agree, on the other hand, that some things are just wrong. The question is, what are they, and how do we articulate them?”<sup>41</sup>

Aquinas supplies an answer in *synderesis*, or the special natural habit by which we know the first practical principles.<sup>42</sup> This special natural habit informs our conscience by working to “induce to good and prevent evil.”<sup>43</sup> However, Harry Jaffa and other scholars find this claim untenable, pointing out that Aristotle simply does not use the term *synderesis* (or more properly *syneidesis*) and, Aristotle has a very different notion of natural right than Aquinas’s natural law.<sup>44</sup> Jaffa points to Aquinas’s commentary on the *Nicomachean Ethics*. Again, let us consider the passage from Book V where Aristotle distinguishes between natural right and legal right. Both are contained in political justice. Aristotle’s text reads: “What is by nature just has the same force everywhere and does not depend on what we regard or do not regard as just.”<sup>45</sup> In his commentary on just this sentence, Aquinas interprets Aristotle in the following manner:

First [Aristotle] explains natural justice in two ways: in one way according to its effect or power, saying that that justice is natural which everywhere has the same force and power to induce to good and prevent evil. This happens because nature, the cause of this justice,

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<sup>40</sup> Cf. Aristotle. *Nicomachean Ethics*, 1135a.

<sup>41</sup> Corbett, Ross J. “The Question of Natural Law in Aristotle.” *History of Political Thought*. Vol. 20 (2): 2009, 234.

<sup>42</sup> Cf. Aquinas, Thomas. *Summa Theologiae*, I, Q. 79, Art. 12, Corpus.

<sup>43</sup> Aquinas, Thomas. *Commentary on the Nicomachean Ethics*. Trans. C.I. Litzinger, O.P. (Notre Dame, IN: Dumb Ox Books, 1993), Lecture XII on Book V. §1018, p. 325.

<sup>44</sup> Jaffa, Harry V. *Thomism and Aristotelianism*, Chapter VIII.

<sup>45</sup> Aristotle. *Nicomachean Ethics*, 1134b.

is the same everywhere among all men.... In the other way he explains this justice according to its cause, when he says that natural justice does not consist in what seems to be, i.e. it does not arise from human conjecture but from nature. In speculative matters there are some things naturally known, like indemonstrable principles.... Likewise in practical matters there are some principles naturally known as it were, as evil must be avoided, no one is to be unjustly injured, theft must not be committed and so on...<sup>46</sup>

Aristotle of course makes no mention in this passage or in any previous or subsequent part of the *Nicomachean Ethics* that natural justice induces to good and prevents evil, nor that there are naturally known principles of practical reason to direct human beings in practical moral matters. Jaffa accuses Aquinas of imputing his own religiously-based agenda of natural law onto Aristotle. The evidence of *synderesis* or of natural law, Jaffa argues, is simply not present in Aristotle's corpus. What is most troubling for Jaffa is the statement of a natural and unchangeable notion of good. If the good is unchangeable, then a statesmen will be rendered unable to respond to situations that may require him to "reluctantly [deviate] from what is normally right in order to save the cause of justice and human itself."<sup>47</sup>

Mary M. Keys argues that Aquinas's version of natural law (including the natural habit of *synderesis* by which we know its unchangeable principles) owe more to the Patristic (and especially Augustinian) tradition than to Aristotle because of the insight of man's *transpolitical* end.<sup>48</sup> Vernon Bourke more emphatically states that the *synderesis* principle stating that "good should be done and evil avoided" is found in the Scriptures in Psalm 33:15: *Diverte a malo et fac bonum*. Bourke argues that the first thinker to ascribe this rule to the content of *synderesis* is Alcuin, who drew from Augustine's commentary on Psalm 33 in his *Ennarrationes in Psalmos*.

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<sup>46</sup> Aquinas, Thomas. *Commentary on the Nicomachean Ethics*. Lecture XII on Book V. §1018

<sup>47</sup> Strauss, Leo. *Natural Right and History*, 162. Cf. also pages 25-27 above. Interestingly, Jaffa offers an example where Strauss does not. Jaffa considers the issue of Aristotle's endorsement of birth control and abortion to curb population growth as one example when a statesman may need to deviate from what is normally right. Something that Jaffa leaves out of that analysis is Aristotle's own appeal to something higher than a statesman's concern about population growth, for according to Aristotle, birth control and abortion must be lawfully regulated depending upon when life and sensation begin. (Cf. Aristotle's *Politics*, 1335b).

<sup>48</sup> Keys, Mary M. *Aquinas, Aristotle, and the Promise of the Common Good*, 117.



Thus, he concludes that the underlying formulation of *synderesis* must be attributed to Augustine, rather than to Aristotle or any other pre-Christian thinker: “It seems that people not influenced by the Bible have little to say about the *synderesis* rule. One may wonder, then, just how ‘natural’ is our knowledge of this basic imperative.”<sup>49</sup> While the exact formulation “pursue good and avoid evil” may not be found in Greek philosophical sources, one may point to Plato’s *Republic*, specifically the myth of Gyges (Book II, 359c-362a), the myth of Er (Book X, 614b-621d), and indeed the entire life of Socrates as a witness to pursuing what is good and avoiding what is evil. In Aristotle’s work, we see in the opening lines of the *Politics* and the *Nicomachean Ethics*, respectively, an emphasis on the human pursuit of the good:

Every state is a community of some kind, and every community is established with a view to some good; for everyone always acts in order to obtain that which they think good. But, if all communities aim at some good, the state or political community, which the highest of all, and which embraces all the rest, aims at good in a greater degree than any other, and at the highest good.<sup>50</sup>

and

Every art or applied science and every systematic investigation, and similarly every action and choice seem to aim at some good; the good, therefore, has been well defined as the things at which all things aim.<sup>51</sup>

Here we see Aristotle emphasizing the primacy of good in *practical* matters. Further, Bourke does not address the connection that Thomas Aquinas makes between the principle of *synderesis*,

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<sup>49</sup>Bourke, Vernon J. *Joy in Augustine’s Ethics*. The St. Augustine Lecture, 1978. Ed. Robert P. Russell, O.S.A. (Villanova: Villanova Press, 1978), Appendix V, 105. Cf. Bourke, Vernon J. “The Background of Aquinas’ Synderesis Principle.” *Graceful Reason: Essays in Ancient and Medieval Philosophy Presented to Joseph Owens, CSSR*. Ed. Lloyd P. Gerson. (Toronto: Pontifical Institute of Medieval Studies, 1983), 346-360. Here, Bourke does mention that Aquinas cites Aristotle in the *ST I-II*, 94, 2 in stating that “good is what all desire.” However, Bourke argues that this formulation is too general and does not adequately give the principle of *synderesis* to pursue good and avoid evil. Here, he also points to an Augustinian origin for this formulation.

<sup>50</sup>Aristotle. *Politics*.1252a.

<sup>51</sup>Aristotle. *Nicomachean Ethics*. 1094a. I am indebted to John J. Schrems’s article “A Reexamination of Harry V. Jaffa’s *Thomism and Aristotelianism*” in *The Political Science Reviewer* 18: (1988), 163-195 for pointing out this primacy of good in Aristotle’s two major works in political science.

human inclinations, and human experience. Perhaps Aquinas's treatment of these components will make the *synderesis* principle, natural law, human choice, and even conscience more generally applicable to common human experience than they might initially appear to be.

Michael B. Crowe acknowledges some key elements of Aristotle's thought to Aquinas's formulation of *synderesis* and *conscientia*, but argues that this contribution is limited:

Most closely concerned with the development of natural law theory are some of the general positions adopted by Aristotle in epistemology. There is his conception of the *intellectus agens* as a natural light which enables us to have right knowledge of the first principles. With this may be compared the doctrine concerning the intuitive reason brought into play in the acquisition of the first principles of moral reasoning. There is here some affinity with the scholastic teaching on *synderesis* and the habit of first practical principles but, as will be seen, it cannot be pushed too far.<sup>52</sup>

For Crowe, this affinity with *synderesis* in Aristotle comes from Aquinas's using an Aristotelian argument to prove that it cannot err. For example, in *De Veritate*, Aquinas answers the question regarding whether *synderesis* can err with the following argument:

Consequently, all changeable things are reduced to some first unchangeable thing. Hence, too, it is that all speculative knowledge is derived from some most certain knowledge concerning which there can be no error. This in the knowledge of first principles, in reference to which everything else which is known is examined and by reason of which every truth is approved and every falsehood rejected. If error could take place in these, there would be no certainty in the whole of knowledge which follows. As a result, for probity to be possible in human actions, there must be some permanent principle which has unwavering integrity, in reference to which all human works are examined, so that permanent principle will resist all evil and assent to all good. This is *synderesis*, whose task is to warn against evil and incline to good.<sup>53</sup>

According to Crowe, the argument that Aquinas gives to prove of the existence and infallibility of *synderesis* is decidedly Aristotelian, but the terminology is not found in Aristotle. Given this

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<sup>52</sup> Crowe, Michael B. *The Changing Profile of the Natural Law*. (Martinus Nijhoff: The Hague, 1977), 20.

<sup>53</sup> Aquinas, Thomas. *De Veritate*. Trans. James V. McGlynn, SJ. (Chicago: Regnery, 1953), Q. 16, art. 2. Parallel passages can be found in the *Summa Theologiae*, I, Q. 79, art. 12 and in *Scriptum in libros IV Sententiarum*, II, D. 24, art.2 and 3.

preponderance of evidence that illustrates the idea of conscience *not* being present in Aristotle (and perhaps even inimical to Aristotle's work as Jaffa suggests), how may it be argued that Aristotle's influence is an essential part of Aquinas's theory of conscience?

Some scholars, such as Hayden Ramsay, suggest that perhaps this matter warrants another look and a different approach. He does not argue that the word *synderesis* can be found in Aristotle or that moral principles are both naturally known and unchangeable in Aristotle's moral theory: to do so simply cannot be verified. It may be helpful to recall that much of the development of Aristotle's moral theory develops because of his objection of Plato's identification of virtue and knowledge. Charles McCoy explains:

Plato was prompted to hold the Doctrine of Ideas because he had observed that all knowledge takes place through some kind of similitude, and that since it is a fact that things understood in the intellect are understood under conditions of immateriality and immobility, it seemed to him that things must similarly exist in themselves. The consequence of this view was that all knowledge was reduced to a kind of metaphysics, which itself bore the imprint of purely logical being. Now the contribution of Aristotle was to show that while it is true that all knowledge takes place through some kind of similitude, the conditions of immateriality and immobility under which the intellect receives the species of material and movable bodies does not imply that these latter are themselves without matter: for what is received by the knower is received according to the mode of the recipient.<sup>54</sup>

To illustrate the point, there exists no over-arching, unchangeable Form of Humanity, but only individual, embodied, concrete particular human beings. We only experience particular human beings, but somehow we understand that each *person* falls into the category of *human being* and not into the category of cat or of tree. What might such an approach to human knowledge have to do with morality?

To begin to answer these questions, it is worth noting a similarity between Aristotle and the Christian theologians who developed the theoretical language of conscience. The theoretical

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<sup>54</sup> McCoy, Charles N.R., *The Structure of Political Thought*, 29-30.

framework of conscience develops as an attempt to reconcile a tension between human knowledge, human action, and human choice. A key text in Scripture that theologians point to is Romans 7:15, “For that which I work, I understand not. For I do not that good which I will: but evil which I hate, that I do.” The theory of conscience progresses along this investigation of the interior separation in the human psyche between knowledge and action, or to put it another way: it is a confrontation with the problem of evil experienced both in oneself and in society. This tension is explored in Plato’s work as well as in the work of Aristotle. Aristotle investigates this problem when he examines the topic of ‘moral weakness’ in book VII of the *Nicomachean Ethics*. Aristotle here critiques the Socratic-Platonic view that “no one acts contrary to what is best in the conviction that what he is doing is bad, but through ignorance of the fact that it is bad.”<sup>55</sup> In other words, in his investigation of moral weakness, Aristotle criticizes the Platonic connection between virtue and knowledge; only those who truly have no knowledge of what is good will act contrary to it. Rather, he recognizes, much like the Pauline insight, that those who are morally weak are capable of “[deliberation] but do not abide by their decisions.”<sup>56</sup> Thus, questions about the nature of conscience are explored because of the problem of evil: how is it that evil exists in the world if we know what is right? How does evil exist in *me* when *I* know what is right? Further, what sources exist to avoid evil and to enable individual to pursue good? How does our *knowledge* affect our choices and our actions?

This experience of evil in the world is a common human experience, and the language of conscience was used even by the ancients to explain and to explore it. Recall that C.A. Pierce documents an extensive use of the term *syneidesis* and its grammatical variations in ancient Greek popular culture. Marietta states that it is a way of knowing. Perhaps, instead of

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<sup>55</sup> Aristotle. *Nicomachean Ethics*, 1145b.

<sup>56</sup> Aristotle. *Nicomachean Ethics*, 1152a.

contrasting natural right to natural law and in doing so conclude that Aristotle does not posit a concept of *synderesis*, or any knowledge of the first practical principles, we may consider Ramsay’s approach to the investigation of conscience, viz. that on closer examination, “we may find that conscience is ultimately grounded not in Christian theology and Stoic morals, but in *logos* itself, the experience of reason as the Greek and later philosophical traditions understood this.”<sup>57</sup> It is this sense of reason—a robust reason that is capable of discerning good and bad, right from wrong and choosing actions in accordance with that discernment—that establishes the theoretical foundation for moral actions, and more specifically, for conscience. This classical understanding of reason, shared with many thinkers like Aquinas, points to an “experiential order that has been there all along.”<sup>58</sup> The ‘experiential order’ is guided by conscience, and although Aristotle never explicitly mentions the nomenclature of conscience, many important foundational elements of it are established in his work. First, in the Platonic and Aristotelian tradition, there is an emphasis on the *interiority* of the human person and on how an individual’s internal order of the soul affects the order of a political society. The notion of conscience as Aquinas develops it shifts to focus on the interiority of the human person, “where that individual is always responsible to others, whether individuals or communities.”<sup>59</sup> This point is easily discerned, as Aristotle himself tells that the student of politics must know about the interior workings of the human soul, and offers his reflections on the virtues in the *Nicomachean Ethics* as a prologue to his *Politics*.<sup>60</sup> Before inquiring into what the best regime might be, one must know something about what the best human being and the best human life ought to be. Aristotle inherits this theoretical framework from both Plato and Socrates before him. Second, Aristotle’s

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<sup>57</sup> Ramsay, Hayden. “Conscience: Aquinas—with a Hint of Aristotle.” *Sophia*. 40: (2), 2001, 19.

<sup>58</sup> Walsh, David. *After Ideology: Recovering the Spiritual Foundations of Freedom*. (Washington, D.C.: Catholic University of America Press, 1990), 263.

<sup>59</sup> Keys, Mary M. *Aristotle, Aquinas, and the Promise of the Common Good*, 124

<sup>60</sup> Cf. *Nicomachean Ethics*, 1181b.

philosophical anthropology that a thing's nature (and more specifically—a *person's* nature) is teleological, and that it “not only provides the end to which a thing is directed, but *also the sources from which a thing achieves its telos*: things that exist by nature have interior principles ordering them toward their ends.”<sup>61</sup> For example, Angela McKay argues that Aquinas's understanding of nature, for which he depends heavily on Aristotle, provides critical insight on this point, because “for Aquinas, as for Aristotle, nature provides things not merely with the end that they are ordered to, but *with the very principles that allow them to arrive at their ends*.”<sup>62</sup> One could argue that these principles are contained in the primary level of conscience, *synderesis*, which orders a human person to his end. Finally, the very idea of a moral law that has its foundation in *rational* directedness to pursue goods that promote human flourishing and human happiness is heavily drawn from Aristotle; this makes the human good intelligible, and especially influences Aquinas's understanding of practical reason and the virtue of prudence.

Let us first consider Aristotle's view of nature. Angela McKay builds her case for an Aristotelian foundation of *synderesis* by turning first to Aristotle's *Physics* and to the Aristotelian account of nature that underlies Aquinas's own formulation of human nature. For both Aristotle and Aquinas, everything that exists in nature contains “a principle and a cause of being moved or of rest in the thing to which it belongs primarily and in virtue of that thing, but not accidentally.”<sup>63</sup> There is a final cause or end to which everything in nature tends. In his commentary on the *Physics*, Aquinas states, “It is of the nature of an end for the sake of which

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<sup>61</sup> McKay, Angela. “Synderesis, Law, and Virtue.” *The Normativity of the Natural: Human Goods, Human Virtues, and Human Flourishing*. Pp. 33-44. Ed. Mark J. Cherry. Part of the of the *Philosophical Studies in Contemporary Culture* series, Volume 16: Springer. 2009, 34. Emphasis mine.

<sup>62</sup> McKay, Angela. “Synderesis, Law, and Virtue,” 33.

<sup>63</sup> Aristotle. *Physics*. Trans. Hippocrates G. Apostle. (Bloomington: Indiana University Press, 1969), Book B, 192b.

something comes to be.”<sup>64</sup> Thus, the end of something is the very reason for a thing’s existence. However, nature itself contains those principles of motion and rest that direct a thing to its end, “To truly understand what it is for something to have a nature, one must understand nature not only in terms of a thing’s end, but in terms of nature’s ability to direct them to their ends.”<sup>65</sup>

What might this look like in the context of *human* nature?

First, Aquinas, like Aristotle, defines the human person as a rational agent whose actions tend toward some end, i.e. human beings are by nature teleological creatures. He cites Aristotle’s *Physics*, giving the familiar argument that “all things contained in a genus are derived from the principle of that genus. Now the end is the principle in human operations.”<sup>66</sup> Aquinas further explains *how* a human being acts toward an end and precisely what principle exists in the human person directing him toward his end, “Now man differs from irrational animals in this, that he is master of his actions. Wherefore those actions are properly called human of which man is a master.”<sup>67</sup> By what means is a human person capable of being ‘master of his actions’? According to Aquinas, a person is master of his actions through the exercise two faculties, viz. the reason and the will. Let us concentrate first on reason. According to Aquinas, reason is a power of the soul that is synonymous with the intellectual power that functions “by way of inquiry and discovery” to advance “from certain things simply understood—namely, the first principles; and again by way of judgment returns by analysis to first in principles in the light of which it examines what it has found.”<sup>68</sup> First principles are the beginning points of human inquiry, for “they are from the beginning and cannot be reduced to anything previous.”<sup>69</sup>

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<sup>64</sup> Aquinas, Thomas. *Commentary on Aristotle’s Physics*. Trans. Richard J. Blackwell and Richard J. Spath. (New Haven: Yale University Press, 1963), Book II, Lecture 4.

<sup>65</sup> McKay, Angela. “Synderesis, Law, and Virtue,” 34.

<sup>66</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 1, Art.1, Corpus.

<sup>67</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 1, Art.1, Corpus.

<sup>68</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 79, Art. 8, Corpus.

<sup>69</sup> Aquinas *Commentary on the Nicomachean Ethics*. Lecture XII on Book V §137.

Further, human reason is a principle of action by which human beings act to achieve their end.

In the *Summa Contra Gentiles*, Aquinas explains:

Now, there is no question that intellectual agents act for the sake of an end, because they think ahead of time in their intellects of the things which they achieve through action; and their action stems from such preconception. This is what it means for an intellect to be the principle of action. Just as the entire likeness of the result achieved by the actions of an intellectual agent exists in the intellect that preconceives it, so, to, does the likeness of a natural resultant pre-exist in the natural agent; and as a consequence of this, the action is determined to a definite result.<sup>70</sup>

However, it is not by rational powers alone that a human person is moved toward his end. Free will (which will be addressed in the subsequent section of this chapter on Augustine's contribution to conscience) directs the rational animal toward his end, as the will, according to Aquinas, is connected to reason by its function as the rational appetite.<sup>71</sup> David Burrell succinctly explains:

Willing is for Aquinas a rational appetite. Humankind's inclination to its proper end follows upon a person's grasp of that goal.... This appetite for a goal follows upon perceiving that something is a desirable end, but perceiving alone could not generate the wanting. In this respect, will and intellect remain distinct. As Aquinas sees it, willing is meant to incline towards the goods which reason indicates.<sup>72</sup>

What has not yet been determined, however, is precisely the end to which reason and will direct the human person. Following Aristotle, Aquinas determines that the final end and perfection of the human person is happiness, "Now a man's excellence is in proportion, especially, to his happiness, which is man's perfect good; and to its parts, i.e., those goods by which he has a certain share of happiness."<sup>73</sup> Some of those goods by which a human person

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<sup>70</sup> Aquinas, Thomas. *Summa Contra Gentiles*, Book III, 2, §6.

<sup>71</sup> Cf. Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 1, Art.2, Corpus.

<sup>72</sup> Burrell, David. *Aquinas on God and Action*. (Notre Dame, IN: University of Notre Dame Press, 1978), 123.

<sup>73</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 2, Art.2, Corpus.



attains happiness are the virtues.<sup>74</sup> But the question arises, how are the virtues present in the human person? According to Aristotle, virtues are not present in the human person by nature, although he states that “we are by nature equipped with the ability to receive them, and habits bring this ability to completion and fulfillment.”<sup>75</sup> Aristotle does not give any specific explanation about precisely *how* human beings are equipped by nature to receive the virtues (particularly the moral virtues), and Aquinas develops this further by proposing that “in man’s reason are to be found instilled by nature certain naturally known principles of both *knowledge and action* (i.e. first principles of speculative and practical reason respectively), which are the nurseries of intellectual and moral virtues.”<sup>76</sup> Human beings have a natural aptitude for virtue, and the special habit of practical reason, which guides human beings about what to be done, i.e. human action, is called *synderesis*. *Synderesis* then becomes for Aquinas the starting point or the “foundation for [practical] reason to rest upon;”<sup>77</sup> it is part of that which guides human beings toward their end. Since *synderesis* is a special natural habit, it includes those principles that enable human nature to attain its proper end. As Angela McKay concludes, *synderesis* “provides the explanatory force behind man’s natural desire for the good of reason, and it is this natural habitual knowledge that provides the foundation for all further reasoning about moral matters. It is primarily this natural habitual knowledge, together with the light of reason, that enables man to create in himself the dispositions that order him toward the good of reason.”<sup>78</sup>

Let us next consider Aquinas’s emphasis on human reason as the starting point for moral knowledge and action. This is a critical point, as Aquinas, drawing from Aristotle, emphasizes that what is good is both knowable and intelligible. Yet, if we accept that all human beings

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<sup>74</sup> Cf. *Summa Theologiae*. I-II, Q. 55, Art.3; I-II Q. 57, Art. 2, reply to objection 2; Q. 58, Art. 5, Corpus;

<sup>75</sup> Aristotle. *Nicomachean Ethics*, 1103a.

<sup>76</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 63, Art.1, Corpus.

<sup>77</sup> McKay, Angela. “Synderesis, Law, and Virtue,” 35.

<sup>78</sup> McKay, Angela. “Synderesis, Law, and Virtue,” 42.

possess knowledge of certain universally intelligible moral principles, then we have to grapple with the problem of moral evil. For example, consider Aristotle's account of the incontinent man in Book VII of the *Nicomachean Ethics*. Aristotle makes a distinction between the man who is self-indulgent and the man who is morally weak or incontinent: "For a self-indulgent person is led on by his own choice, since he believes that he should always pursue the pleasure of the moment. A morally weak man, on the other hand, does not think he should, but pursues it, nonetheless."<sup>79</sup> Aristotle attempts to explain the division in the morally weak person between knowledge of a moral good and the inability to act according to one's knowledge, which he states is "the defeat of reason in moral weakness."<sup>80</sup> To put this into perspective, it will be helpful to briefly outline the structure of the human soul and more specifically the activity of human reason in the soul according to Aristotle.

In Book I of the *Nicomachean Ethics*, Aristotle posits that the soul consists of two basic elements, the rational and the irrational. These two basic elements exist in a hierarchy with the rational guiding the activities of the soul (activities such as choice and deliberation). The irrational is subdivided into the vegetative, the appetitive or irascible (i.e. the passions) and reason is further subdivided into two component parts, viz. the *dianoetic* or deliberative faculty and the *noetic* faculty by which man grasps first principles. Corresponding to these two parts of the soul are two sets of virtues, the moral virtues, which are attained through experience and habit and restrain the irrational part of the soul; and the intellectual virtues, which are attained through education and learning and form the rational part of the soul.<sup>81</sup> The specific nature of the human person is reason, as reason differentiates human beings from all other beings. Reason

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<sup>79</sup> Aristotle. *Nicomachean Ethics*. 1146b, 20.

<sup>80</sup> Aristotle. *Nicomachean Ethics*. 1147a.

<sup>81</sup> Cf. Aristotle. *Nicomachean Ethics*. 1102a5-1103a10.

guides human beings by “[exhorting] them to follow the right path and to do what is best.”<sup>82</sup>

Thus, we have an important emphasis on reason’s ability to guide human beings in *practical* matters by doing something very akin to the role of conscience: an exhortation to follow what is right and best. This sounds similar to the Thomistic formulation that *synderesis* induces to good and murmurs at evil (*instigare ad bonum et murmurare de malo*).<sup>83</sup>

But Aristotle is perhaps not as clear about a natural habit of containing the first principles of practical reason. He is clear that there is a part of the soul (*nous* in Greek and *intellectus* in Latin) that contains the first principles of speculative reason, and he does make a distinction between *nous* and the kind of deliberative function that directs practical matters. He posits that “there are three elements in the soul which control action and truth: sense perception, intelligence (*nous*), and desire.”<sup>84</sup> Aristotle points out here, however, that sense perception, intelligence, and desire direct *both* our actions and truth. He goes on to explain:

Of these sense perception does not initiate any action. We can see this from the fact that animals have sense perception but have no share in action. What affirmation and negation are in the realm of thought, pursuit and avoidance are in the realm of desire. Therefore since moral virtue is characteristic involving choice, and since choice is a deliberate desire, it follows that, if the choice is to be good, the reasoning must be true and the desire correct. This then is the kind of thought and the kind of truth that is practical and concerned with action. On the other hand, in the kind of thought involved in theoretical knowledge and not in action or production, the good and the bad state are, respectively, truth and falsehood; in fact the attainment of truth is the function of the intellectual faculty as a whole. But in intellectual activity concerned with action, the good state is truth in harmony with correct desire.<sup>85</sup>

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<sup>82</sup> Aristotle. *Nicomachean Ethics*. 1102b15.

<sup>83</sup> This formulation is found throughout the works of Aquinas, including (but not limited to) throughout the *Summa Theologiae* (e.g. I, Q. 79, Art. 12, Corpus), his commentary on the Book of Romans, his *Disputed Questions on Truth* and his *Disputed Questions on the Virtues*. He uses this formulation in many places where he does not explicitly mention the term *synderesis*.

<sup>84</sup> Aristotle. *Nicomachean Ethics*. 1139a.

<sup>85</sup> Aristotle. *Nicomachean Ethics*. 1139a.

Aristotle gives several important elements here that Aquinas develops. First, he draws a parallel between the function of *nous*, that by which we know the first principles of speculative reason, and the function of what Aquinas calls *synderesis*, that by which we know the principles of practical reason. Affirmation and negation in the realm of *nous* are parallel to pursuit and avoidance in the realm of human actions or *praxis*. This very language of pursuit and avoidance certainly illustrates that for Aristotle, the language of moral choice and guidance for human action is a rational activity. Therefore, reason provides a fundamental moral framework as rational norms that direct pursuit of human goods. However, as Douglas Kries points out, reason cannot initiate action on its own; it needs something more.<sup>86</sup> Aristotle introduces two other elements: choice and desire. Moral actions involve choice, which Aristotle defines as a *deliberate desire*. Further, he connects the attainment of truth in speculative matters with the attainment of good in practical matters and connects truth and good action with the disposition of an appropriately ordered *desire* that pursues a good or avoids what is not good. While moral actions are ultimately grounded in reason, they require that which is not rational, *desire*, for their attainment. But this desire must be appropriately ordered through reason, thereby establishing a rational foundation for moral inquiry and pursuit of human goods.

There is another important piece of evidence that points toward foundational ideas about conscience in chapter 8 of book VI of the *Nicomachean Ethics*. It is a passage wherein Aristotle explains the distinctions between practical wisdom or prudence (*phronesis*), intelligence (*nous*), and scientific knowledge (*episteme*),<sup>87</sup> and it is perhaps the foundation upon which Aquinas builds the idea of *synderesis* as the special habit containing the first principles of practical reason. Aristotle writes:

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<sup>86</sup> Kries, Douglas. *The Problem of Natural Law*, 34.

<sup>87</sup> I am indebted to Douglas Kries' *The Problem of Natural Law* for pointing out the passage, Thomas's interpretation of this passage, and the corresponding passage in the *Summa Theologiae*. Cf. pages 36-38.

They [scientific knowledge and practical wisdom] have some agreement with understanding [i.e. intelligence]. Understanding indeed concerns those principles requiring no proof. But prudence deals with a singular ultimate, an object not of scientific knowledge but of a kind of sense—not that by which we perceive proper sensible—but the sense whereby in mathematics we perceive the external triangle (to which we conform our reasoning).<sup>88</sup>

Aristotle seems unclear on the exact relationship between these three modes of knowledge and Aquinas interprets him as explaining that, “both science (*episteme*) and prudence (*phronesis*) are receptive of, or in contact with understanding (*nous*), i.e. have some agreement with it as a habit of principles.”<sup>89</sup> Here Thomas gives no further explanation except in saying that understanding “concerns certain principles or ultimates” that are “indemonstrable...[and] cannot be established by reason but become immediately known in themselves.”<sup>90</sup> Prudence, on the other hand, deals with “a singular practicable that must be taken as a principle in things to be done.”<sup>91</sup> Aquinas makes no mention however of *synderesis* as that which contains the first indemonstrable principles of practical reason. All that Aquinas has established here is that understanding (*nous*) and prudence or practical wisdom (*phronesis*) are somehow receptive of one another by having ‘some agreement’ as a “habit of principles.”

If we turn to the *Summa Theologiae*, Aquinas gives a more detailed explanation about the relationship between prudence (*phronesis*) and understanding (*nous*). In the *Secunda Secundae*, he explicitly asks the question, “Whether understanding [i.e. *nous*] is a part of prudence?”<sup>92</sup> In the third objection to this article, Aquinas points precisely to Book VI of the *Nicomachean Ethics*, “Prudence is about singular matters of action (*Ethics* vi, 7) whereas understanding takes

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<sup>88</sup> Aristotle. *Nicomachean Ethics*, 1142a.

<sup>89</sup> Aquinas, Thomas. *Commentary on Aristotle's Nicomachean Ethics*. Book VI, Lecture VII, §1214.

<sup>90</sup> Aquinas, Thomas. *Commentary on Aristotle's Nicomachean Ethics*. Book VI, Lecture VII, §1214.

<sup>91</sup> Aquinas, Thomas. *Commentary on Aristotle's Nicomachean Ethics*. Book VI, Lecture VII, §1214.

<sup>92</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 49, art. 2.

cognizance of universal and immaterial objects (De Anima iii, 4). Therefore understanding is not a part of prudence.”<sup>93</sup> In the corpus of the article, Aquinas explains:

Understanding denotes here...the right estimate about some final principle, which is taken as self-evident: thus we are said to understand the first principles of demonstrations. Now every deduction of reason proceeds from certain statements which are taken as primary: wherefore every process of reasoning must needs proceed from some understanding. Therefore, since prudence is right reason applied to action, the whole process of prudence must needs have its source in understanding. Hence it is that understanding is reckoned a part of prudence.<sup>94</sup>

Interestingly, Aquinas does not use the language of *synderesis* in this passage, and it is yet to be determined how prudence and *synderesis* work together to direct human action. What we see here is further evidence of a *rational* basis for morality, and one that is known naturally to all human beings. Since prudence (or practical wisdom) exercises the faculty of reason, it must ‘proceed from some understanding.’ He goes on to explain how this process occurs, and in this passage we do see a variation of the language of *synderesis* (i.e., pursue good and avoid evil), although it is here lumped together with *nous*, whereby we know the first speculative principles:

The reasoning of prudence terminates...in the particular matter of action to which...it applies the knowledge of some universal principle. Now a singular conclusion is argued from a universal and from singular proposition. Wherefore reasoning of prudence must proceed from a twofold understanding. The one is cognizant of universals, and this belongs to the understanding (*nous*) which is an intellectual virtue, whereby we know naturally not only speculative principles, but also practical universal principles, such as ‘One man should do evil to no man,’ as shown above.<sup>95</sup>

This passage is reminiscent of Aquinas’s commentary on Aristotle’s *Nicomachean Ethics* whereby he states that prudence and *nous* are somehow receptive of one another, but he still does

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<sup>93</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 49, art.2, Obj. 3.

<sup>94</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 49, art.2, Corpus.

<sup>95</sup> Here, the text points to another passage from the II-II, Q. 47, art. 6. In this question on prudence “whether prudence determines the end of the moral virtues,” Aquinas does mention *synderesis*. The quotation above is from *Summa Theologiae*, II-II, Q. 49, art. 2, ad 1.

not go into depth about the role of *synderesis*. The relationship between understanding (*nous*), practical wisdom (*phronesis*) and *synderesis* still remains to be determined.

What has become evident from the preceding analysis is that for Aquinas, our consciences, guided as they are by *nous*, *phronesis*, and *synderesis* are “not just knowledge of propositions about morality.”<sup>96</sup> They inform our actions and choices, require a kind of desire to move us into action, and enable us to pursue our good and final end—happiness. While even a cursory glance at the sources certainly proves that Aristotle does not use the terminology of *synderesis* or *syneidesis*, there is a foundation in Aristotle’s work that lays an essential foundation for Aquinas’s development of conscience and the over-arching principles of natural law. It does not mean that Aristotle explicitly acknowledges the natural law, but rather that his work is not inimical to such a development. Aquinas certainly had textual evidence upon which to base his assertion that there exists a natural habit by which we know the first principles of practical reason. Further, developing a theory of conscience to help describe theoretically and conceptually the function of a common human experience does not have to be an aberration of what Aristotle intended to do. In fact, it is by following Aristotle’s own methodology, with a basis in human inclinations and experience, that Aquinas is able to do so. However the lack of a terminology being found in Aristotle must necessarily point us beyond him. Aquinas provides not simply “another way to read Aristotle, but a way to think with Aristotle and beyond him.”<sup>97</sup> Let us then turn to consider those thinkers ‘beyond Aristotle’ who have also importantly contributed to Aquinas’s development of conscience.

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<sup>96</sup> Ramsay, Hayden. “Conscience: Aquinas—With a Hint of Aristotle,” 22.

<sup>97</sup> Schall, James V. “The Uniqueness of the Political Philosophy of Thomas Aquinas.” *Perspectives in Political Science*, 26 (Spring 1997), 85-91. Obtained from <http://georgetown.edu/faculty/schallj/11.htm>.

## II. Theoretical and Historical Background

### A. Patristic Sources: Origins of ‘Synderesis’ in the work of St. Jerome

When we consider the Scholastic version of conscience, we must begin by understanding the term *synderesis*, as we have now established that the Scholastics debated and developed the idea of conscience within the framework of these two terms *synderesis* and *conscientia* and how they are related to one another. According to scholars, the debate about the relationship between *synderesis* and *conscientia* predates Thomas’s work and “that the medieval debate was originally spurred by the introduction of the strange term *synderesis* into the conversation, and that the term entered the discussion by means of an enigmatic passage in Jerome’s *Commentary on Ezekiel*.<sup>98</sup> As we know, the term *synderesis* is of rather obscure origins because it is a corruption of the Greek term *syneidesis*. Scholars such as D. Odon Lottin and Jacques de Blic have shown that the corruption took place somehow in the copying of Jerome’s *Commentary on Ezekiel*.<sup>99</sup>

The passage from Jerome’s *Commentary on Ezekiel* is from the beginning of the book of Ezekiel in the Old Testament. In the first chapter, Ezekiel describes a vision from the God of Israel wherein he sees a creature with four different faces and four wings. The creature is comprised of four faces, that of a man, a lion, an ox (or calf), and over all of these, an eagle. The passage reads as follows:

And as for the likeness of their faces: there was the face of a man, and the face of a lion on the right side of all the four: and the face of an ox, on the left side of all the four: and the face of an eagle over all the four.<sup>100</sup>

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<sup>98</sup> Kries, Douglas. “Origen, Plato, and Conscience (‘Synderesis’) in Jerome’s Ezekiel’s Commentary.” *Traditio*. Vol. 57 (2002), 67.

<sup>99</sup> Greek word and meaning from Davies, W.D. “Conscience.” *The Interpreter’s Dictionary of the Bible*, 672. On the corruption of the term, cf. Jacques de Blic. “Syndérèse ou Conscience?” *Revue d’Ascétique et de Mystique*. 25: 1949.146-157 and D. Odon Lottin. *Psychologie et Morale Aux XII et XIII Siècles*. Louvain, Belgium: Abbaye du Mont César. Vol. II, 1948. Cf. pp. 103-105.

<sup>100</sup> Ezekiel 1: 10. *Similitudo autem vultus eorum. Facies hominis et facies leonis a dextris ipsorum quatuor, facies autem bovis a sinistris ipsorum quatuor, et facies aquilae desuper ipsorum quatuor*. Latin from Jerome’s Vulgate and English translation from Douay-Rheims.



Jerome immediately gives an interpretation of Ezekiel’s vision following the Book of Revelation, viz. that the four faces are symbols referring to the four Evangelists, Matthew, Mark, Luke, and John.<sup>101</sup> He then references alternative interpretations by those who follow the foolish wisdom of the philosophers (*philosophorum stultam sequuntur sapientiam*) and by many who joined with Plato (*plerique juxta Platonem*). Douglas Kries suggests that Jerome identifies those following the foolish philosophers with those following Plato; however that evidence is not clear in Jerome’s text. Who may be such followers of Plato? According to Kries, Origen adopted Plato’s tripartite division of the soul in his own theological anthropology and connected with the Pauline anthropology of spirit, soul, and body in 1 Thess. 5:23.<sup>102</sup> Kries then makes a connection between Origen’s theological anthropology and Plato’s tripartite division of the soul. Kries argues his case by explaining that in the following passage from Jerome, Jerome is actually referring to Origen’s Platonic interpretation of this passage, which he himself translated from Greek into Latin.<sup>103</sup> The passage reads:

And most, following Plato, assign the rational, irascible, and concupiscible parts of the soul—which he calls the *logikon*, the *thumikon*, and the *epithumetikon*—to the human, the lion, and the calf. They posit reason, reflection, mind, deliberation, and wisdom as the same power and place it in the citadel of the brain. But savageness, anger, and violence, situated in the gallbladder, they place in the lion. Next, lust, avarice, and the desire for all the pleasures they place in the liver, that is in the calf, who cleaves to the works of the

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<sup>101</sup>Super quod quid nobis videretur in supradicio pleniusque in Apocalypsi Joannis herum animentium species ac nomina referentur ad quattuor Evangelia. Quibus quomodo posit omnium animalium description coaptari tentabimus suo loco dicere. Alii vero qui philosophorum stultam qui sequuntur sapientiam, duo hemisphaeria in duobus templi Cheribum, nos et Antipodas quasi supinos et cadentes hominens suspicantur. Plerique, juxta Platonem, rationale animae, et irascitivum, et concupiscitivum, quod ille λογικόν et θυτήρησις et επιθυμητικόν vocat, ad hominem et leonem ac vitulum referent... Quartamque ponunt quae super haec et extra haec tria est, quam Graeci vocant συντήρησις, quae scintilla conscientiae in Cain quoque pectore, postquam ejectus est de paradise, non extinguitur, et qua victim voluptatibus vel furore, ipsaque interdum rationis decepti similitudine, nos peccare sentimus. Quam proprie aquilae deputant, non se miscentem tribus, ded tria errantia corrigentem, quam in Scripturis interdum vocari legimus spiritum ‘qui interpellat pro nobis gemitibus inerrabilibus’ (Romans 8: 26).

Jerome, *Commentary on the Prophet Ezekiel in Fourteen Books*. Book I, cap. I, 10D. Obtained from [http://www.documentacatholicaomnia.eu/02m/0347-0420,\\_Hieronymus,\\_Commentariorum\\_In\\_Ezechielem\\_Prophetam\\_Libri\\_Quatuordecim,\\_MLT.pdf](http://www.documentacatholicaomnia.eu/02m/0347-0420,_Hieronymus,_Commentariorum_In_Ezechielem_Prophetam_Libri_Quatuordecim,_MLT.pdf)

<sup>102</sup> Kries, Douglas. *The Problem of Natural Law*, 11.

<sup>103</sup> Cf. Kries, Douglas. “Origen, Plato, and Conscience (‘Synderesis’) in Jerome’s Ezekiel’s Commentary.”

earth. And in the fourth part, which the Greeks call *syneidesis*, above and beyond these three. This is the spark of conscience, which is not extinguished even in the breast of Cain after he was ejected from paradise. It is through this that, occasionally having been deceived by an imitation of reason itself when overcome by the pleasures or by fury, we realize that we ourselves sin. This fourth part they refer especially to the eagle, which does not mix with the other three but corrects them when they err...<sup>104</sup>

Jerome never names Origen in this passage, nor refers to any specific passage from his work, and his reasons for including this interpretation seem unclear, since earlier in the passage he seems to endorse the interpretation of the four creatures representing the four evangelists.

Whether Jerome cites this interpretation approvingly or disapprovingly is unclear from the text. Whatever his intentions were, Jerome preserves a very influential philosophical and theological anthropology, and he particularly preserves an important element of Origen's anthropology that tremendously influences the Scholastic ideas about conscience. The Platonic division of the three parts of the soul Jerome explains as corresponding to three symbolic creatures: reason with the man; the 'spirited part' with the lion; and the passions with an ox or a calf. But above and beyond all of these is the eagle, the 'spark of conscience' that does not mix with reason, the 'spirited part,' or the passions, but rather corrects them when they are in error. In a homily on this passage of Ezekiel, Origen makes this same argument, although he does not here mention *syneidesis*, "By 'man' its rational part is being indicated; by 'lion' its irascible part; by 'calf' its desirous part. But the 'spirit' who presides to help...is over all three faces. For in another passage the eagle is declared, so that through the eagle he signifies the presiding spirit of the soul."<sup>105</sup> The eagle that presides over the soul appears to have pride of place, even over and above human reason. Conscience is thus elevated as an important component part of the human

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<sup>104</sup> Kries, Douglas. *The Problem of Natural Law*, 7, 9. Translation is Kries's.

<sup>105</sup> Origen. *Origen: Homilies 1-14 on Ezekiel*. Trans. Thomas P. Scheck. Homily 1, p. 45. *Ancient Christian Writers*. Ed. Dennis D. McManus. No. 62. (New York: Newman Press, 2010). Origen here does not go into detail about conscience, but gives an explanation in his *Commentary on the Epistle of to the Romans*. Cf. Kries, Douglas, "Origen, Plato, and Conscience," 78.

person—of the human soul, and much of the Scholastic debate centers upon how it relates to the other parts of the soul.

The Scholastics examine conscience while grappling with the problem of human fallibility and the problem of evil. They sought to understand how human beings could live moral lives and how those lives were to be constituted. According to D.O. Lottin, the first of the medieval Scholastic scholars to refer back to this passage of Jerome is in 1152 AD by Peter Lombard, although he never used the term *synderesis*. Peter Lombard instead refers to conscience as the “*scintilla rationis*” or the ‘spark of reason’ that was not eradicated even in Cain after he slaughtered his brother.<sup>106</sup> Thus, even in Cain, the first murderer and fratricide, this ‘spark of reason’ that is that which makes him aware of the evil he has done. Conscience, then, becomes connected with human reason. While Jerome (and perhaps Origen) refers to the *scintilla conscientia*, conscience is transformed by the Scholastics into the *scintilla rationis* or the ‘spark of reason’. This change should be noted, especially when we consider that according to Jerome, conscience rules over and above human reason. What conscience becomes for the medieval Scholastic has thus shifted from what Jerome has described. About a decade after Peter Lombard, a certain *Magister* Udo returns to this passage in Jerome and uses the word *synderesis* to name that ‘higher reason’ that even in Cain could not be extinguished.<sup>107</sup> In Udo, as in Peter Lombard, *synderesis* is a kind of higher reason, differing slightly from the Origen-Jerome characterization of it as something separate from reason. This shift is also worth noting, as Augustine attributes the knowledge of our conscience to a higher reason. I have argued above that Aristotle contributes a rational basis to morality, and although he makes no explicit mention of conscience. In this next section, I will show how it is St. Augustine who connects conscience

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<sup>106</sup>Lottin, D. Odon. *Psychologie et Morale Aux XIIIe et XIIIe Siècles*. (Louvain, Belgium: Abbaye du Mont César. Vol. II, 1948), 103-104.

<sup>107</sup>Lottin, D. Odon. *Psychologie et Morale Aux XIIIe et XIIIe Siècles*, 106-107.

with human reason and how Augustine another critical component part to conscience, viz. a theory of free will.

## B. Augustine's Contribution to Conscience

Of the Patristic scholars who contributed to Aquinas's theory of conscience, Augustine is perhaps the most significant. Aquinas quotes Augustine (among others) work in his treatment of *synderesis* and *conscientia* in *De Veritate* and in the *Summa Theologiae*, and Augustine had exceptional authority among the Scholastics, much of which was transmitted through Peter Lombard's theology textbook the *Book of Sentences*. The content of Lombard's text was heavily drawn from St. Augustine's work, and Aquinas had to teach and write a commentary on Lombard's *Book of Sentences* as a prerequisite for attaining the equivalent of his doctorate in theology between 1254 and 1256.<sup>108</sup> However, Augustine himself wrote no treatise on conscience and never addressed it systematically—although the theme of conscience can be found throughout his scholarly work, his pastoral homilies and Scriptural commentaries, and even in his personal correspondence.

According to Augustine, conscience can either be good or bad, that is to say, it can approve or disprove of a person's moral actions and choices. In a letter to Caecilian, in which Augustine chastises him for a friendship with a corrupt and murderous wealthy count, Augustine strongly admonishes him that the "conscience of a wicked man, with its dread and penal shadows, outweighs not only all prisons, but even all hell."<sup>109</sup> In contrast, a person with a good

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<sup>108</sup> Cf. Vernon J. Bourke *Aquinas' Search for Wisdom*, 68-69: "Originally from North Italy, Peter [Lombard] taught theology in the Paris School of Notre Dame from about 1135-1150. He produced a textbook in theology which was a digest of the 'views' (*sententiae*) of earlier Christian writers. . . but in which 80 percent of the material was directly quoted from St. Augustine." Cf. Also M.D. Chenu *Toward Understanding St. Thomas*. Trans. A.M. Landry and D. Hughes. (Chicago, Regnery: 1964), Chapter VIII.

<sup>109</sup> Augustine. Letter 151 in *Fathers of the Church: St. Augustine: Letters*. Volume III. Trans. Sister Wilfrid Parsons, SND. (New York: Fathers of the Church, 1953), 276. Volume 20.

conscience remains luminous and pure, even in the face of grave evil perpetrated against him.<sup>110</sup> A good conscience is reward enough to a person of good moral character.<sup>111</sup> Thus far, we see no explicitly remarkable development of conscience in Augustine. However, let us examine further how Augustine treats conscience in Book I of the *City of God*. The first ten books of this work are a scathing critique on the Roman way of life and of the pagan notions of religion, virtues, and philosophy. To this effect, Augustine makes a radical critique of the revered virtue of Lucretia, the great Roman heroine who committed suicide when she was violated by the son of King Tarquin. Rather than suffer the public shame of rape, Lucretia commits suicide. Augustine rebukes this action arguing that such a punishment for evil acted against her and without her consent does not serve justice. Perhaps, he says, she was not innocent and actually consented to the violation. Thus, Augustine argues, “If she was adulterous, why praise her? If chaste, why slay her?”<sup>112</sup> Augustine turns the discussion to her own interior conscience to reveal her motives for suicide: “She killed herself for being subjected to an outrage in which she had no guilty part, it is obvious that this act of hers was prompted...by the overwhelming burden of her shame.”<sup>113</sup> This shame Augustine attributes to her pride, which made her refuse to “exhibit to men her conscience.”<sup>114</sup> Augustine speculates that because of her pride, Lucretia commits yet another more grievous crime in her suicide, and he contrasts Lucretia’s prideful disposition and faulty judgment of conscience with those of Christian women who suffered similar violations and who “declined to avenge upon themselves the guilt of others, and so add crimes of their own to those crimes in which they had no share.”<sup>115</sup> These women, argues Augustine, rather than commit the

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<sup>110</sup> Cf. Augustine, *The City of God*. Book I, chapters 19 and 22.

<sup>111</sup> Cf. Augustine. *On the Sermon on the Mount*. Book II, ch. 2 §9. <http://www.newadvent.org/fathers/16012.htm>

<sup>112</sup> Augustine. *The City of God*. Trans. Marcus Dods, DD. (Modern Library: New York, 2000), Book I, chapter 19.

<sup>113</sup> Augustine. *The City of God*. Book I, chapter 19.

<sup>114</sup> Augustine. *The City of God*. Book I, chapter 19.

<sup>115</sup> Augustine. *The City of God*. Book I, chapter 19.

crime of suicide, are consoled by the peace “within their own souls, in the witness of their own conscience.”<sup>116</sup>

The preceding example illustrates that Augustine turns pagan virtue ‘on its head’ and makes the case that it is not virtue at all—a theme he continues to expound at length in the *City of God*. He argues that a good conscience is enough to give one peace in her own soul, so long as she is not complicit with evil, even an evil as horrific as rape, which often carried with the added violation of public shame. Ernest Fortin explains that Augustine’s radically shifts the meaning of conscience to something which,

Rules all man’s life, [and] it represents a higher form of justice and makes demands that are both extensively and intensively more stringent than those of ordinary human justice. It applies not only to such actions as the law may prescribe or forbid but to the totality of man’s external actions and encompasses even his secret thoughts and desires. For, in order to be truly virtuous, it is not enough to perform that one perform the right deeds; he must also perform them for the right motives, and over these the human law has no power.<sup>117</sup>

The central political insight is that human law becomes limited in a way that Augustine’s pagan predecessors could not have comprehended or anticipated; “civil society is displaced as the locus of virtue and the object of man’s deepest and most noble attachments.... It ceases to, as it had in the pagan scheme, the sole horizon lending meaning and substance to the highest activities undertaken by its citizens.”<sup>118</sup> By this account, Augustine’s contribution to conscience has a revolutionary political impact. Let us consider in more detail how Augustine achieves it.

Augustine maintains that conscience exists in all human beings, and Augustine connects conscience both to human reason and to the desires of the human heart. Augustine believes that

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<sup>116</sup> Augustine. *The City of God*. Book I, chapter 19.

<sup>117</sup> Fortin, Ernest. “The Political Implications of Augustine’s Theory of Conscience,” 142-143.

<sup>118</sup> Fortin, Ernest. “The Political Implications of Augustine’s Theory of Conscience,” 144-145.

the promptings of conscience cannot be eradicated from the souls of human beings, a view that his contemporary Jerome shared, and Aquinas adopts:

[T]here is no soul, however wicked, which can yet reason in any way, in whose conscience God does not speak... For who but God has written the law of nature in the hearts of men?— that law concerning which the apostle says: “*For when the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves: which show the work of the law written in their hearts, their conscience also bearing them witness, and their thoughts the meanwhile accusing or else excusing one another, in the day when the Lord shall judge the secrets of men.*” And therefore, as in the case of every rational soul, which thinks and reasons, even though blinded by passion, we attribute whatever in its reasoning is true, not to itself but to the very light of truth by which, however faintly, it is according to its capacity illuminated, so as to perceive some measure of truth by its reasoning...<sup>119</sup>

Augustine offers evidence from St. Paul’s letter to Romans 2:14-15, a verse repeated throughout the work of the Scholastics to explain the natural law. In a lengthy letter written to his friend Hilarius in 414 AD, Augustine expounds the connection of the natural law to reason:

Since there is a law in man’s reason, written by nature in the heart of everyone [i.e. each person] who enjoys the use of free will, and this law suggests that a man do no evil to another which he would not wish to suffer himself, therefore according to this law all are transgressors, even those who have not received the law of Law given by Moses, of whom the Psalmist says: ‘I have accounted all the sinners of the earth prevaricators’ (Ps. 118.119)... But, all the sinners of the earth become prevaricators by transgressing against the [natural] law which is found in the faculty of reason of the rational soul in all who have attained the age of reason.<sup>120</sup>

In order to ascertain Augustine’s meaning in this passage, let us consider briefly his philosophical anthropology.

Augustine divides the human person into the ‘inner’ and ‘outer’ man. The outer man refers to “anything in our consciousness that we have in common with animals,” i.e. sensation,

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<sup>119</sup> Augustine. *On the Sermon on the Mount*. Book II, Ch. 9, §32. <http://www.newadvent.org/fathers/16012.htm>

<sup>120</sup> Augustine. *Letter 157 to Hilarius*. *The Fathers of the Church*. Volume 20. Trans. Sister Wilfrid Parsons, SND. (New York: Fathers of the Church, 1953), 331-332.

bodily growth, movement etc.<sup>121</sup> The inner man contains the mind or reason, man's *differentia specifica*, and through which he contemplates the Divine. Augustine divides the functions of the mind into higher and lower reason, *sapientia* and *scientia*. *Scientia* is knowledge pertaining to temporal matters, and *sapientia* is "the loftier reason" or 'higher reason' that makes "judgments on these bodily things according to non-bodily and everlasting meanings."<sup>122</sup> The loftier reason is able to contemplate "intelligible and unchanging truth" and can apply that truth to temporal matters.<sup>123</sup> Augustine describes this process as partnership that parallels the Christian doctrine of the Trinitarian nature of God.

Just as among all the beasts there was not found for man an assistant like himself, and only something taken from himself and formed into a consort could fill the bill, so too our mind, with which we consult the highest and innermost truth, has no assistant like it in the part of the soul we have in common with the beasts, for making use of bodily things in a way to satisfy the nature of man. And therefore something rational of ours is assigned the duty of this work, not in the sense of being divorced from the mind in break of unity, but as derived from a helpful partnership.<sup>124</sup>

The 'helpful partnership' according to Augustine is between the memory, the intellect (understanding), and the will.<sup>125</sup> Augustine adds two new elements to conscience, viz. memory and will. Memory and conscience will be discussed in the last chapter, so let us consider for the present conscience and will, and specifically for Augustine, *free* will.

In his treatise *On the Free Choice of the Will*, Augustine begins his Socratic-styled dialogue with his interlocutor Evodius asking whether God causes evil in the world. Augustine argues that human beings are able to choose freely whether to direct themselves toward eternal truths or temporal goods, and "the eternal law demands that we purify our love by turning it

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<sup>121</sup> Augustine. *The Trinity*. Trans. Edmund Hill, O.P. Ed. John E. Rotelle, O.S.A. (Hyde Park, NY: New York City Press, 2010), Book XII, §1. Cf. Augustine, *City of God*, Book XI, chapter 26.

<sup>122</sup> Augustine. *The Trinity*. Book XII, §2.

<sup>123</sup> Augustine. *The Trinity*. Book XII, §3.

<sup>124</sup> Augustine. *The Trinity*. Book XII, §3.

<sup>125</sup> Augustine. *The Trinity*. Book X, §17-19.



away from the temporal things and toward what is eternal.”<sup>126</sup> Again we see the division between that which eternal and unchanging and that which is temporal and changeable. For Augustine, willfully pursuing misdirected desires constitutes evil doing, but this is not God’s doing. In a later addendum to this work, Augustine writes, “it is indeed by the will that we sin or live rightly.”<sup>127</sup> However, Augustine contends that no efficient cause for evil can be found in the will. Evil deeds are committed by an act of will, but “it is not efficient but deficient, as the will itself is not an effecting of something, but a defect. For defection from that which supremely is, that which has less being—this is to begin to have an evil will.”<sup>128</sup> Turning from a higher good (for Augustine, that which is eternal) toward a lesser good (that which is temporal) constitutes evil. Aquinas picks up Augustine’s deficient understanding of evil. According to Aquinas, all beings by nature seek that which is good for them. Underlying Aquinas’ assertion that all beings tend toward some good is the first premise of the natural law known by the habit of *synderesis* that “good is to be done and promoted, and evil is to be avoided.”<sup>129</sup> He states:

But all things are known to flee from evil; in fact, intelligent agents avoid a thing for this reason: they recognize it as an evil thing. Now, all natural agents resist corruption, which is an evil for each individual, to the full extent of their power. Therefore, all things act for the sake of a good.<sup>130</sup>

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<sup>126</sup> Augustine. *On the Free Choice of the Will*. Trans. Thomas Williams. (Indianapolis: Hackett Publishing Company, 1993), Book I, Chapter 15.

<sup>127</sup> Augustine. “Reconsiderations of On the Free Choice of the Will” in *On the Free Choice of the Will*. Trans. Thomas Williams. (Indianapolis: Hackett Publishing Company, 1993), 127. Augustine is careful to argue that it is not will *alone* by which we are able to make moral choices for the good. At the end of his career, Augustine re-examined his written works, and in the case of this treatise, he particularly wanted to distinguish his work from the Pelagian heresy, which argued that grace was not necessary for salvation. Thus, according to Augustine, the will is only free because of the freely given gift of God’s grace. Augustine writes just after the above quoted passage: “But unless the will is liberated by grace from its bondage to sin and is helped to overcome its vices, mortal cannot lead pious and righteous lives. And unless the divine grace by which the will is freed preceded the act of the will, it would not be grace at all.”

<sup>128</sup> Augustine. *The City of God*, Book XII, 7. Cf. also Book XIV, 28 where Augustine puts his analysis into a political context.

<sup>129</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 94, art. 2

<sup>130</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, 3, §8.

According to Aquinas, that which is good is the same as that which exists. Thus, goodness and being are convertible terms. Something exists insofar as it tends toward that which is good as “every action and movement are seen to be ordered in some way toward being, either that it may be preserved in the species or in the individual, or that it may be newly acquired. Now, the very fact that of being is a good, and so all things desire to be.”<sup>131</sup> Aquinas’ understanding of being and goodness as convertible terms leaves the problem of evil with only one solution, viz. that evil has no existence in and of itself, a view he shares with Augustine. Like Augustine, he contends that moral evil occurs in an act of the human will.

The will, according to Aquinas is man’s free elective power, whereby he “desire[s] something for the sake of obtaining something else.”<sup>132</sup> In order to freely choose to pursue good, the will must be informed by *right reason*. Right reason is habituated through the exercise of virtue, “the rational powers, which are proper to man, are not determined to one particular action, but are inclined differently to many; but they are determined to acts by means of habits. . . . Therefore, human virtues are habits.”<sup>133</sup> Just as virtue habituates right reason, so vice habituates faulty reason. Thus, moral evil is a defection of the will, and it is the result of an improperly formed rational capacity, which informs the will and presents to the will something considered good, for “evil does not result from an agent cause, unless because it is deficient in power, and to that extent it is not efficient.”<sup>134</sup> However, this defect in the will “is voluntary, for to will and not to will lie within the power of the will itself. . . . Yet, such a defect of ordering is not a moral evil, for, if reason considers nothing, or considers any good whatever, that is still not sin until the

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<sup>131</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, 3, §4.

<sup>132</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 83, art. 4, corpus.

<sup>133</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 55, art.1, corpus.

<sup>134</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, 10, §7.

will inclines to an unsuitable end.”<sup>135</sup> One way to prevent defection of the will is a proper education that is aimed at formation of character, and particularly of their moral conscience. In *De Veritate*, Aquinas distinguishes between a false conscience and a correct conscience (*conscientia*, not *synderesis*). He writes that, “A correct conscience binds absolutely and perfectly.... But a false conscience...binds with some qualification and imperfectly.... For one can and should change such a [false] conscience.”<sup>136</sup> This distinction will be examined in the following chapter.

One final point on Augustine’s contribution to conscience: he does not give a systematic explanation about the relationship between reason, will, memory, and conscience, but he does give us a vision of man’s moral life in very political terms. Perhaps Augustine most famously declares this in his *City of God*:

Accordingly, two cities have been formed by two loves: the earthly by the love of self, even to the contempt of God; the heavenly by the love of God, even to the contempt of self. The former, in a word, glories in itself, the latter in the Lord. For the one seeks glory from men; but the greatest glory of the other is God, the witness of conscience.<sup>137</sup>

It is noteworthy that Augustine mentions conscience in this passage. Citizenship in the city of God glories in the one who is the witness of human conscience, and conscience is hegemonic in the city of God. Augustine describes human existence and salvation in political terms—specifically as a kind of citizenship. Yet, because of human sinfulness, made possible because of free will, the political realm will always be imperfect and laden with evil. Augustine goes to great lengths to discuss the evils of political life – even family life and friendships suffer because of sin. Wars, famines, disasters, all are a result of sin and characteristic of the city of Man. The

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<sup>135</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, 10, §17.

<sup>136</sup> Aquinas. *De Veritate*. Trans. James V. McGlynn, S.J. Chicago: Henry Regnery, 1953. Vol. II, Q. 17, Art. 5. Reply.

<sup>137</sup> Augustine. *City of God*. Book XIV, 28.

earthly city is *by its nature* limited in its scope and accomplishments. Yet, Augustine does not leave man destitute with no hope. The city of God is not of the world, but the Incarnation has brought its order (the order of grace and redemption) to the world. The city of God is in fact the best regime, although it is not achievable through any earthly politics. Only the city of God offers true peace, true justice, and true virtue.<sup>138</sup> Further, the city of God is open to all men on account of their free will, their properly ordered love, and their fundamental nature as *imago Dei*.

Each person, according to Augustine, is made in the Trinitarian image of God and is capable of choosing to do good or evil—because of the freedom of will that was given to each person as part of his nature.<sup>139</sup> For Augustine, as well for Aquinas, human beings are ordered to a specific end—the happiness that is only found in the city of God. In the world, this city is not to be found in its perfection. Human beings are endowed with tools—among them are free will, reason, memory, and conscience—to help them choose what will enable them to become citizens in the city of God; all of these tools are *themselves* free gifts of grace, according to Augustine. Thus, human happiness and the highest end exist in their fullness only *outside* the earthly city. Augustine locates the best regime outside the earthly city, which necessarily limits what the earthly city can accomplish. In doing so, he leaves the individual free to pursue that which will make him truly happy, viz. love of God, and he therefore leaves the state free from having to provide every human good. Drawing from Christian revelation, Augustine builds an important part of the foundational framework from which Aquinas draws to explain the relationship between human reason, natural law, and conscience. In the next chapter, we will examine the texts in which Aquinas develops his own theory of conscience, drawing from and incorporating these Classical and Christian elements that have been outlined.

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<sup>138</sup> Cf. Augustine. *City of God*. Book XIX, especially chapters 4, 5, 7, 8, 11, and 12.

<sup>139</sup> Cf. Augustine. *The Trinity*. Book X, 17-19. Here Augustine connects three mental acts: memory, understanding, and will with the image of the divine in the human person.

### Chapter III: Conscience in the Early Work of Aquinas: *Scriptum Super Libros Sententiarum* and *De Veritate*<sup>1</sup>

“St. Thomas’ doctrine of conscience indicates the road we must take to avoid the pitfalls of both subjectivism and a rigorous legalism. It gives unity to man’s intellectual and moral life.”<sup>2</sup>

“From all eternity the world has lain in God’s hand. From eternity He ordains the whole and the individual—the individual, that in conjunction with all other individuals it may build up the whole; the whole, that it may become the foundation, content, and task of the individual.”<sup>3</sup>

#### I. Introduction: Aquinas on Man and Politics

Now that we have examined some of the sources from which Aquinas constructs his theory of the human person, and specifically of conscience, we turn to the works in his corpus where he explicates his understanding of conscience. Thomas Aquinas outlines his most mature account of conscience in the *Summa Theologiae* in two significant places.<sup>4</sup> First, he discusses conscience in the Treatise on Man (I, Questions 75-102) and secondly in his discussion of human action in the Prima Secundae. The placement of both these treatments of conscience is significant for our inquiry, as it situates the importance of conscience in illuminating Aquinas’ philosophical anthropology.<sup>5</sup> While Aquinas in these instances is investigating the interiority of the individual human person, we will also examine more particularly how his theory points toward the necessity of human relationships for individual conscience. Aquinas discusses the function of *synderesis* again in the Treatise on Law (I-II, Questions 90-108), which also places his theory in the context of his understanding of law. The context of conscience in the Treatise

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<sup>1</sup> Thomas Aquinas’s *Scriptum Super Libros Sententiarum* or his commentary on the “Sentences” of Peter Lombard has not been translated into English. For that reason, I have included the Latin text in my footnotes. All translations were done with the aid of Peter Koritansky, Ph.D. and Alan N. Stout. Any mistakes in the translation are my own.

<sup>2</sup> Elders, L. J. “Aquinas on Conscience.” *Lex et Libertas: Freedom and Law according to St. Thomas Aquinas. Studi Tomistici*. Volume 30. *Studi Tomistici*. Proceedings of the Fourth Symposium on St. Thomas’s Philosophy. Pontificia Accademia de S. Tomasso e di Religione Cattolica. Città del Vaticano: Libreria Editrice Vaticana, 1987, 134

<sup>3</sup> Guardini, Romano. *Conscience*, 73.

<sup>4</sup> Cf. D’Arcy, Eric. *Conscience and its Right to Freedom*, 34.

<sup>5</sup> The first place where he discusses this topic is in the Prima Pars, Q. 79, articles 12 and 13. The second place is in the Prima Secundae Pars in the Treatise on Law, Qu. 94, article 1. Also important for his definition of *conscientia* is in the Prima Secundae Q. 19.

on Law is in the discussion of the natural law, which continues to be debated within our political discourse, especially regarding the social and moral issues and the role of law in defining or promoting them. The place of his theory of conscience within the context of natural law will also be critical to our examination. To get a better sense of Aquinas's understanding of law, let us first consider his brief but substantive account of human nature at the beginning of his political treatise *De Regno*. This consideration will give an overall context to help conceptualize Aquinas's contribution to politics and to highlight the significance of his theory of conscience.

Aquinas wrote *De Regno* to the King of Cyprus likely around 1267.<sup>6</sup> The work was not completed by Aquinas, and it does not contain the typical Thomistic academic disputations. Rather, it “pays more attention to the particularities of actual life than to abstract, universal political formulas.”<sup>7</sup> Aquinas wrote this little treatise around the same time as he began his Aristotelian commentaries, and he draws heavily from Aristotle's understanding of human nature.<sup>8</sup> Aquinas begins the treatise with the Aristotelian assertion that all things are ordered toward an end, as he views all nature, including human nature, as teleological. Further, Aquinas argues that, “some directive principle is needed through which the due end may be reached by the most direct route.”<sup>9</sup> It is the light of reason (*lumen rationis*) that acts as man's directive. (Aquinas also uses the image ‘light of reason’ to describe *synderesis*, the primary level of

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<sup>6</sup>Torrell, Jean-Pierre, O.P. *Saint Thomas Aquinas: The Person and His Work*. Volume I. Trans. Robert Royal. (Washington, D.C.: Catholic University of America Press, 1996), 169. The date is somewhat unsure, although Torrell states that it is most like 1267 to Hugh II of Lusignan. Although the text had been thought not authentically written by Thomas, Torrell states that up to Chapter II, book 8 has been confirmed as authored by him. Although Torrell recommends that the text not be considered a full exposition of Thomistic political theory, my analysis only looks to the first book, authored by Thomas, a concise summation of his philosophical anthropology.

<sup>7</sup> Guerra, Marc D. “Beyond Natural Law Talk: Politics and Prudence in St. Thomas Aquinas's *On Kingship*.” *Perspectives on Political Science*. (2002): 31: 1, 10.

<sup>8</sup> Guerra, Marc D. “Beyond Natural Law Talk: Politics and Prudence in St. Thomas Aquinas's *On Kingship*,” 9.

<sup>9</sup> Aquinas, Thomas. *De Regno ad Regem Cypri*. Trans. Gerald B. Phelan. (Toronto: The Pontifical Institute of Medieval Studies, 1949), Book I, Chapter I, §3.

conscience). However, it is not by the light of reason alone that human beings attain their final end:

Wherefore, if man were intended to live alone...he would require no other guide to his end. Each man would be a king unto himself under God, the highest King, inasmuch as he would direct himself in his acts by the light of reason given him from on high. Yet it is natural for man...to be a social and political animal, to live in a group.<sup>10</sup>

Aquinas maintains that human beings have some knowledge of what is good by means of reason (although not by reason alone); man is uniquely a rational animal. But as a rational animal, man has not been endowed with all that he needs for survival. Instead, he has been given reason, by means of which he is able to *learn* how to provide for himself. Yet, “one man alone could not sufficiently provide for life, unassisted.”<sup>11</sup>

According to Aquinas’s philosophical anthropology, each human person is in need of others, at least at a very basic level, i.e. human beings need each other for the bare necessities of life. But Aquinas goes further: man *qua* rational animal needs relationship with other human beings:

Man...has natural knowledge of the things which are essential for his life only in a general fashion, inasmuch as he is able to attain knowledge of the particular things necessary for human life by reasoning from natural principles. But it is not possible for one man to arrive at a knowledge of these things by his own *individual* reason [emphasis mine]. It is therefore necessary for man to live in a multitude so that each one may assist his fellows.<sup>12</sup>

Aquinas gives two significant points: first, human beings attain knowledge by means of reasoning about *natural* principles. This assertion is the conceptual foundation for Aquinas’s understanding of the natural law. Second, the reason of any one person alone is insufficient – he needs other human beings, that is to say, he needs other *rational* beings. Alasdair MacIntyre has

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<sup>10</sup> Aquinas, Thomas. *De Regno ad Regem Cypri*. Book I, Chapter I, §4.

<sup>11</sup> Aquinas, Thomas. *De Regno ad Regem Cypri*. Book I, Chapter I, §5.

<sup>12</sup> Aquinas, Thomas. *De Regno ad Regem Cypri*. Book I, Chapter I, §6.

called this philosophical anthropology one that views human persons as ‘dependent rational animals.’<sup>13</sup> We shall further explore MacIntyre’s idea toward the end of the chapter.

Additionally, this necessity for human beings to live in community with others is linked to the common good and political governance, “For where men are together and each one is looking after his own interest, the multitude would be broken up and scattered unless there were also an agency to take care of what pertains to the commonweal.”<sup>14</sup> Aquinas further asserts that political society is most fitting to the proper end human beings when it is “a multitude of *free* men,” oriented together toward the common good.<sup>15</sup> Aquinas emphasizes the multitude of free men and the common good, thereby creating a critical linkage between a political society oriented to the common good, human freedom, and law. The question for us to consider is how Aquinas’s understanding of conscience might illumine this linkage without subordinating the common good to the freedom of the individual person or vice versa.

To consider briefly Aquinas’s political ideas in our own context, many argue that American constitutionalism was established upon the tenets of the natural law is the foundation for both the common good and the protection of individual freedom. For example, the Honorable Thomas J. Brogan, Chief Justice of the Supreme Court of New Jersey from 1933 to 1946 wrote that:

The basis of our democracy is the dignity of the person and his inalienable right to liberty. Our government was established for the express purpose of protecting these

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<sup>13</sup> MacIntyre, Alasdair. *Dependent Rational Animals: Why Human Beings Need the Virtues*. (Chicago: Open Court, 1999). MacIntyre writes, “I remain in general convinced by those commentators who stressed the extent to which Aquinas in his philosophical enquiries was not just an Aristotelian, but often a keenly perceptive interpreter as well as adapter of Aristotle. But I had been misled, in part by Aquinas’s use of something like Davidson’s principle of charity in his interpretation of Aristotle, into underestimating the degree and importance of the differences in their attitudes to the acknowledgment of dependence. I was first struck by this when reading a prayer composed by Aquinas in which he asks God to grant that he may happily share with those in need what he has, while humbly asking for what he needs from those who have, a prayer, that in effect, although not by Aquinas’s own intention, asks that we may not share some of the attitudes of Aristotle’s *megalopsychos*.” P. xi.

<sup>14</sup> Aquinas, Thomas. *De Regno ad Regem Cypri*. Book I, Chapter I, §8.

<sup>15</sup> Aquinas, Thomas. *De Regno ad Regem Cypri*. Book I, Chapter I, §10.



rights, and our Constitution and Bill of Rights give eloquent demonstration of that fact. In a word, the Declaration of the Founding Fathers and our Constitution and Bill of Rights established a jurisprudence in this Country based on Natural Law.<sup>16</sup>

Ellis Sandoz concludes similarly:

It should be said that the Bill of Rights to the Constitution as conceived and adopted illustrates some higher law perspectives. It is substantively part and parcel of a tradition of common law liberty and natural law productive of what we refer to as constitutionalism or rule of law.<sup>17</sup>

It is the stance of the natural law tradition, the tradition of the *lex-ratio*, that human beings *by their nature*, that is, by their common rational and political nature, share knowledge and universal inclinations that guide their moral actions. For Aquinas, that by which human beings both know and subsequently act upon these inclinations is what we call conscience. However, for Aquinas, conscience does not mean either the universal knowledge of all objective good or the “sweeping annulment of norms and the constant extension of individual liberties to the point of complete emancipation from all order.”<sup>18</sup> Rather, his theory of conscience, and especially his understanding of the *freedom* of conscience necessitates both individual and collective responsibility which makes “possible the human coexistence of freedoms.”<sup>19</sup> This is the critical linkage between common good and human freedom that we seek to illumine in Aquinas’s work.

In each of these places where Aquinas discusses conscience, he engages the difficult questions of man’s knowledge of moral truths that are meant to guide his choices and actions. In the natural law tradition, it is the conscience that is considered the means by which a person

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<sup>16</sup> Brogan, Thomas J. “The Natural Law and the Right to Liberty.” *University of Notre Dame Natural Law Institute Proceedings, Volume IV*. Ed. Edward F. Barrett.(Notre Dame, IN: University of Notre Dame Press, 1951), 36.

<sup>17</sup> Sandoz, Ellis. “American Religion and Higher Law.” *The Politics of Truth and Other Untimely Essays: The Crisis of Civic Consciousness*. (Columbia, MO: University of Missouri Press, 1999), 106.

<sup>18</sup>Ratzinger, Joseph. “Truth and Freedom,” *Communio International Catholic Review*, 23 (1996): [www.ewtn.com/library/theology/truefree.htm](http://www.ewtn.com/library/theology/truefree.htm)

<sup>19</sup>Ratzinger, Joseph. “Truth and Freedom.”

“comes to know the basic principles of right and wrong.”<sup>20</sup> Thus, for the student of political science, these questions pertaining to conscience are especially salient for understanding Thomas’ treatment of the natural law, of law more generally, and of the common good, which according to Aquinas is the proper end of a political society. Aquinas offers the natural law teaching not for providing an account of the best political regime, but rather “to give an account of the principles that should inform the moral actions of individuals.”<sup>21</sup> His starting point for political theory is not with the regime type, but rather with the interiority of the human person, particularly of *synderesis*, the habit by which human beings know the first principles of the natural law. Thus, it will be particularly significant for us to investigate Thomas’ treatment of conscience as it is situated in the Treatise on Law in the *Summa Theologiae*.

However, the *Summa Theologiae* is not the first place Aquinas introduces conscience, nor is it the text wherein he gives the most comprehensive discussion. The first significant discussion of conscience is in his commentary *Scriptum Super Libros Sententiarum*, or the *Commentary on the Book of Sentences*, which was equivalent to Aquinas’s doctoral dissertation. *The Book of Sentences* by Peter Lombard was used in the medieval universities and particularly at the University of Paris as the textbook for advanced theology students. In this early work, Thomas begins to develop his ideas more in line with those of the then emergent Aristotelianism and less in the medieval university’s traditional thought of Neo-Platonism and Augustinianism.<sup>22</sup> This work, according to M.D. Chenu, provides the student of Aquinas with an “internal

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<sup>20</sup> Kries, Douglas. *The Problem of Natural Law*, 3.

<sup>21</sup> Guerra, Marc D. “Beyond Natural Law Talk: Politics and Prudence in St. Thomas Aquinas’s *On Kingship*,” 10.

<sup>22</sup> Cf. Bourke, Vernon J. *Aquinas’ Search for Wisdom*, 72-73. Cf. also M.D. Chenu, *Toward Understanding St. Thomas*, Chapter VIII. It is important for us to note that Aquinas does not reject what was then the dominant tradition of Augustinianism. Cf. O’Rourke, Fran. *Pseudo-Dionysius and the Metaphysics of Aquinas*. Leiden: E.J. Brill, 1992. In fact, Aquinas’s description of conscience in this early work is less clear precisely because he was still working through the different traditions of Neo-Platonism/Augustinian and the emerging Aristotelian.

[elaboration] of his thought at work,” especially as it develops in the *Disputed Questions* (*Quaestiones disputatae*) and in his commentaries on Aristotle.<sup>23</sup>

It is in one of his ‘disputed questions’ where we find the next treatment on conscience by Aquinas, viz. the *Disputed Questions on Truth* (*De Veritate*), written from 1257-1259 when Thomas was a Master of Theology. *De Veritate*, according to Vernon Bourke, illustrates the breadth of knowledge that Aquinas had assimilated as a young professor:

The Bible, ancient classical writers, many Patristics and early medieval authors, contemporary theologians and chroniclers are perhaps to be expected. But Aristotle, Porphyry, Boethius, and a dozen other philosophers now fill his pages. Nor does he neglect the Jewish and Mohammedan writers: Maimonides, Avicenna, Isaac of Israel, Algazel, Avicenna, and Averroës.<sup>24</sup>

In *De Veritate*, Thomas “is developing his own explanations of reality, knowing, willing, and of truth and goodness,” and he dedicates two rather extensive questions to conscience.<sup>25</sup> There is another, less studied place where Aquinas treats the topic of conscience, viz. in his commentary on St. Paul’s letter to the Romans. According to Thomist scholar Jean-Pierre Torrell, Aquinas’s commentary on the scriptural letter to the Romans contains perhaps his most important teachings on conscience, although there is no scholarly consensus on the time period when this particular commentary was written.<sup>26</sup> His scriptural commentaries on St. Paul’s writings were written in two periods of Aquinas’s life: between 1259 and 1268 and then again toward the very end of his life, between the years of 1272 and 1273.<sup>27</sup> Jean-Pierre Torrell argues that Thomas probably composed this commentary on Romans in the latter period toward the end of his life, and James

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<sup>23</sup> Cf. Chenu, M.D. *Toward Understanding St. Thomas*, 272

<sup>24</sup> Bourke, Vernon J. *Aquinas’ Search for Wisdom*, 95.

<sup>25</sup> Bourke, Vernon J. *Aquinas’ Search for Wisdom*, 96.

<sup>26</sup> Cf. Jean-Pierre Torrell’s *Saint Thomas Aquinas: Spiritual Master*, Volume 2. Trans. Robert Royal. (Washington, D.C.: Catholic University of America Press, 2003), 317, footnote 25. See also Torrell, Jean-Pierre. *Initiation à Saint Thomas d’Aquin: Sa Personne et Son Oeuvre*. Éditions Universitaires Fribourg Suisse: Éditions Du Cerf Paris, 1993. Pp. 496-497.

<sup>27</sup> Torrell, Jean-Pierre. *Initiation à Saint Thomas d’Aquin: Sa Personne et Son Oeuvre*. (Éditions Universitaires Fribourg Suisse: Éditions Du Cerf Paris, 1993), 496-497

Weisheipl concurs that it was likely written between 1270 and 1272.<sup>28</sup> The commentary on Romans is an important text to examine not only because Aquinas discusses conscience, but also because he discusses the natural law and its theological grounding in St. Paul's letter to Romans.

In each of his discussions of conscience, Aquinas categorizes it as constituted by two distinct 'levels,' *synderesis* and *conscientia*. The Greek term *synderesis*, as previously explained, remains untranslated in English and is found primarily in the New Testament writings of St. Paul as *syneidesis*, although it also appears in Classical Greek philosophy and in the Greek Patristic Church fathers.<sup>29</sup> To summarize the previous chapter, the use of *synderesis* and its grammatical variations by the Classic philosophers confers an awareness (consciousness) and a sense of remorse or approval for a past action called 'judicial conscience,' that is to say; it is what judges an individual's past actions, but does not necessarily have the connotation of a guide to choosing right action. The corresponding Latin term used by the pre-Christian Romans, *conscientia*, is used more frequently and is used especially by Cicero and by the Epicureans.<sup>30</sup> It is not until St. Paul uses the Greek term in his writings that it takes on a much more *politically* significant meaning:

In eight places [in St. Paul's writings], however, we encounter something quite new. In the First Epistle to the Corinthians, the problems of certain individuals' scruples concerning the right course of action leads St. Paul to use the phrase, 'Their conscience is uneasy, doubtful;' the context shows that this defective condition is the product, not of timidity, but of ignorance too. Being a conscience, it imposes a rule of conduct; yet for all that it may be mistaken. Here then are two new features in the use of the word

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<sup>28</sup>Torrell, Jean-Pierre. *Initiation à Saint Thomas d'Aquin: Sa Personne et Son Oeuvre*. (Éditions Universitaires Fribourg Suisse: Éditions Du Cerf Paris, 1993), 365. Cf. Weisheipl, James. A., O.P. *Friar Thomas D'Aquino: His Life, Thought, and Work*. (Garden City, NY: Doubleday, 1974), 372-373.

<sup>29</sup> According to Kries, the term *synderesis* is found 30 times in the New Testament and 27 of those usages are found in St. Paul's writings or are associated with his life and work (three in Romans; eleven in Corinthians; five in letters to Timothy; one in letter to Titus; five are found Hebrews.) Two are also found in a text associated with St. Paul, viz. Acts of the Apostles. The remaining three instances are found in 1 Peter). Cf. Kries, *The Problem of Natural Law*, Chapter 1, ff. 1.

<sup>30</sup> D'Arcy, Eric. *Conscience and its Right to Freedom* New York, 8. Cf. Also Philippe Delhaye. *The Christian Conscience*, Introduction.

‘conscience’: that of having authority to legislate; and that of being subject to error. . . . St. Paul, then introduces an entirely new phase in the history of the term ‘conscience’ in moral theory, and two new features characterize his use of it. First, it is to play a *directive* role *before* an action takes place. In the pagan writers conscience did not appear on the scene until *after* the action was performed, and its role was purely *judicial*; but in St. Paul, conscience is credited with a legislative function, and it induces an obligation in the proper sense. Second, conscience is fallible: the directions it issues may be mistaken.<sup>31</sup>

According to D’Arcy, St. Paul’s usage revolutionizes the meaning of conscience that was handed down to the Scholastics. Instead of a purely judicial or past-oriented function, conscience becomes a guide, a consultant for future action. This change in meaning and usage of the term was then further developed by the early Patristic scholars such as Jerome and Augustine. The directive role of conscience is based upon a philosophical anthropology that views the human person as free to pursue his own ends by virtue of his reason and free will.

This chapter will consider Aquinas’s two earlier discussions of conscience. First, I will examine the early development in Thomas’s earliest major work, viz. *Scriptum super Libros Sententiarum* written from 1254-1256. Second, I will analyze how his thought develops in his significant and very extensive treatment of conscience in *De Veritate*, composed from 1256-1259. This work is a set of academic disputations wherein Aquinas formally answers questions put forth by students and colleagues in the university. Through the examination of Aquinas’s theory of conscience, we will identify how the foundation of the idea of “freedom of conscience” is established in Aquinas’s work, as rooted in his understanding of the human person. For Aquinas, this freedom stems from a common, shared rational nature that not only enables human beings to discern together the common good, but also requires mutual respect for the judgments of individual consciences. His view, as we shall see, differs greatly from current connotation of

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<sup>31</sup> D’Arcy, Eric. *Conscience and its Right to Freedom*, 9, 11.

‘conscience’ in political discourse. Much of contemporary public discourse views the individual conscience as comprised of “emotional tendencies and spontaneous or environment-induced feelings which often escape rational control.”<sup>32</sup> Under this definition, the claim of freedom for conscientious choice or objection diminishes, as to allow such freedom would be seen as an irrational imposition of one person’s choices onto someone else’s. And in contemporary American political discourse, this logic is increasingly cited as justification for the legislative and judicial decisions on the more contentious ‘moral’ issues such as abortion, the definition of marriage, depictions of violence in the media, etc. Further, as Roger Trigg points out, the “inherently subjective associations of ‘conscience’ ... cannot be allowed to get in the way of the alleged objective status of the rights and dignity of humans.”<sup>33</sup> However, ‘irrational’ or ‘inherently subjective’ is far from Aquinas’s description of conscience, and more importantly, it is far from his understanding of why conscience is free. In fact, as we shall see in the following sections, in each of St. Thomas’s works where he addresses the topic of conscience, what is emphasized is the role of reason for the proper functioning of conscience, “*in pura ratione consistit.*”<sup>34</sup> Thus, this analysis of these two earlier texts wherein Aquinas develops his own theory of conscience, viz. the *Scriptum Super Libros Sententiarum* and *De Veritate*, will seek to clarify the role of reason in the function of conscience and how ‘freedom of conscience’ is understood by Aquinas’s rendering.

## II. The Structure of the Soul and of Moral Thinking for Aquinas

In each of Aquinas’s major discussions of conscience, we see the classification of conscience as two-fold, constituted as *synderesis* and *conscientia*. Although this classification did not originate with Aquinas, his development of the two constituents of conscience was quite radical;

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<sup>32</sup> Elders, L. J. “Aquinas on Conscience,” 125.

<sup>33</sup> Trigg, Roger. *Equality, Freedom, and Religion*, 134.

<sup>34</sup> Elders, L. J. “Aquinas on Conscience,” 126.

“We shall find that, by espousing the cause of conscience, [Aquinas] broke with the common opinion of his immediate predecessors.”<sup>35</sup> To better understand how Aquinas espouses the cause of conscience and development of conscience, let us first consider the medieval framework within which he approaches the topic of conscience.<sup>36</sup> According to Eric D’Arcy, the debate about the nature and function of conscience before Aquinas’s contribution on the topic hinged on the interpretation of two texts, one from St. Paul and one from St. Augustine. The question that these medieval scholars explored was the extent of conscience’s freedom and authority. The text from Paul is from Romans 14: 23, “All that is not of faith is sin,” which was interpreted by the 13<sup>th</sup> century Scholastics to mean that anything that is not in accordance with the faith is against conscience and therefore sinful.<sup>37</sup> The other text was from one of St. Augustine’s sermons, which reads: “The command of a subordinate authority does not bind if it runs counter to the command of a superior in authority; as for instance, if the proconsul were to enjoin what the Emperor forbade.”<sup>38</sup> The dominant interpretation of this passage was that conscience has no authority when a superior authority would contradict its promptings. For the medieval theologian, this passage was taken to illustrate that the commandments of God supersede those of individual conscience. The debate thus turned on the questions: To what degree does conscience bind? What is the authority of conscience especially in relation to the law of God? Of Aquinas’s immediate predecessors and colleagues, some argued that conscience never binds and some that binds only provisionally.<sup>39</sup>

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<sup>35</sup> D’Arcy, Eric. *Conscience and Its Right to Freedom*, 76.

<sup>36</sup> Cf. Chapter 2 of this dissertation for the pre-Christian and early Christian contributions to conscience.

<sup>37</sup> Cf. D’Arcy, Eric. *Conscience and Its Right to Freedom*, 76-77.

<sup>38</sup> St. Augustine Sermon VI *De Verbis Domini*, cap. 8. Quoted in Eric D’Arcy *Conscience and Its Right to Freedom*, 77.

<sup>39</sup> Cf. Eric D’Arcy. *Conscience and Its Right to Freedom*, Part II, Chapter 1 and Dom O. Lottin *Psychologie et Morale aux 12e et 13e Siècles*. Louvain, 1948, Vol. 2. Pp. 379-385.

Of those who believed conscience never binds, the common opinion was that it does not bind in so far as it is erroneous, nor in so far as it is a conscience. “In so far as it is erroneous, there is no obligation to follow it.... In so far as it is a conscience, there is no obligation to follow it, for conscience *as* conscience induces no obligation.”<sup>40</sup> For those who asserted that conscience only binds provisionally, they argue that conscience only binds in morally neutral acts. According to St. Bonaventure, one of Aquinas’s contemporaries, the obligation of conscience only binds when its dictates follow the will of God.<sup>41</sup> Thus far, it would seem that the dictates of conscience ought to make no difference since the will of God always determines how human beings ought to act. Albert the Great, Aquinas’s mentor and teacher, made one important contribution to the conscience debate, viz. that:

[A]ny account of conscience must study the subjective factor.... Albert sees that any question of conscience turns attention to *subjective* states as well as objective matters; he breaks very new ground by claiming that the answer to the question is to be given, not in terms of true or false, but in terms of the subjective firmness with which the judgement of conscience is held.<sup>42</sup>

Albert the Great, Aquinas’s teacher and mentor, for the first time in the debate about conscience, emphasizes the interiority of the *individual* person in order to judge the moral gravity and the authority of the dictates of conscience.<sup>43</sup> However, it seems by the description above, one that emphasizes on the subjective state of a person’s conscience, might seem to imply that conscience is simply arbitrary subjectivism. How ought we to interpret this development in the debate?

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<sup>40</sup> D’Arcy, Eric. *Conscience and Its Right to Freedom*, 81. This particular opinion is that of Walter de Château Thierry who wrote his opinion between 1246-1249.

<sup>41</sup> D’Arcy, Eric. *Conscience and Its Right to Freedom*, 84.

<sup>42</sup> D’Arcy, Eric. *Conscience and Its Right to Freedom*, 84-85.

<sup>43</sup> D’Arcy, Eric. *Conscience and Its Right to Freedom*, 85.



It will help clarify the significance of this development first to explain how Aquinas outlined the different component parts of the human person, particularly those of the soul and its different functions, and then to explain his understanding of the structure of moral choice. First, Aquinas views the human person as consisting of a unity of body and soul. The body and soul are not two separate entities, but rather a “substantial unity” that comprises human nature. The human soul is particular – a rational soul – and as the form of the body it gives the human person his uniqueness *qua* man.<sup>44</sup> Aquinas makes a distinction between the body and soul, for example, “Although it is a form united to the body, the human soul nevertheless transcends all of corporeal matter, and consequently the soul cannot be brought to actual existence from the potency of matter by motion as are other forms that are immersed in matter.”<sup>45</sup> Following the new Aristotelian schema, the different elements of the soul would be classified either as a power, a habit, a law, or an action.<sup>46</sup> Aquinas, following Aristotle closely, conceptualizes different faculties or *powers* (*potentia*) of the soul based upon the operation of each part, viz. vegetative, sensitive (i.e. related to the senses), appetitive, locomotive, and intellectual.<sup>47</sup>

The soul contains certain natural powers or capacities (*potentia*) that are distinguished by the function they carry out.<sup>48</sup> In the human person, Aquinas explains, “there exists...an operation of the soul which so far exceeds the corporeal nature that it is not even performed by a corporeal organ; and such is the operation of the *rational soul*.”<sup>49</sup> According to Aquinas, there exists a hierarchy of these powers of the soul. He explains:

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<sup>44</sup> Cf. Aquinas, Thomas. *Questions on the Soul*. Trans. James H. Robb.(Milwaukee, WI: Marquette University Press, 1984), Q. 2. F.C. Copleston’s volume *Aquinas* also gives a very helpful explanation of the Thomistic account of the soul.

<sup>45</sup> Cf. Aquinas, Thomas. *Questions on the Soul*. Q. 2., ad 12. P. 62

<sup>46</sup> Hittinger, Russell. “Examination of Conscience.” *First Things*, January 2009. Obtained from <http://www.firstthings.com/article/2008/12/004-examination-of-conscience-5>.P. 3.

<sup>47</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 78, art. I

<sup>48</sup> Cf. *Summa Theologiae*. I, Q. 77, art. VIII, Corpus.

<sup>49</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 78, art.1, Corpus.

Now it has been shown above that among the powers of the soul there are several kinds of order. Therefore one power of the soul proceeds from the essence of the soul by the medium of another. But since the essence of the soul is compared to the powers as active principle and as final, and as a receptive principle, either separately by itself, or together with a body; and since the agent and the end are more perfect while the receptive principle, as such, is less perfect; it follows that those powers of the soul which precede the others in the order of perfection and nature, are the principles of the others.... For we see the senses for the sake of the intelligence, and not the other way around.<sup>50</sup>

It is important to note that the powers of the soul are natural, i.e., that they exist as a constitutive element of our human nature. Further, nature ordains a hierarchy with the rational or intellectual power as the highest power of the soul. There are natural and innate, and Aquinas makes a distinction between these powers (*potentia*) and learned capacities, which he calls habits (*habitus*).<sup>51</sup> Aquinas defines a *habit* as a quality or “a disposition whereby that which is disposed is disposed well or ill, and this, either in regard to itself or in regard to another.”<sup>52</sup> Habits are deemed good or bad depending upon whether it is suited to the nature of a thing; “if we add *well* or *ill*, which belongs to the essential notion of habit, we must consider the qualities relation to the nature, which is the end.”<sup>53</sup>

However, Aquinas is careful to add an essential point, viz. that habits, though usually learned or acquired qualities or dispositions, can also be *natural*. He explains:

One thing can be natural to another in two ways. First in respect of the specific nature, as the faculty of laughing is the natural to man, and it is natural for fire to have an upward tendency. Secondly, in respect of the individual nature, as it is natural to Socrates or Plato to be prone to sickness or inclined to health, in accordance with their respective temperaments. Again, in respect of both natures, something may be called natural in two ways: first because it entirely is from the nature; secondly because it is partly from the nature and partly from an extrinsic principle.... Thus, then, if we speak of habit as

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<sup>50</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 77, art.7, Corpus.

<sup>51</sup> Pasnau, Robert. *Thomas Aquinas on Human Nature: A Philosophical Study of Summa Theologiae Ia 75-89*.(Cambridge: Cambridge University Press, 2002), 150.

<sup>52</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 49, art 2, Corpus.

<sup>53</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 49, art 2, Corpus

disposition of the subject in relation to form or nature, it may be natural in either of the foregoing ways.<sup>54</sup>

The natural habit of the intellectual power, according to Aquinas, is the *understanding* of first principles.<sup>55</sup> This assertion is an important component of Aquinas's theory of conscience, as shall be shown—especially in his explanation of *synderesis* for he proves that it is a habit of practical reason by drawing a parallel to the habit of speculative reason (i.e. understanding). Another important element of Aquinas's discussion of habit is his understanding that when it is “directed to operation...[it] is a perfection of a power.”<sup>56</sup> For Aquinas, *synderesis* is a natural habit and *conscientia* is an act following from a judgment of reason. Thus, Aquinas describes human nature—and more particularly moral choice and action within the context of the perfection of a power of the soul, viz. human reason. Robert Pasnau explains:

Aquinas conceives of...our ethical development as having two parts: a study of our innate capacities [*potentia*] and a study of our [natural] and acquired dispositions [*habitus*] for various actions.... Aquinas views the study of human nature as primarily a study of moral psychology. The nature of human beings is determined by our ultimate end, a beatific vision that requires the perfection of our intellectual and appetitive faculties.<sup>57</sup>

Understanding these terms help to clarify the significance of Aquinas's contribution to the definition of conscience, for in most of the works where he discusses conscience, he usually begins by engaging in the debate about how to classify its component parts.

For Aquinas both the appetitive and intellectual powers are directed in their operation toward perfection. Aquinas does not make a distinction between reason (*ratio*) or the intellectual powers, i.e. the power of understanding—the intellect (*intellectus*):

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<sup>54</sup>Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 51, art 1, Corpus. According to Aquinas, habits may also be natural, caused by our actions, or infused by God. Cf. I-II Q. 51.

<sup>55</sup>Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 51, art 1, Corpus.

<sup>56</sup>Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 54, art 4, Corpus.

<sup>57</sup>Pasnau, Robert. *Thomas Aquinas on Human Nature*, 162-163.

Reason and intellect in man cannot be distinct powers. We shall understand this clearly if we consider their respective actions. For to understand (*intelligere*) is simply to apprehend intelligible truth: and to reason is to advance from one thing to another, so as to know intelligible truth.... Man arrives at the knowledge of intelligible truth by advancing from one thing to another; and therefore he is called rational. Reasoning, therefore, is compared to understanding, as movement is to rest, or acquisition to possession.... [H]uman reasoning (*rationatio*), by way of inquiry and discovery, advances from certain things simply understood (*intellectis*)—namely, the first principles; and again by way of judgment returns by analysis to first principles, in light of which it examines what it has found.<sup>58</sup>

Conscience (*synderesis* and *conscientia*) is rooted in the intellectual powers—thus they are connected to reason. In particular, Aquinas contends that the “first principle in the practical reason is one founded on the notion of good, viz. that *good is that which all things seek after.*”<sup>59</sup>

The natural habit by which human beings know the first principle of practical reason is *synderesis*. The judgment of practical reason take place according to “what immediately precedes and generates action...[namely] that form of deductive reasoning which commentators [of Aristotle] have called ‘the practical syllogism.’”<sup>60</sup> While Aristotle himself does not use this expression, the use of the syllogism to explain moral action, the medieval schoolmen drew drawn from his work. For example, in Book VII of the *Nicomachean Ethics*, Aristotle describes what is called the syllogism in the following terms:

There is one judgment that is universal; and another concerned with particulars that are properly the objects of sense. However, since one formal reason is present in such judgments, the mind necessarily comes to a conclusion, while in the practical order it must immediately be directed to operation.”<sup>61</sup>

In the matter of a practical reason—a decision that may involve the use of conscience, the major premise of a syllogism is a ‘first principle,’ or something that is ‘simply understood’ by a person

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<sup>58</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 79, art 8, Corpus.

<sup>59</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 94, art.2, Corpus.

<sup>60</sup> MacIntyre, Alasdair. *Whose Justice? Which Rationality?*,129.

<sup>61</sup> Aristotle, *Nicomachean Ethics*, 1147a.

as self-evident. A particular experience or situation is included in the minor premise of syllogism. There are those who find this structure of practical reason objectionable, stating that the “practical principles form a closed, consistent deductive system, beginning with a priori first principles concerning the essence or nature of man. These principles are objectively valid, independently of the desires and judgments of human agents.”<sup>62</sup> However Aquinas, as a student of Albert the Great, turns the study of ethical action toward the interior movement of the individual person—particularly to the freedom of the individual person. It would be unjust to charge him with such an accusation that his understanding of moral action entails a ‘closed, consistent deductive system’ imposed on human beings.

Rather than a closed system of objective principles imposed on human beings, Aquinas sees moral choice as a process of reasoning that must take into account the particulars of a given situation. Yet, human beings are not left without any means to evaluate the particulars of a situation. The structure of moral choice in the form of a syllogism helps to illumine Aquinas’s own understanding of conscience and its relation to practical wisdom and prudential judgment. According to Aquinas, through a process of reasoning that includes a “way of judgment [that] returns by analysis to the first principles in light of which it examines what it has found,” a conclusion is reached as to a course of action.<sup>63</sup> Kevin Flannery describes the practical syllogism as “reasoning about goods” that has a particular logic and structure to order those goods and produce a conclusion as to how we act with respect to those goods.<sup>64</sup> He gives the following example of a practical syllogism: Premise 1: Covering leads to need-satisfaction.

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<sup>62</sup> Flannery, Kevin. *Acts Amid Precepts: The Aristotelian Logical Structure of Thomas Aquinas’s Moral Theory*. (Washington, DC: Catholic University Press, 2001), 3. Flannery is citing Martha Nussbaum’s critique in her *Aristotle’s ‘De Motu Animalium.’*

<sup>63</sup> Cf. *Summa Theologiae* I: Q. 79 Art. 8, Corpus.

<sup>64</sup> Flannery, Kevin. *Acts Amid Precepts*, 8-9.

Premise 2: Cloak leads to covering. Conclusion: Thus, cloak leads to need-satisfaction.<sup>65</sup> In this particular example, the movement is toward the first premise, that is, to satisfy a need. It is a bottom-up movement, rather than a top-down movement wherein ‘a priori first principles concerning the essence or nature of man’ determine the outcome. The practical syllogism is also ‘defeatable’ by extraneous factors, for if “all the cloaks are contaminated with poisonous insects [then] practically speaking, one is not bound to get a cloak.”<sup>66</sup> The structure of practical reason is more closely connected to human experience and is good-preserving rather than necessarily truth-preserving (as is the goal of theoretical reason).<sup>67</sup> But this does not mean that practical reason has no concern with truth seeking. It is critical to understand that practical reason still does “depend upon the first principles—which are the ends, i.e. the goods that humans seek.”<sup>68</sup> The goods that humans seek are not unconnected to the truth about their nature and essence, and prudential judgment and the careful considerations of conscience aid the individual human person in discerning what goods ought to be pursued or avoided. Indeed for Aquinas, practical knowledge seeks truth as it relates to action.<sup>69</sup> Let us then turn to Aquinas’s particular discussions of conscience for Aquinas’s argument on this connection.

### III. Thomas’s Early Development of Conscience: Conscience in the *Scriptum Super Libros Sententiarum*

In his first major scholarly endeavor, *Scriptum Super Libros Sententiarum*, Aquinas considers the nature and function of conscience in two places: the first in a discussion of free will and the second in a question regarding willing good or evil. Both of these treatments of conscience appear in the second book of his commentary, which treats human nature, and

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<sup>65</sup> Cf. Flannery, Kevin. *Acts Amid Precepts*, 9.

<sup>66</sup> Flannery, Kevin. *Acts Amid Precepts*, 10.

<sup>67</sup> Cf. Flannery, Kevin. *Acts Amid Precepts*, 12-15.

<sup>68</sup> Flannery, Kevin. *Acts Amid Precepts*, 17.

<sup>69</sup> Aquinas, Thomas. *De Veritate*. Q. 22, art 10, ad 4.

specifically ‘corporeal nature.’<sup>70</sup> The placement of his argument within a context of free will is a significant detail, as in later work, Aquinas places his discussion of *synderesis* and *conscientia* in a broader discussion about human reason. However, reason and will are intimately related for Aquinas, as the will chooses what reason proposes to it as a good to be pursued. Aquinas’s initial focus in this text is to determine whether *synderesis* and *conscientia* are to be classified as a power, a habit, or an act, classifications of the functions of parts of the soul that were drawn from the newly translated Aristotelian texts. How both *synderesis* and *conscientia* were classified mattered significantly in the medieval debate, as the classification of conscience stood at the center of man’s moral knowledge, choice, and responsibility. In this early work Aquinas embeds his treatment of *synderesis* into the framework of higher and lower reason and of free choice of the will, emphasizing contribution of Augustine’s work.<sup>71</sup>

Yet, according to scholars, this work already deviates from the dominant Augustinian hermeneutic of theology that was the norm in the medieval universities.<sup>72</sup> We will examine several ways in which Aquinas deviates from the Augustinian tradition by emphasizing Aristotelian insights, particularly insights about the nature and function of reason. His *Scriptum Super Libros Sententiarum* is one of the first works wherein he begins to bring the Augustinian tradition into conversation with Aristotelian principles on the topic of conscience; “the young Aquinas...feels that he has to present and somehow defend St. Augustine’s views, but he also takes care to introduce various explanations from the Aristotelian tradition.”<sup>73</sup> However, the concept of *synderesis* was not explicitly present in Aristotle’s work, making Aquinas’s task of

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<sup>70</sup> Cf. Aquinas, Thomas. *Scriptum Super Libros Sententiarum*. Book II, Distinction 12, Prooemium. <http://josephkenny.joyeurs.com/CDtexts/Sentences2.htm#12-02>. Trans. Joseph Kenny, O.P.

<sup>71</sup> Cf. Chapter 2 of this dissertation. Aquinas’s discussion of *synderesis* in can be found in *Scriptum Super Libros Sententiarum*, Book II, Dist. XXIV, Qu. II, Art. III

<sup>72</sup> Cf. Torrell, Jean-Pierre, O.P. *Saint Thomas Aquinas: The Person and His Work*, Volume I, 39-45; Bourke, Vernon. *Aquinas’ Search for Wisdom*, Chapter 8.

<sup>73</sup> Bourke, Vernon. *Aquinas’ Search for Wisdom*, 71. This often makes Aquinas’s discussion of conscience a little bit less clear than when it appears in later work.

classifying it according to the Aristotelian typology (i.e. power, act, or habit) a difficult one. Aquinas ultimately concludes that it must be a habit, but he remains timid about proclaiming so in this work. Russell Hittinger explains: “For his part, Thomas concluded that *synderesis* is not a power (intellect) or an act of the power (conscience) or the norm of action (natural law) but rather an innate, habitual disposition to grasp the first principles of the natural law.”<sup>74</sup> And this classification has important implications:

This was a deft interpretation, allowing to Thomas to avoid conflating innate habits with innate knowledge. Like other medieval masters, Thomas knew that, for Aristotle, the intellect does not naturally know anything without experience of extramental reality, beginning in the senses. Seeing that he couldn’t front-load knowledge of moral principles ahead of experience, he hit on the solution of positing [*synderesis* as] a habit.<sup>75</sup>

While Aquinas’s ultimate conclusion that *synderesis* is a habit is clearly stated in his later works, his argument here is unsure, stating that it is either a habit or a faculty endowed with a habit.<sup>76</sup> He makes a similar comment in the following article where he argues that *conscientia* is an act, and explains the relationship between the natural law, *synderesis*, and *conscientia*: “And according to this way it is clear, just as they differentiate *synderesis*, natural law and conscience, because natural law names the very universal principles of justice, but *synderesis*, indeed, names the habit of the principles or the power with the habit; but conscience, in fact, names a certain application of the natural law to something needing to be done through the method of a certain conclusion.”<sup>77</sup> Although he seems to waver on the precise nature of *synderesis* (i.e. whether it is

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<sup>74</sup> Hittinger, Russell. “Examination of Conscience.” *First Things*, January 2009. Obtained from <http://www.firstthings.com/article/2008/12/004-examination-of-conscience-5>. P. 3.

<sup>75</sup> Hittinger, Russell. “Examination of Conscience.” *First Things*, January 2009. Obtained from <http://www.firstthings.com/article/2008/12/004-examination-of-conscience-5>. P. 3.

<sup>76</sup> Aquinas, Thomas. *Scriptum Super Libros Sententiarum*. Book II, Dist. XXIV, Q. 2, art. 3: “Et ideo dico quod *synderesis* vel habitum tantum nominat, vel potentiam saltem substitutam habitui sicut nobis innato.”

<sup>77</sup> Aquinas, Thomas. *Scriptum Super Libros Sententiarum*. Book II, Dist. XXIV, Q. 2, art. 4, Corpus: “Et secundum hunc modum patet, qualiter differant *synderesis*, lex naturalis, et conscientia: quia lex naturalis nominat ipsa universalia principia juris, *synderesis* vero nominat habitum eorum, seu potentiam cum habitu; conscientia vero nominat applicationem quamdam legis naturalis ad aliquid faciendum per modum conclusionis cujusdam.” Here,



a power or habit), Aquinas makes two significant shifts in the medieval debate about conscience. First, he emphasizes that *synderesis* is connected to the reason, and not to the will. Reason judges whether a good should be pursued and then presents this good to the will, “the will is not moved to something desired without something being set forth by the apprehension.... But reason demonstrates the intention of good or evil. Whence, since the act of the will is specified by its object, it is fitting that the act of the will proceeds according to the judgment of reason and conscience.”<sup>78</sup> This shift allows him to make this link between natural law and conscience, which Aquinas fortifies in the *Summa Theologiae*.

With respect to the second aspect of conscience, viz. *conscientia*, we see that Aquinas states clearly in this early work what he maintained throughout his later ones: *conscientia* is an act. Drawing from Book VI of Aristotle’s *Nicomachean Ethics*, Aquinas describes the structure of moral reasoning as syllogistic. *Synderesis* provides the major premise; the minor premise is supplied by what he calls ‘superior or inferior’ reason; and the conclusion of the syllogism is ‘the consideration of conscience.’<sup>79</sup> This consideration of conscience is an act that applies what Aquinas calls ‘universal knowledge’ to a particular situation.<sup>80</sup> According to L.J. Elders, the major innovation that Aquinas makes in this work is his insistence that conscience is dependent

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Aquinas was drawing on the authority of Philip the Chancellor who argued that *synderesis* was a faculty endowed with a habit. He later develops the teaching of his own teacher Albert the Great who insists that *synderesis* is a habit by which we know the first principles of practical reason, parallel to the habit of understanding, by which we know the first principles of speculative reason. Cf. Philippe Delhaye *The Christian Conscience*. Trans. Charles Underhill Quinn. New York: Desclee, 1968. Part II, Chapter 1.

<sup>78</sup> Aquinas, Thomas. *Scriptum Super Libros Sententiarum*. Book II, Dist. XXXIX, Q. 3, Art. 3, Corpus. “Voluntas autem non movetur in aliquid appetendum, nisi praesupposita aliqua apprehension....Intentionem autem boni vel mali ratio ipsa demonstrate. Unde cum actus voluntatis ex objecto specificetur, oportet quod secundum rationis iudicium et conscientiae.”

<sup>79</sup> Aquinas, Thomas. *Scriptum Super Libros Sententiarum*. Book II, Dist. XXIV, Q. 2, Art. 4. “Synderesis in hoc syllogismo quasi majorem ministrat, cujus consideratio est actua synderesis; sed minorem ministrat ratio superior vel inferior, et ejus consideratio est ipsius actus; sed consideratio conclusionis elicita, est consideratio conscientiae.” Aquinas uses this same language of ‘higher’ or ‘lower’ (superior and inferior, respectively) in his dic

<sup>80</sup> Aquinas, Thomas. *Scriptum Super Libros Sententiarum*. Book II, Dist. XXIV, Q. 2, Art. 4. “et inde dicitur conscientia, quasi cum alio scientia, quia scientia universalis ad actum particularem applicatur.”

upon reason.<sup>81</sup> Aquinas treats this issue when he asks whether an erroneous conscience is binding; in other words, if our conscience judges incorrectly, are we morally bound to act accordingly? Aquinas's starting point is that our will orients us toward the good—but the good as it is presented by reason. *Conscientia*, according to Aquinas, is a dictate of reason that moves the will toward what has been apprehended as a good to be pursued.<sup>82</sup> Thus, when conscience has judged that an act is morally good, the judgment is binding because to act against it is to act against what has been judged as good. Aquinas places tremendous *gravitas* upon the judgment of the individual human person. However, his conclusion about whether an erring conscience is binding is somewhat unsatisfactory. He contends that if someone has judged in their conscience that something ought to be done (even if it is wrong), he must do it or else he sins. He writes,

And, therefore, if someone does something which is evil in itself, and which erring reason judges good, he does not evade sin. But if he does not do it, he also falls into sin because one defect of goodness suffices for that by which one is called evil, he will either choose against a goodness that is good in a certain sense inasmuch as it is apprehended as good by the reason, or he will choose against a goodness that is good in itself.<sup>83</sup>

His solution to this moral dilemma is unsatisfactory; the man with an erring conscience should simply put aside the error. How this putting aside the error is to come about, Aquinas does not elaborate. However, despite these less than satisfactory conclusions, we should not “overlook the striking points in the treatment of...conscience” that Aquinas does put forth this work.<sup>84</sup>

Aquinas posits an important new principle, viz. “the will is to be judged by the standard of the

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<sup>81</sup> Elders, L. J. “Aquinas on Conscience.” *Lex et Libertas: Freedom and Law according to St. Thomas Aquinas. Studi Tomistici*. Volume 30. *Studi Tomistici*. Proceedings of the Fourth Symposium on St. Thomas's Philosophy. Pontificia Accademia de S. Tomasso e di Religione Cattolica. Città del Vaticano: Libreria Editrice Vaticana, 1987. P. 126.

<sup>82</sup> Aquinas, Thomas. *Scriptum Super Libros Sententiarum*. Book II, Dist. XXXIX, Q. 3, Art. 3. “Conscientia enim quoddam dictatem rationis est. Voluntas autem non movetur in aliquid appetendum, nisi praesupposita aliqua apprehensione; objectum enim voluntatis est bonum vel malum, secundum quod est imaginatum vel intellectum.”

<sup>83</sup> Aquinas, Thomas. *Scriptum Super Libros Sententiarum*. Book II, Dist. XXXIX, Q. 3, Art. 3. “Et ideo si fiat aliquid quod est secundum se malum, quod errans ratio iudicat bonum, peccatum non evitat; si autem non fiat, peccatum incurritur: quia unus defectus bonitatis sufficit ad hoc quod aliquid dicatur malum, sive desit bonitas quae est per accidens, secundum quod res apprehenditur in ratione boni, sive bonitas quae est re per se.”

<sup>84</sup> D'Arcy, Eric. *Conscience and its Right to Freedom*, 94.

good as subjectively apprehended, not as it is objectively in itself.”<sup>85</sup> Let us turn to consider how Aquinas develops this new understanding of conscience in *De Veritate*.

#### IV. De Veritate: Conscience, Reason, and the Supremacy of Conscience

In his series of academic disputations on ‘truth,’ *Disputed Questions on Truth (De Veritate)*, Aquinas gives his most extensive treatment of conscience and makes some significant shifts in his theorization. First, unlike in his *Scriptum Super Libros Sententiarum*, Aquinas places his discussion of *synderesis* and *conscientia* immediately following his discussion on reason rather than as connected to free choice. It is the emphasis on reason that makes Aquinas’s theory truly a novel approach—a point we will consider in light of Aquinas’s understanding of the human person.<sup>86</sup> Aquinas begins by again addressing the topic of whether *synderesis* ought to be considered a power or a habit. He is more conclusive in *De Veritate* than he was in *Scriptum Super Libros Sententiarum*: *synderesis* is a habit and not a power:

If *synderesis* is a power, it is either cognitive or tends to action. But it is clear that it is not simply cognitive from the fact that its act is to incline us to good and warn us against evil. Therefore, if it is a power it will tend to action. But this is obviously false, for the powers which tend to action are adequately divided into the irascible, the concupiscent, and the rational. And *synderesis* is distinguished from these.<sup>87</sup>

The distinction is an essential one. A habit, while it can be natural, still requires development, experience, and learning. Aquinas’s understanding of conscience as pertaining both to the dignity of the individual person and to the relational element of human nature hinges on whether *synderesis* is a habit or a power. Let us first consider how Aquinas makes his case. It is the role of *synderesis* to murmur against evil and to urge toward good. It is not a power, Aquinas argues, but it is associated with human reason, “for reason itself urges to good and speaks out against

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<sup>85</sup> D’Arcy, Eric. *Conscience and its Right to Freedom*, 94.

<sup>86</sup> Elders, L. J. “Aquinas on Conscience,” 126.

<sup>87</sup> Aquinas, Thomas. *De Veritate*. Q. 16, art. 1, Sed Contra 4.

evil. Therefore, *synderesis* is in no way a power.”<sup>88</sup> Drawing from Aristotle, Aquinas argues that “just as in the operative part of the soul *synderesis* never errs, so in the speculative part understanding never errs.” Put differently, Aquinas argues here a parallel between practical and speculative reason, “Now the speculative and practical reason differ in this, that the speculative merely apprehends its object, whereas the practical reason not only apprehends but causes.”<sup>89</sup>

So far, Aquinas’s theorization remains in the realm of analyzing the individual human soul, particularly human reason. But Aquinas then makes an interesting turn his argument, a turn that points to an important *relational* aspect of conscience. He draws upon Dionysius’s account of participation. Dionysius says that “divine wisdom ‘joins the ends of nobler things with the beginnings of lesser things.’ For natures which are ordained to one another are related to each other as contiguous bodies, the upper limits of the lower body being in contact with the lower limit of the higher one. Hence, at its highest point a lower nature attains to something which is proper to the higher nature and shares in it imperfectly.”<sup>90</sup> Aquinas then uses this theory to relate human nature to angelic nature. Angelic nature knows immediately without any need for “the movement of reason;” but human nature needs attains knowledge of truth through investigation of reason.<sup>91</sup> However, Aquinas argues that human beings share some participation in this angelic or intuitive and self-evident way of knowing “according to what is highest” in human nature and by means of which human beings “[know] some things at once and without investigation,” even while still needing to receive some things from sense experience.<sup>92</sup> Angelic nature contains both

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<sup>88</sup> Aquinas, Thomas. *De Veritate*. Q. 16, art. 1, Sed Contra 2.

<sup>89</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 83, art.1, Corpus.

<sup>90</sup> Aquinas, Thomas. *De Veritate*. Q. 16, art. 1, Corpus. For a parallel reading, see *Scriptum Super Libros Sententiarum*, Book II, Dist. 39, Q. 3.

<sup>91</sup> Aquinas, Thomas. *De Veritate*. Q. 16, art. 1, Corpus.

<sup>92</sup> Aquinas, Thomas. *De Veritate*. Q. 16, art. 1, Corpus. Aquinas also explicitly points out that both the philosophers (i.e. non-Christian) and the theologians posit angelic nature to exist, even if they both hold different views about the role of angels.

speculative and practical reason, as since human beings come into contact with this angelic nature, it too must have both a speculative and a practical component. Aquinas explains:

Hence it is that human nature, in so far as it comes into contact with the angelic nature, must both in speculative and practical matters know truth without investigation. And this knowledge must be the principle of all the knowledge which follows, whether speculative or practical, since principles must be more stable and certain.... This knowledge must be habitual so that it will be ready when needed.... Thus, just as there is a natural habit of the human soul through which it knows principles of the speculative sciences, which we call understanding of principles, so, too, there is in the soul a natural habit of the first principles of action, which are the universal principles of the natural law. This habit pertains to *synderesis*. This habit exists in no other power than reason.<sup>93</sup>

This passage points to several important components of Aquinas's theory of conscience. First, significantly, he makes the case for its being a habit based on the participation of human nature in something other than itself, thereby connecting *synderesis* to something outside the individual human person (thus addressing the problem of conscience as radical autonomy).

Again, we see Aquinas's emphasis on *synderesis* being a natural habit of reason. But we see even more clearly the implications of this emphasis. Aquinas argues for the existence of *synderesis* as a habit of practical reason by drawing from the Aristotelian assertion that there exists a habit of speculative reason, viz. understanding, by which we know the first principle of non contradiction. Further, this habit of practical reason enables us to know the universal principles of the natural law, which include "the eternal norms of conduct."<sup>94</sup> Is Aquinas arguing for a universal knowledge of all moral truth that is to regulate human conduct? Aquinas argues that *synderesis* is an infallible habit:

In all activities nature intends what is good and the conservation of the things which are produced through the activity of nature. Therefore, in all the works of nature, the principles are always permanent and unchangeable and preservative of right order. For, as it is said in the *Physics*: 'Principles should be permanent.' For it would not be possible

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<sup>93</sup> Aquinas, Thomas. *De Veritate*. Q. 16, art. 1, Corpus.

<sup>94</sup> Aquinas, Thomas. *De Veritate*. Q. 16, art 1, ad 9.

to have any stability or certainty in things which flow from principles if the principles themselves were not firmly established.... This is the knowledge of first general principles, in reference to which everything else which is known is examined and by reason of which every truth is approved and every falsehood rejected. If any error could take place in these, there would be no certainty in the whole of the knowledge which follows.<sup>95</sup>

If *synderesis* is a natural habit that guides human action by urging it toward good that can never err, is Aquinas naïve enough to believe that human beings agree on moral issues at all times? How would he account for the many disagreements and rival conceptions of what is good in contemporary society? Does an habitual grasp of first principles translate into a universal code of moral principles? This critique is frequently leveled at Aquinas's natural law theory, as history and experience prove otherwise. Twentieth century Thomist and natural law proponent Yves Simon was concerned that, especially after the Second World War, the revival in natural law theory could easily become ideological; "Against such powers of destruction we feel the need for an ideology of natural law.... There is a tendency to treat in terms of natural law questions which call for treatment in terms of prudence."<sup>96</sup> Simon's words are as true today as when he wrote them in the late 1950's. He stresses the importance of prudence, another critical component of Aquinas's theory of conscience that Aquinas, a component that Aquinas emphasizes in the *Summa Theologiae*. Yet, Aquinas does not argue that the natural habit of *synderesis* necessarily yields a universal morality or even a shared sense of the common good; "the agent needs the facts drawn from experience and inquiry; conclusions need to be framed in the manner of adequate propositions; and conclusions need to be applied to facts. Moreover, all

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<sup>95</sup> Aquinas, Thomas. *De Veritate*. Q. 16, art. 2, Corpus.

<sup>96</sup> Simon, Yves. *The Tradition of Natural Law: A Philosopher's Reflections*. Ed. Vukan Kuic.(New York: Fordham University Press, 1965), 23.

of these need the institutions of moral training.”<sup>97</sup> These institutions of moral training point the individual human person beyond himself toward the family, friendships, civil society, and community toward a relational aspect to conscience that informs the individual human person about the norms of moral conduct.

While Aquinas contends that *synderesis* can neither err nor be extinguished in a person, persons are still capable of differing about concepts of the good and can be mistaken in judgment. Aquinas reiterates this parallel between speculative and practical matters, “Just as in speculative matters, although a mistaken reason starts from principles, it does not derive its falsity from first principles, but the wrong use of the principles, so the same thing also happens in practical matters.”<sup>98</sup> For an error to occur or for a wrong moral choice to be made, *synderesis* itself does not fail, but rather the principles provided by *synderesis* are wrongly applied in a particular situation. This application of the principles of *synderesis* is the act of *conscientia*. Aquinas first characterizes the relational aspect of conscience, explaining that, “Knowledge which consists in comparison is actual knowledge. But conscience denotes knowledge with comparison. For one is said to be conscious (*conscire*), that is, to know together (*simul scire*).”<sup>99</sup> In his brief etymological discussion, Aquinas comes closer to pointing toward a relational aspect to conscience. Aquinas then explains that there are several ways in which *conscientia* is commonly conceptualized. That *conscientia* is considered ‘knowledge together with’ points beyond the individual human person.

Yet, *conscientia* is said to be the consciousness or awareness of an act that was done, and it is also considered to be that which judges whether an action is right or wrong. When we speak

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<sup>97</sup> Hittinger, Russell. “Examination of Conscience.” *First Things*, January 2009. Obtained from <http://www.firstthings.com/article/2008/12/004-examination-of-conscience-5>. P. 5.

<sup>98</sup> Aquinas, Thomas. *De Veritate*. Q. 16, art. 3, ad 6.

<sup>99</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art. 1, sed contra.

of *conscientia* in this latter sense, Aquinas states that it functions in two ways. First, it is that by “which we are directed through the habit of scientific knowledge to do or not to do something.”<sup>100</sup> It also functions as a judge of past action, again “with reference to the habit of knowledge” that is supplied by *synderesis*.<sup>101</sup> Aquinas thus acknowledges both the judicial and legislative functions of conscience:

But we must bear in mind that in the first application, in which scientific knowledge is applied to an act to know whether it has taken place, it is application to a particular act of sensitive knowledge, as of memory, through which we recall what is done, or of sense, through which we perceive the particular act in which we are now engaged. But in the second and third applications, by which we deliberate about what should be done, or examine what has already been done, that operative habits of reason are applied to the act. These are the habit of *synderesis* and the habit of wisdom, which perfects higher reason, and the habit of scientific knowledge, which perfects lower reason. Of these, either all are applied at the same time, or only one of them is applied.<sup>102</sup>

Aquinas identifies conscience with reason, but he uses the terminology ‘higher’ and ‘lower’ reason, following the distinction made by Augustine. Aquinas distinguishes between higher and lower reason according to whether a particular nature is higher or lower than the rational soul: “There are certain natures higher than the rational soul, and certain natures lower.”<sup>103</sup> While reason is one unified power (not several):

The soul has a different relation to both types of things, and from this the different functions are derived. For it is called higher reason in its reference to higher natures, either as contemplating their nature and truth in themselves, or as receiving from them intelligible character and a kind of model for activity. It is called lower reason in so far as it is directed to lower things either to perceive them through contemplation or to manage them through activity. Both types of nature, however, the higher and the lower, are perceived by the human soul in their common character of intelligible, the higher in

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<sup>100</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 1, Corpus.

<sup>101</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 1, Corpus.

<sup>102</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 1, Corpus.

<sup>103</sup> Aquinas, Thomas. *De Veritate*. Q. 15, art 2, Corpus.



so far as it is immaterial in itself, and the lower in so far as it is divested of matter through the activity of the soul.<sup>104</sup>

The exercise of conscience can apply to matters either of higher or lower reason, and it is through conscience (*conscientia*) that “the knowledge of *synderesis* and of higher and lower reason are applied to the examination of a particular act.”<sup>105</sup>

If *synderesis* cannot lead a person astray, how does Aquinas reconcile that human beings certainly do not agree about certain moral goods, and can themselves err in their moral judgment? It is through this very application of the knowledge that *synderesis* supplies for a particular circumstance that *conscientia* is liable to err. Attachment to certain bad habits or passions can cause an error in judgment. For example, an intemperate desire for food can cause one to eat more than he should, even if he knows it is bad for his health. Aquinas explains, “Error, however, can occur in this application in two ways; in one, because that which is applied has the error within it, and in the other, because the application is faulty.”<sup>106</sup> He contends that the syllogistic structure of moral reasoning can err either from a faulty premise or from a faulty construction of the syllogism. However, Aquinas is quick to add that the error occurs in only one of the premises, since *synderesis*, which provides the first principles, cannot err.<sup>107</sup> Aquinas explains:

We must remember that in some things conscience can never make a mistake, namely, when the particular act to which conscience is applied has a universal judgment about it in *synderesis*. For, as in speculative matters, error does not occur when we are dealing with particular conclusion which are derived directly from the universal principles and expressed in the same terms—as for instance, no one is deceived in the judgment: “This whole is greater than its part,” just as no one is deceived in the judgment: “Every whole is

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<sup>104</sup> Aquinas, Thomas. *De Veritate*. Q. 15, art 2, Corpus.

<sup>105</sup> Cf. Aquinas, Thomas. *De Veritate*. Q. 16, art 1, ad. 9; quotation from Q. 17, art.2, Corpus.

<sup>106</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 2, Corpus.

<sup>107</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 2, Corpus.

greater than its part”—so, too, no conscience can err in the judgments: “I should not love God” or “Some evil should be done.”<sup>108</sup>

If one’s conscience can be in error, does that judgment still bind a certain action? If, for example, a person with all sincerity of conscience believes that taking the life of someone else is truly a good to be pursued, is such a judgment binding? Aquinas argues that a judgment of one’s conscience, even if it is in error, is binding. If one acts against a false conscience, he sins, because even though his conclusion was wrong, his acting against his conscience violates his integrity. However, even if he acts in accordance with a false conscience, he also violates his integrity since his act was still wrong. Aquinas gives a scriptural example: “In John 16:2 we read: ‘The hour cometh, when whosoever killeth you, will think that he doth a service to God.’ Therefore, their conscience told those who killed the Apostles that they would please God by this action. But this was a mistake.”<sup>109</sup> If those who acted in this manner were mistaken, how could *not* committing murder be a violation of their consciences and therefore a bad act? Or, as Aquinas puts it, how could such a faulty judgment of conscience bind this kind of action? In both instances, a wrong is being committed against an individual or against the common good. How does Aquinas reconcile such a tension?

Aquinas takes up this challenge by considering how an exterior thing is bound, “for he who is bound must necessarily stay in the place where he is bound, and the power to go off to other places is taken away from him.”<sup>110</sup> If the judgment of conscience (whether it is correct or erroneous) is binding, then its power to bind “has place only in things which are necessary with a necessity imposed by something else.”<sup>111</sup> Conscience cannot bind by coercion, because coercion

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<sup>108</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 2, Corpus.

<sup>109</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 2, sed contra.

<sup>110</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 3, Corpus.

<sup>111</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 3, Corpus. This also points the conscience to something outside of itself.

“has no place in movements of the will, by only in physical things, because by its nature the will is free from coercion.”<sup>112</sup> Aquinas emphasizes the free will of the human person; even if his judgment is erroneous, his interior freedom *by his nature* must remain intact. Yet, a judgment of conscience still imposes necessity. How does conscience impose necessity? According to Aquinas, the judgment of conscience binds because of the *knowledge* of achieving some good or avoiding some evil, just as “no one is bound by the command of a king or lord unless the command reaches him who is commanded; and it reaches him through knowledge of it.”<sup>113</sup>

Thus, we are prompted to consider the very real possibility of ignorance or of erroneous knowledge. How and why would the judgment of conscience based on false knowledge or ignorance impose necessity on a person? In the ‘difficulties,’<sup>114</sup> Aquinas gives a seemingly impenetrable argument: God’s law always trumps false conscience; one must obey a higher authority (such as an emperor) over a lower authority (such as a proconsul). The authority of conscience is lower than God. Thus a mistaken conscience could never be above the law of God. But Aquinas argues to the contrary, arguing “sin is principally in the will [and anyone] who decides to transgress a divine commandment has an evil will.”<sup>115</sup> Thus, if a person acts knowingly against conscience, this is evil. However, if his conscience judges incorrectly “whether in things intrinsically evil or in anything at all,” and he “believes that what is opposed to his conscience is contrary to the law of God,” but disobeys his own conscience, he has still acted with an evil will.<sup>116</sup> The authority of one’s individual conscience, at least as Aquinas is presenting it here, seems to trump even a divine command, for in not following one’s conscience

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<sup>112</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 2, Corpus.

<sup>113</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 2, Corpus.

<sup>114</sup> In the academic disputations, of which *De Veritate* is one, Aquinas uses the *via negativa* style of writing in which he first presents a series of difficulties, then provides a contrary reply and explanation, and then answers each difficulty.

<sup>115</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 4, *sed contra*.

<sup>116</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 4, *sed contra*.

one violates one's own integrity with respect to what one considers intrinsically evil. However, Aquinas makes a very important remark, almost in passing: "Accordingly, although such a false conscience *can be changed*, nevertheless, as long as it remains, it is binding" [emphasis mine].<sup>117</sup>

Aquinas argues unapologetically for the respect for the judgment of the individual person's conscience, as he views that person's judgment in accordance with their personal freedom and moral integrity. But he recognizes the very real possibility that any one person's sincere and conscientious judgment can be wrong. He explains the error in the context of the syllogism; one can wrongly apply a premise for many different reasons. Even if some are not convinced about the syllogistic structure of moral reasoning with the knowledge of first principles and the major premise of the syllogism being supplied by *synderesis*, we can recall the example of Eichmann as one who judged wrongly about what was morally good.<sup>118</sup> We can also consider those who defended moral societal evils such as slavery or genocide as having a faulty or even a defective conscience. However, a faulty conscience can be changed. How does one change a false conscience? I argue that it is precisely here (i.e. change of an erroneous conscience) that the *relational* aspect of conscience is critically important. I turn to Alasdair MacIntyre's analysis in *Dependent Rational Animals* to explain this importance.

MacIntyre, like Aquinas and Aristotle, begins with an underlying vision of the human person's nature as teleological, rational, and political: each human person *by his nature* is ordered toward a particular end, he is endowed with reason to judge by what means to attain that end, and he lives in community with other human persons seeking their final end, viz. *beatitudo* that according to Aquinas, consists of relationship with God. He calls this human condition dependent, rational animality. Human beings exist in a state of dependency on other human

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<sup>117</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art. 4, Corpus.

<sup>118</sup> Cf. Chapter 1 of this dissertation.

beings for the fulfillment of their needs and flourishing, and, in a particular way, they are dependent upon others to help them become ‘independent practical reasoners.’ Aquinas shares this vision of the human person as existing in a state of dependency, that is, that man is by nature a rational animal and by means of this status he has need of relationship with other human persons.<sup>119</sup> To become an ‘independent practical reasoner’ means to be able:

To evaluate, modify, or reject our own practical judgments, to ask, that is, whether what we take to be good reasons for action really are sufficiently good reasons, and the ability to imagine realistically alternative possible futures, so as to be able to make rational choices between them, and the ability to stand back from our desires, so as to be able to enquire rationally what the pursuit of our good here and now requires and how our desires must be directed, and if necessary, reeducated, if we are to attain it.<sup>120</sup>

Young children of course need to rely upon the guidance of parents and teachers to help them develop their capacities for independent practical reasoning as they grow and mature. However, since human judgment is always subject to error, even once a person has become ‘an independent practical reasoner,’ one still needs the help of others to help correct erroneous judgments. The social relationships that we have with families, friends, colleagues, and fellow citizens enable us to have either a confirmation or a challenge to our own judgments by those who know us well.<sup>121</sup> To put this in another way, the formation of an individual conscience does not happen in isolation—we live in communities with others with whom we have relationships. The formation of one’s conscience, of both *synderesis* and *conscientia* is connected, at least on Aquinas’s account, to our practical reason. And “practical reasoning is by its nature, on the generally Aristotelian view...reasoning together with others, generally within some determinate set of social relationships. Those relationships are initially formed and then developed as the

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<sup>119</sup> Cf. Discussion of *De Regno* above.

<sup>120</sup> MacIntyre, Alasdair. *Dependent Rational Animals*, 83.

<sup>121</sup> MacIntyre, Alasdair. *Dependent Rational Animals*, 94.

relationships through which each of us first achieves and is then supported in the status of an independent practical reasoner.”<sup>122</sup>

MacIntyre, however, acknowledges that these relationships with others can lead us away from becoming an independent practical reasoner; “defective systems of social relationships are apt to produce defective character.”<sup>123</sup> There is a tension in MacIntyre: human beings are dependent rational animals who must become independent practical reasoners in order to attain their *telos*, but do so only in view of their continued dependence on others and with consideration of the common good. Acknowledgement of dependence on others, however, in no way attenuates human freedom, particularly the freedom of conscience. I argue that this dependence is a constituent part of the freedom of conscience. Aquinas deals with this tension in his final question on conscience in *De Veritate*. Here Aquinas asks the question whether one’s conscience has more authority in indifferent matters than the command of a superior.<sup>124</sup> Aquinas answers in the affirmative, placing the dignity and authority of an individual’s interior integrity and judgment of conscience over and above the authority of a superior, “a spiritual bond is stronger than a physical bond, and an intrinsic bond stronger than an extrinsic bond. But conscience is an intrinsic spiritual bond, whereas the office of the superior is physical and extrinsic, since all his authority is based on a dispensation which is limited in time.”<sup>125</sup> Although Aquinas is speaking here in the context of a religious order, it is not difficult to imagine its

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<sup>122</sup> MacIntyre, Alasdair. *Dependent Rational Animals*, 107.

<sup>123</sup> MacIntyre, Alasdair. *Dependent Rational Animals*, 102. MacIntyre explains earlier: “It is because and insofar as my judgments about myself agree with the judgments about me made by others who know me well that I can generally have confidence in them.... There are of course certain kinds of social interaction and relationship that, far from preventing imprisonment by self-deceiving phantasy, produce or reinforce it. But genuine and extensive self-knowledge becomes possible only in consequence of those social relationships which on occasion provide badly needed correction for our own judgments. When adequate self-knowledge is achieved, it is always a shared achievement.” Page 95.

<sup>124</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art. 5, “Does Conscience in Indifferent Matters Bind More than the Command of a Superior or Less?”

<sup>125</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 5, *sed contra*.

application in political life. Aquinas here advocates for the respect for the interiority of the individual human person, which no extrinsic authority can ever coerce. The dignity of the individual conscience derives a person's relation to the Divine. Aquinas states, "Even natural habits exist in us because they were put there by God. Consequently since conscience is an act proceeding from the natural habit of synderesis, God is said to have imprinted it in the way in which He is said to be the source of all knowledge of truth which is in us. For God endows our nature with the knowledge of first principles."<sup>126</sup> However, in cases of a false conscience, Aquinas asserts that although a false conscience still binds over a superior authority, "one can and should change such a conscience."<sup>127</sup> To change a false conscience, one may need the aid of others; conscience should draw one out of oneself and toward others. The relational aspect of conscience is derived from human relationships that enable us to develop the virtues in order to become independent practical reasoners, particularly the virtue of prudence. In the *Summa Theologiae*, Aquinas gives a much comprehensive account of prudence. We will next consider the account of conscience and the relationship between its judgments and the virtue of prudence as given in the *Summa Theologiae*.

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<sup>126</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 1, ad. 6, first series.

<sup>127</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art 5, Corpus.

## Chapter IV: Conscience, Law, Prudence, and the Common Good: Aquinas's Account of Conscience in the *Summa Theologiae* and *Super Romanos*

“Just as in every artificer there pre-exists a type of the things that are made by his art, so too in every governor there must pre-exist the type of the order of those things that are to be done by those who are subject to his government.”<sup>1</sup>

“The interconnection between the whole and the individual—the bracing action exercised by my individual development upon the structure of the whole, and the corresponding effect exercised by the structure of the whole upon my individual development, as a result of God's wisdom and love—is Providence.”<sup>2</sup>

### I. Reason as the Basis for Moral Choice and Freedom

As discussed in the previous chapter, one of Aquinas's major contributions to ethics in general and to conscience more specifically is his emphasis that conscience is connected to reason. Reason is the distinguishing characteristic or *differentia specifica* of the human person; and it guides the human person in pursuit of his end. According to Aquinas, reason is the summit of human liberty.<sup>3</sup> It is the role of reason “to advance from one thing understood to another so as to know intelligible truth.”<sup>4</sup> Reason is a kind of movement in understanding and directs the human person “by way of inquiry and discovery...[to] the first principles; and again, by way of judgment, returns by analysis to first principles in light of which it examines what it has found.”<sup>5</sup> By means of reason, human beings “hold dominion over [their] acts, moving [themselves] freely in order to perform [their] actions.”<sup>6</sup> In Thomas's schema, reason presents to

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<sup>1</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 93, art.1, Corpus.

<sup>2</sup> Guardini, Romano. *Conscience*, 73-74.

<sup>3</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 17, art.1, ad 2. Aquinas states as follows: “The root of liberty is the free will as the subject thereof; but it is the reason as its cause. For the will can tend freely towards various objects, precisely because the reason can have various perceptions of the good. Hence, philosophers define the free will as being a free judgment arising from reason, implying that reason is the root of liberty.” Aquinas is responding to an objection that the root of liberty is in the will. Thus, he concedes that the freedom does exist in the will (hence the very notion of ‘free will’), but that the root is within the reason, which directs the will to an object or end judged as good.

<sup>4</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 79, article 8, Corpus.

<sup>5</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 79, article 8, Corpus.

<sup>6</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 111, 1. For this explanatory section, I will turn particularly to book III of the *Summa Contra Gentiles* which includes Thomas's teaching on the relationship



the will ends to pursue by discerning goods and ordering actions according to this discernment.

Although the will freely chooses, Aquinas argues that the role of reason is primary in freely ordering goods; thus we see how Aquinas argues that the summit of human liberty exists in man's rational nature. Oscar James Brown explains:

The cardinal role of reason within the creativity and self-motion that is free judgment is radically imputable to the givenness of that hierarchical parallelism that obtains between the set order of the psychic powers and the complex plurality (also objectively observable) of available human goods – even strictly within the world of immanent or secular values. It is reason's lot, precisely to endeavor to order these several given goods among each other, not by the purely arbitrary arrangements of a despotic rule, but, rather in response to the order already discernible among the psychic faculties themselves – an order that is given.<sup>7</sup>

For Aquinas, the hierarchical structure of goods exists simply on account of the *givenness* of human nature, “Now there is a certain order of these various things that are man's goods, based on the fact that what is primary is subordinated to what is more primary.”<sup>8</sup> The ordering of goods leads human beings to their final end, which is happiness.

However, it is critical to understand Aquinas's view of human happiness as man's final end. First, as discussed above, Aquinas posits a certain ‘givenness’ of nature, and that givenness applies no less to the nature of human persons. This ‘givenness’ is on account of man's createdness, and it is not merely “order embedded in a species as though individuals are moved by a kind of physical necessity.”<sup>9</sup> Instead, it is the recognition that the nature of the human person “is not of his own making. Rather this particular is discovered through experience and through the use of self-reflective intelligence [i.e. reason], which is already operative in man

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between human freedom and Divine Providence. The work, and particularly this section, is very helpful guide to the Thomistic understanding of human freedom.

<sup>7</sup> Brown, Oscar James. *Natural Rectitude and Divine Law in Aquinas: An Approach to an Integral Interpretation of the Thomistic Doctrine of Law*. (Toronto: Pontifical Institute of Medieval Studies, 1981), 16.

<sup>8</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 108, 6.

<sup>9</sup> Hittinger, Russell. *The First Grace: Rediscovering the Natural Law in a Post-Christian World*. (Wilmington, DE: ISI Books, 2003), xxiii.

himself.”<sup>10</sup> Aquinas begins from a position of the human person as created, and he operates within a metaphysics of participation with the Divine, that is to say, rational beings—human beings, participate in the Divine Wisdom and Governance.<sup>11</sup> Although this metaphysics (and the related theology and theological-philosophical anthropology) have largely been rejected by many contemporary political theorists, it is still important to understand Aquinas’s position and to discern whether this rejection is warranted or whether it might still be valid.

Aquinas views that the human person is created by “God, Who is all ways perfect in Himself, and Who endows all things with being from His own power, exists as the Ruler of all beings, and is ruled by none other. Nor is there anything that escapes His rule, just as there is nothing that does not receive its being from Him.”<sup>12</sup> The human person, like all other created beings, is ruled by the Divine. Further, human freedom is rooted in this Divine rule and in the human person’s very created ‘givenness.’ Aquinas continues:

The result of this rule is manifested differently in different beings, depending on the diversity of their natures. For some beings so exist as God’s products that, possessing understanding, they bear likeness and reflect His image. Consequently, they are not only ruled but also are rulers of themselves, inasmuch as their own actions are directed toward a fitting end.<sup>13</sup>

Because the human person is created and bears the Divine image, he participates in the Divine governance by ruling over himself, a rule that leads him to direct the attainment of his own end. But it is precisely on account of their unique participation in the Divine governance and with the aid of God that human beings can achieve their end. The ‘fitting end’ toward which all human

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<sup>10</sup> Schall, James V. *At the Limits of Political Philosophy: From ‘Brilliant Errors to Things of Uncommon Importance.* (Washington, D.C.: The Catholic University of America Press, 1996), 188.

<sup>11</sup> Cf. Aquinas, Thomas. *Summa Theologiae* I-II, Q. 93, art. 1. Also see the introductory chapter to Russell Hittinger’s *The First Grace: Rediscovering the Natural Law in a Post-Christian World.* Wilmington, DE: ISI Books, 2003.

<sup>12</sup> Aquinas, Thomas. *Summa Contra Gentiles.* Book III, Chapter 1, 3.

<sup>13</sup> Aquinas, Thomas. *Summa Contra Gentiles.* Book III, Chapter 1, 4.

beings tend, according to Aquinas is defined in terms of *relationship* with the Divine.<sup>14</sup> Aquinas explains that, “there must some union of things for which there is one end, as a result of their being ordered to this end.”<sup>15</sup> Since all human beings have the same final end, they are thus united to one another in several ways. Aquinas continues:

Thus, in a state men are unified by a certain concord, so that they may be able to attain the public good, and soldiers in combat must be united and act with one accord, so that victory, the common end, may be achieved. Now, the ultimate end, to which man is brought with the help of divine grace, is the vision of God in His essence, which is proper to God Himself. Thus, this final good is shared with man by God. So, man cannot be brought to his end unless he be united with God by the conformation of his will. And this is the proper effect of love, for ‘it is proper to friends to approve and disapprove of the same things and to be delighted in and to be pained by the same things.’”<sup>16</sup>

Not only are human beings united to other human beings as in a political society or as soldiers fighting in combat, but each individual person is called into a relationship with the Divine; and the Divine is a person, with whom man engages in a relationship formed by love, a relationship that enables the human person to attain his final end.

It is my assertion that the human relationship with and dependency upon God that is so central in Aquinas’s work also applies to human relationships. Human beings are united to others, because each one has been given the same rational nature and has been given the same Divine image. Thus, each individual human person has been given the same freedom for self-rule to pursue his end.<sup>17</sup> Each man as a rational creature is directed by God in a distinct way,

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<sup>14</sup> Aquinas states that the highest and final end for the human person is contemplation of God (Cf. *Summa Contra Gentiles*, Book III, 1. Chapter 37. At first glance, this may not seem like relational terms. However, the contemplation of God is based upon divine *caritas*, which draws the human person to God and enables the human person to respond in love of God. Aquinas’s explanation of supernatural grace further illustrates the dependency of the human person upon another outside of himself. See also Aquinas’s discussion of faith being formed by love in the *Summa Theologiae*, II-II, q. 4, art. 2.

<sup>15</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 151, 3.

<sup>16</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 151, 3. Aquinas quotes Aristotle’s *Nicomachean Ethics*, 1165b, 27.

<sup>17</sup> Cf. Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 117.

with an emphasis on his own particularity, “the rational creature is governed for his own sake, as is clear from what we have said. And so, only rational creatures receive direction from God in their acts, not only for the species, but for the individual”<sup>18</sup> Aquinas gives prominence to the relationship of the individual person to God. He states:

God takes of each nature according to its capacity; indeed, he created singular creatures of such kinds that he knows were suited to achieving the end under His governance. . . . [T]he personal acts of a rational creature are properly the acts that stem off from the rational soul. Now, the rational soul is capable of perpetual existence, not only in function of the species. . . but also in an individual sense. Therefore, the acts of a rational creature are directed by divine providence not only for the reason that they are important to the species, but also inasmuch as they are personal acts.<sup>19</sup>

But even as rational animals who freely order their own actions, human beings are unable to achieve their final end solely by their direction of their own reason. For Aquinas, there is a necessity for divine revelation and of grace for the individual to achieve his end.

But reason must also be trained to make judgments about man’s end, for since “a man lives by reason, which he must develop by lengthy, temporal experience so that he may achieve prudence.”<sup>20</sup> Aquinas explains:

Hence children must be instructed by parents who are already experienced people. Nor are they able to receive such instruction as soon as they are born, but after a long time, and especially after they have reached the age of discretion. Moreover, a long time is needed for this instruction. Then, too, because of the impulsion of the passions, through which prudent judgment is vitiated, they require not merely instruction by correction.<sup>21</sup>

Aquinas illumines the human dependency upon others, particularly within familial relationships, to inform and to develop capacities to reason and to make judgments. Parents are responsible to form the reasoning capacities of their children, teaching them through instruction and correction

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<sup>18</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 113, 1.

<sup>19</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 113, 4.

<sup>20</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 122, 8.

<sup>21</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 122, 8.

about the appropriate manner of living. For, by forming their children in reason, parents instill virtue in them, for “virtue consists in this: that both the inner feelings and the use of corporeal things be regulated by reason.”<sup>22</sup> But does this same injunction apply to relationships among adults—among friends or fellow citizens? Or, do human beings depend upon one another as a means for forming their rational capacity and growing in virtue?

Aquinas answers emphatically in the affirmative, stating that “one may be aided to this end by another man, both in regard to knowledge and to love. For men are of mutual assistance to each other in the knowing of truth, and one may stimulate another toward the good, and also restrain him from evil.”<sup>23</sup> What distinguishes Aquinas’s answer is his emphasis that human persons depend on one another both in knowledge and in love, particularly with respect to discerning good and evil. Human persons exist in relationship with one another, and because of their shared nature, all are capable of participation in the divine vision of knowledge and love of God. Again, Aquinas emphasizes the role of reason in this relational part of human nature, “it pertains to a well-disposed intellect to bring men back to things that are proper goods for men, namely the goods of reason. Consequently, to lead them away from these goods, by diverting them to the least important goods, is the mark of an improperly disposed intellect.”<sup>24</sup> Aquinas argues that despite a diversity of human types and abilities, each human person can “attain to the vision of the divine substance [that is, man’s final end], and the inferiority of its nature is no impediment.”<sup>25</sup> This assertion radically distinguishes Aquinas from the Classical tradition, particularly Aristotle, from whom he draws so much in his own thinking about human nature.<sup>26</sup>

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<sup>22</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 121, 3.

<sup>23</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 128, 2.

<sup>24</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 106, 4. As we see in this quote, Aquinas recognizes that human beings do need the aid of others to pursue their proper end, however, he also recognizes that they are capable of misleading one another.

<sup>25</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 57, 4.

<sup>26</sup> Cf. Chapter 2 of this dissertation.

Aristotle also does recognize the necessity of human relationships for human flourishing, for example, in the beginning of the *Politics*, he reflects on the essential role of friendship between men and women to form the foundation of political life, viz. the family. Indeed, he recognizes that every city exists as a partnership between persons for the sake of a common good.<sup>27</sup>

Aristotle dedicates two books in his *Nicomachean Ethics* to the necessity of friendship for human happiness, and he considers friendship to be the basis for political society.<sup>28</sup> To be sure, Aristotle recognizes the importance of man's social and political nature.

However, for Aristotle, true friendship can only exist among the most virtuous men who are equal to each other. So there can be no foundational friendship between human beings and the Divine, as Aquinas holds. Further, we need to consider the characteristics of the *spoudaios* or man of highest moral and intellectual virtue as described by Aristotle, viz. the *megalopsychos* or the man who possesses magnanimity. For Aristotle, magnanimity is "the crown... as it were, of the virtues: it magnifies them and cannot exist without them."<sup>29</sup> What is the character of this person? Aristotle describes him as:

The kind of man who will do good, but who is ashamed to accept a good turn, because the former marks a man as superior, the latter as inferior. Moreover, he will requite good with a greater good, for in this way he will not only repay the original benefactor but put him in his debt at the same time by making him the recipient of an added benefit. The [magnanimous] also seem to remember the goods they have done, but not those they have received.... They listen with pleasure to the good that they have done, but with displeasure to what good they have received.<sup>30</sup>

Aristotle describes this person, one possessing the crown of the virtues with a character of radical independence, one who scorns any notion of dependency on another. Dependency or aid bestowed upon him is a mark of inferiority. He scorns his enemies, and if he is put in a position

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<sup>27</sup> Cf. Aristotle's *Politics*. Book I, Chapters 1-2.

<sup>28</sup> Aristotle. *Nicomachean Ethics*. Book VIII, Chapter 9.

<sup>29</sup> Aristotle. *Nicomachean Ethics*. Book IV, Chapter 3, 1124a.

<sup>30</sup> Aristotle. *Nicomachean Ethics*. Book IV, Chapter 3, 1124b.

where he may need the aid of others, “he will not lament and ask for help.”<sup>31</sup> He is self-sufficient to the scorn of others. Although in Book IX, Aristotle states that even the most supremely happy and virtuous person would still need friends, it seems as the *megalopsychos* has need of others only so that he can assert his goodness, for he certainly does not receive material goods or favors from others.

When we juxtapose this description of friendship and the virtue of magnanimity with Aquinas’s understanding of the human person existing in relationship to God and others as part of the givenness of their nature, it is easy to see a more radical divergence between their respective conceptions of human relationships.<sup>32</sup> But the question remains: how might this assessment relate to conscience and to moral choice in general? Mary Keys points to a starting point for our investigation:

There is [in Aquinas’s work] the ground-up moral phenomenology beginning from natural law and rooted in what Aquinas terms *synderesis* and *conscientia*. The ethic experience of each human being, Aquinas maintains, evolves in the context of an inborn inclination toward good and aversion toward evil. Natural knowledge of the first and very general precepts of the natural law enjoins personal rational reflection on human relationships, social norms, and the example and advice of others, and one’s concrete, lived experiences, to deepen one’s understanding of the requirements of virtue and upright conduct and the connection of these with *beatitude*, happiness or flourishing.<sup>33</sup>

Keys posits that Aquinas begins his investigation acknowledging the givenness of human nature as endowed with a means, i.e. reason guided by *synderesis* and activated by *conscientia*, to discern generally between good and evil and that part of man’s moral learning process involves experience, relationships, and living in society with other human beings. Such will enable to pursue and guide others in pursuit of both individual and common goods. Let us then turn to

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<sup>31</sup> Aristotle. *Nicomachean Ethics*. Book IV, Chapter 3, 1125a.

<sup>32</sup> For an excellent account of Aquinas’s reformulation of Aristotle’s understanding of magnanimity, see Mary M. Keys *Aristotle, Aquinas, and the Promise of the Common Good*. Chapter 6.

<sup>33</sup> Keys, Mary M. *Aristotle, Aquinas, and the Promise of the Common Good*, 169.

consider Aquinas's discussion of conscience first within the *Summa Theologiae* and in his scriptural commentary on St. Paul's letter addressed to the Romans.

## II. Freedom, Law, Practical Wisdom, and the Place of Conscience in the *Summa Theologiae* and *Super Romanos*

### A. Synderesis and Conscientia in the *Prima Pars* and in *Super Romanos*

As we turn to the analysis of conscience in Aquinas's *Summa Theologiae*, it is worth pointing out that Aquinas does not give in this work as extensive a discussion of *synderesis* and *conscientia* as he does in *De Veritate*. Michael B. Crowe asserts:

In the *Summa theologiae*, in which St. Thomas rehandles so many of the concepts found in his early works, one expects to find an extended discussion of *synderesis*. But the term, outside of the single laconic article devoted to it, is scarcely referred to.... But what is not found in St. Thomas prior to the *Summa* is an analysis of the general notion of law.<sup>34</sup>

And although Aquinas does not give as detailed an analysis of *conscientia* either, he makes frequent mention of the 'tribunal of conscience' throughout the rest of the *Summa*, especially in his discussion of the sacraments and his pastoral advice. Crowe argues that Aquinas's lack of careful attention to and analysis of the concept of *synderesis* signals that he has lost interest in the concept and no longer finds it a significant component of moral theory. Crowe could be right in this speculation, or Aquinas could have considered his in-depth analysis in *De Veritate* sufficient, or, as Joseph Ratzinger points out, the precise meaning of *synderesis* has "remained unclear...and for this reason became a hindrance to a careful development of this essential aspect of the whole question of conscience."<sup>35</sup> Although Crowe implies that Aquinas's interest in conscience declines with a shifting emphasis on *lex*, I argue that it is precisely this shift in

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<sup>34</sup> Crowe, Michael B. *The Changing Profile of the Natural Law*. (The Hague: Martinus Nijhoff, 1977), 138-139.

<sup>35</sup> Ratzinger, Joseph. "Conscience and Truth." Obtained from <http://www.ewtn.com/library/curia/ratzcons.htm>. Many scholars have leveled this same critique. We will consider Ratzinger's and Eric Voegelin's alternative term for *synderesis* in the final chapter.



emphasis toward *lex* that gives conscience its significance within Aquinas's thought. Aquinas makes an essential connection between the interiority of the human person, moral choice, human freedom, law, and the common good. Let us then consider how he argues for this connection.

It will be helpful in our analysis to give a brief consideration to the overall structure of the *Summa Theologiae* to contextualize Aquinas's discussion of conscience in this work. It was written as a textbook for beginning theology students; and as a work of the common medieval 'Summa' genre, it was intended to be "a synthesis comprising the whole range of Catholic truth."<sup>36</sup> Significantly, Aquinas began this work originally as a revision of his *Scriptum Super Libros Sententiarum*, which Aquinas had considered to be "pedagogically deficient and systematically incompetent."<sup>37</sup> As a work meant primarily to address theological questions, Thomas sets out his plan to treat first the things of God "not only as He is in Himself, but also as He is the beginning of things and their last end, and especially of rational creatures."<sup>38</sup> Aquinas proposes to first address knowledge of God, then the rational creature's movement towards God and then Christ, who according to his humanity leads the rational creature toward union with God.<sup>39</sup> The outline he gives for the work will aid in understanding how he frames the question of conscience. The first discussion of conscience is given in the Prima Pars (First Part) which, according to Aquinas treats the "procession of creatures from God," in particular their relation to God as *imago Dei*.<sup>40</sup> His second treatment of conscience is found in the Prima Secundae (the First Part of the Second Part), which treats human beings in relation to their final end (i.e. *beatitudo*) and the means to achieve that final end. The first discussion of conscience in this

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<sup>36</sup> Eschmann, I.T., O.P. "A Catalogue of St. Thomas's Works," in *The Christian Philosophy of St. Thomas Aquinas*. Etienne Gilson. (Notre Dame, IN: University of Notre Dame Press, 1994), 385.

<sup>37</sup> Eschmann, "A Catalogue of St. Thomas's Works," 386.

<sup>38</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 2, Proe.

<sup>39</sup> Ibid. See also Torrell, Jean-Pierre. *Saint Thomas Aquinas: The Person and His Work*. Vol.I, 148.

<sup>40</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 44, Proe.

section of the *Summa Theologiae* is found in the context of man's means to his final end. *Synderesis* and *conscientia* are mentioned in the Treatise on Law (in the Prima Secundae) in questions relating to the natural law. *Synderesis* is also mentioned in the Secunda Secundae (the Second part of the Second part) in the Treatise on Prudence. The discussion of conscience in both the Treatise on Law and Treatise of Prudence are the two significant developments in Aquinas's theory of conscience upon which we will focus.<sup>41</sup>

Aquinas's first mention of *synderesis* and *conscientia* in the Prima Pars is placed in the question addressing the intellectual powers of the soul. Interestingly, it comes immediately following an article on whether the speculative and practical intellects are distinct powers. This placement is significant, because in earlier works, Aquinas places *synderesis* and *conscientia* in the less clear context of 'higher' and 'lower' reason.<sup>42</sup> Aquinas does dedicate one article to higher and lower reason in this same question, but he does not give nearly as extensive of a treatment, nor does he describe the role or function of *synderesis* and *conscientia* in these terms. When Aquinas addresses *synderesis*, he asks whether it is a special power in the soul. Aquinas has now confidently determined that *synderesis* is not a power, but rather a *habitus* of practical reason. Aquinas answers stating that since,

Man's act of reasoning...is a kind of movement, [it] proceeds from the understanding of certain things—namely, those which are naturally known without any investigation on the part of reason, as an immovable principle—and ends also at the understanding of those principles naturally known, we judge of those things which have discovered by reasoning.<sup>43</sup>

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<sup>41</sup>*Synderesis* is not mentioned again in this work, although *conscientia* is discussed in the Treatise on Charity and frequently in the discussions on sin and the sacraments.

<sup>42</sup> Aquinas, Thomas, *Summa Theologiae*, I, Q. 79, Art. 11 treats speculative and practical reason. This is not to argue that the categories of higher and lower reason are no longer a concern for Aquinas. Speculative and practical reason can be either higher or lower. Oscar James Brown explains: 'the division of reason into 'higher' and 'lower' properly and immediately pertains to the knowing power itself—whether as speculative or practical.' Cf. *Natural Rectitude and Divine Law in Aquinas*, 103.

<sup>43</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 79, Art. 12, Corpus.

Aquinas begins by explaining the act of human reasoning proceeding from first principles and judging in a kind of movement to discovery. He then appeals to speculative reason to provide the parallel framework for *synderesis*: “as the speculative reason argues about speculative things, so that practical reason argues about practical things.”<sup>44</sup>

Aquinas treats speculative and practical reason in the previous article and his discussion there will help us to understand how is defining the role of *synderesis*. First, as discussed earlier in this dissertation, Aquinas draws the categories of ‘speculative’ and ‘practical’ reason from Aristotle and his commentators. Aquinas considers whether the speculative and practical reason is one and the same power or is two separate powers. If they are separate powers, one could easily separate “the practical reasoning of agents in particular situation...and a theoretical [i.e. speculative] knowledge of the human good...so that the latter cannot enter into the former, so that reflective reasoning about the human good cannot become practically and immediately relevant.”<sup>45</sup> What are the implications of such a separation? According to Aquinas, when we make moral judgments, we begin from our practical, lived experience, “For [man] possesses understanding and reason, and consequently he can grasp in what different ways a thing may be good or bad, depending on its suitability for various individuals, times, and places.”<sup>46</sup> We consider the particular situation to inquire, “what reasons we have for doing this rather than that and whether they are sufficiently good reasons.”<sup>47</sup> Alasdair MacIntyre explains:

We shall find that the good reasons for doing this rather than that are also good reasons for becoming this kind of person rather than that, for acquiring this or that kind of character. Since what discriminates one kind of character from is how goods are rank ordered by the agent, and since rank ordering of goods embodies some conception of what the good life for human beings is, we will be unable to justify our choices until and

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<sup>44</sup> Aquinas, Thomas. *Summa Theologiae*, I., Q. 79, Art. 12, Corpus.

<sup>45</sup> MacIntyre, Alasdair. “Aristotle against Some Modern Aristotelians,” in *Ethics and Politics, Selected Essays*. Vol. 2. (Cambridge: Cambridge University Press, 2006.), 26.

<sup>46</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 113, 4.

<sup>47</sup> MacIntyre, Alasdair. “Aristotle against Some Modern Aristotelians, 36.

unless we can justify some conception of the human good. And to do this we will have to resort to theory as the justification of practice.<sup>48</sup>

It is for this reason that Aquinas explains that “the speculative intellect by extensions becomes practical.”<sup>49</sup> At first this statement may seem to contradict MacIntyre’s description, since he describes a bottom-up method of moral judgment. However, Aquinas teaches that moral judgment begins from practical experience, but we are not left entirely without first principles from which we begin, and as the “speculative intellect which directs what it apprehends...to the consideration of the truth; while the practical intellect is that which directs what it apprehends to operation.”<sup>50</sup> The practical intellect directs toward what it apprehends as a good to be pursued, but the two, that is the speculative and the practical intellect, being one power, work together since,

Truth and good include one another; for truth is something good, otherwise, it would not be desirable; and good is something true, otherwise it would not be intelligible. Therefore as the object of the appetite may be something true, as having the aspect of good, for example, when someone desires to know the truth; so the object of the practical intellect is good directed to operation and under the aspect of truth. For the practical intellect knows truth, just as the speculative, but it directs truth known to operation.<sup>51</sup>

For Aquinas, since the practical and speculative intellects are one power of the soul, although distinguished by the end to which it is directed, that is goodness or truth respectively, these ends include one another. Thus, the consideration of the good for the human person as MacIntyre describes above is also something true about the human person.<sup>52</sup>

Aquinas provides a particular natural habit that enables the human person to grasp first principles, and he appeals to Aristotle’s assertion that since there is a special habit of speculative

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<sup>48</sup> MacIntyre, Alasdair. “Aristotle against Some Modern Aristotelians,” 36.

<sup>49</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 79, Art. 11, sed contra.

<sup>50</sup> Aquinas, Thomas. *Summa Theologiae*. I. Q. 79, Art. 11, Corpus.

<sup>51</sup> Aquinas, Thomas. *Summa Theologiae*. I. Q. 79, Art. 11, ad 2.

<sup>52</sup> Cf. *Summa Theologiae* II-II, Q. 109, art 1, ad 3 where Aquinas discusses how truth can be considered a moral virtue.

reason, viz. understanding of principles, then there is special habit of practical reason by which we grasp the first practical principles, viz. *synderesis*.<sup>53</sup> It is the role of *synderesis* to incite human beings toward good and to murmur against evil.<sup>54</sup> Aquinas's choice of words in the description (*instigare ad bonum et murmurare de malo*) are significant. *Synderesis* is a directive, but it does not contain specifics: it can only instigate or murmur. It is only by reason and free choice that the human person executes a judgment in a chosen action. Since *synderesis* contains only a general knowledge of universal principles, it cannot dictate the specifics of all moral law for, "universals cause no movement, but particular things do, since actions go on in their area."<sup>55</sup> Because it does not contain the whole of all moral law, Aquinas can confidently say that, "Those unchangeable notions are the first practical principles, concerning which no one errs; and they are attributed to reason as to a power, and to *synderesis* as to a habit. Wherefore we judge naturally both by our reason and by *synderesis*."<sup>56</sup> We apply these judgments to particular actions by means of *conscientia*.

Aquinas's question dedicated to *conscientia* is the familiar issue of whether it is a power. Given what he has answered in both *Scriptum Super Libros Sententiarum* and *De Veritate*, we can anticipate his answer that is an act and not a power. Since the very etymological root of the word *conscientia* implies "the relation of knowledge to something," Aquinas concludes that it is an act.<sup>57</sup> He also briefly summarizes its various functions "to witness, to bind, or incite [and] to

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<sup>53</sup> Aquinas, Thomas. *Summa Theologiae*. I. Q. 79, Art. 12, Corpus.

<sup>54</sup> Aquinas, Thomas. *Summa Theologiae*. I. Q. 79, Art. 12, Corpus.

<sup>55</sup> Aquinas, Thomas. *Summa Contra Gentiles*. III, 1.3, 7.

<sup>56</sup> Aquinas, Thomas. *Summa Theologiae*. I. Q. 79, Art. 12, ad. 3. Aquinas's statement at the end of this article, "Wherefore we judge naturally both by our reason and our *synderesis*." almost makes *synderesis* seem redundant or at least difficult to distinguish from our reason itself. It might be helpful to remember that Aquinas is not arguing for innate ideas in our reason, but rather toward a general knowledge of morality that must be discerned through our reason and applied to our actions. However, given that we make judgments with both our reason and our *synderesis*, it is clear to see how later scholarship has called *synderesis* an unclear concept.

<sup>57</sup> Aquinas, Thomas. *Summa Theologiae*. I. Q. 79, Art. 13, Corpus.

accuse, torment, or rebuke.”<sup>58</sup> *Conscientia* judges whether something should or should not be done. In this way, Aquinas states, it can be confused with the habit, *synderesis*. But it also examines what we have or have not done or whether we have done these actions well or ill, that is, with a good or bad intention. Aquinas elaborates later in the *Prima Secundae* where *conscientia* reappears in the discussion of man’s final end. The two articles are not explicitly addressed to questions on *conscientia*, but rather they address the integrity of the will when it makes a choice based on an errant judgment of reason.<sup>59</sup>

In the *Prima Secundae* question 19, article 5, Aquinas addresses whether the will is if it goes against reason, even when reason errs. Here, he readdresses whether an erring conscience (i.e. incorrect reason applied to an act) binds a person. If the will chooses against the judgment of conscience, even if it be a wrong judgment, the act is evil since the person chooses under the auspices of violating his conscience. Aquinas begins his explanation by making a distinction between three types of acts: acts that are intrinsically evil, acts that are intrinsically good, and acts that are morally indifferent. He rejects the notion that if a person’s conscience errs for example, commanding a morally indifferent act as an evil to be avoided, then their will has not chosen to do evil if they perform the act so judged as evil. Aquinas turns us toward the interiority of the human person, toward his own subjective judgment, to determine the rightness or wrongness of an act. He explains:

And since the object of the will is that which is proposed by reason...from the very fact that a thing is proposed by the reason as being evil, the will by tending thereto becomes evil. And this the case not only in indifferent matters, but also in those that are good or evil in themselves. For not only indifferent matters can receive the character of goodness or malice accidentally; but also that which is good, can receive the character of evil, or

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<sup>58</sup> Aquinas, Thomas. *Summa Theologiae*. I. Q. 79, Art. 13, Corpus.

<sup>59</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 19, Arts.5 and 6.

that which is evil, can receive the character of goodness, on account of the reason apprehending it as such.<sup>60</sup>

For Aquinas, to follow right reason is to follow the dictates of one's conscience, as he defines conscience as a dictate of reason. Reginald Doherty explains that this means "the error possible to the intellect in proposing an object to the will is identified with an error of conscience, and error already distinguished from the error of the judgment of election [i.e. choice]..., which [is] caused by a disorder of the appetite."<sup>61</sup> Thus, he can conclude that, "absolutely speaking, every will at variance with reason, whether right or erring, is always evil."<sup>62</sup>

In the next article, Aquinas addresses whether the will can ever be good if abides by an erroneous judgment of reason. For it would seem that if the will is evil if it goes against an erroneous conscience in a matter of intrinsic evil, then any choice made will always be wrong. He states that the previous article asked whether an erroneous conscience binds our actions, and this approach considers whether an erroneous conscience excuses when our judgment falls short.<sup>63</sup> The answer hinges on whether a person is ignorant of something which would have allowed him to form a proper judgment, for as "moral good and evil consist in action in so far as it is voluntary...it is evident that when ignorance causes an act to be involuntary, it takes away the character of moral good and evil."<sup>64</sup> However, this excuse of ignorance does not apply if the ignorance is willed, "if then reason or conscience err with an error that is voluntary, either directly, or through negligence, so that one errs about what one ought to know...such an error of reason or conscience does not excuse the will."<sup>65</sup> What we see in Aquinas is a consistent

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<sup>60</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 19, Art.5, Corpus.

<sup>61</sup> Doherty, Reginald, OP. *The Judgments of Conscience and Prudence*. (River Forest, IL: The Aquinas Library, 1961), 52

<sup>62</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 19, Art. 5, Corpus.

<sup>63</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 19, Art.6, Corpus.

<sup>64</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 19, Art.6, Corpus.

<sup>65</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 19, Art. 6 Corpus.

argument that conscience is a dictate of reason “that results from the actual application of knowledge to an act.”<sup>66</sup> Aquinas has described the judgment of conscience as the conclusion of syllogism whose major is informed by the habit of *synderesis*, the habit containing the first practical principles and the minor premise is provided by knowledge of particulars. *Synderesis* both provides “the principles from which conscience concludes, [and also] govern[s] the conclusion, conscience itself.... There are two effects of conscience. In the first place conscience binds or obliges. Secondly, a quasi-effect or property of conscience is that it may err.”<sup>67</sup> Aquinas has argued that even when the judgment of conscience is in error, it must still be followed since,

Fundamentally conscience obliges because it brings the divine law into contact with man’s acts. As a result, the binding power of conscience is the binding power of the divine precept. Conscience then is a kind of subjective law. More proximately, conscience obliges because the will is moved by and elects the objects presented by the intellect.... It is conscience applying the law to an act which obliges man to act.<sup>68</sup>

It is the connection that the human person has to something outside of himself that obliges his conscience, viz. the divine law. Yet, conscience is still a kind of subjective judgment.

Aquinas examines this tension in his commentary on St. Paul’s letter to the Romans, *Super Romanos*, with a few changes to his treatment in the *Summa Theologiae*. First, he makes in this work no mention at all of *synderesis*, but discusses *conscientia* extensively. He does not give a precise philosophical explication of *conscientia* as an act that applies the first principles of practical reason to a particular situation. Rather, he discusses it within the context of St. Paul’s pastoral letter the main subject of which is a theological issue, viz. the relationship between the Jews and the newly converted gentiles with respect to following the rule of divine law of the

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<sup>66</sup> Doherty, Reginald, O.P. *The Judgments of Conscience and Prudence*, 57-58.

<sup>67</sup> Doherty, Reginald, O.P. *The Judgments of Conscience and Prudence*, 57-58

<sup>68</sup> Doherty, Reginald, O.P. *The Judgments of Conscience and Prudence*, 57



Jews: “For the Jews objected to the gentiles that when they lived without God’s law, they sacrificed to idols. The gentiles on their part objected to the Jews that even though they received God’s law, they did not keep it.”<sup>69</sup> It is precisely this tension between the Jew and Gentiles that leads Paul and his commentator Aquinas to reflect on the natural knowledge of right order given to each human person. That Jewish and Gentile converts to Christianity came together to form a new community of faith emphasizes the important relational dimension to their common life together. How these two as historically antagonistic communities were to be united under one faith in a *transpolitical* community was not an insignificant challenge in the early years of the Christian church, and it has certainly had political implications.

It is by emphasizing their knowledge of God’s law through *conscience* that Paul seeks to illustrate the participation of the Gentile converts in the life of God’s law, “For when the gentiles, who have not the law, do by nature those things that are of the law; they, having not the law, are a law to themselves, who show the work of the law written in their hearts, their conscience bearing witness to them.”<sup>70</sup> Aquinas is careful *not* to argue that either Gentile or Jew has no need for divine grace (i.e. the Pelagian heresy), but he quotes Aristotle’s *Nicomachean Ethics* in his explanation of this text. He argues that the Gentiles do have a natural knowledge of the good insofar as,

They function as a law to themselves by instructing and inducing themselves to good because the Philosopher says: ‘law is a statement laying down an obligation and proceeding from prudence to understanding’ .... Then when he [St. Paul] says ‘their conscience bearing witness’ he proves his statement that work of the law is written in their hearts by citing actions which announce its presence. First, he mentions those actions, one of which is the witness of conscience. He touches on this when he says ‘their conscience bearing witness,’ conscience being the application of one’s knowledge

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<sup>69</sup> Aquinas, Thomas. *Commentary on the Letter of Saint Paul to the Romans*. Trans. F.R. Larcher, O.P. Lander, (Wyoming: The Aquinas Institute for the Study of Sacred Doctrine, 2012). Volume 37 Latin/English Edition of the Works of St. Thomas Aquinas. Eds. J. Mortensen and E. Alarcon. Chapter 2, Lecture 1, §170.

<sup>70</sup> Romans 2: 14-15.

in judging whether some action was good or bad to do.... However, no one can testify that an action is good or bad, unless he has knowledge of the law. Hence, if conscience bears witness about good or evil, this is a clear sign that the work of law has been written on man's heart.<sup>71</sup>

In this instance, Aquinas argues that all human persons have a kind of natural knowledge of good to be done and evil to be avoided, which he identifies as a knowledge of the law written into the very nature of the human person.<sup>72</sup> He quotes, although does not necessarily explain, Aristotle's emphasis on prudence and understanding. This interpretation gives tremendous dignity to the human person, who by his very nature participates in the governance of God. However, as in his other writings on conscience, Aquinas emphasize that natural human reason is very easily erroneous in its judgments, "man is called carnal, because his reason is carnal...from that fact that it is submissive to the flesh and consents to the things which the flesh urges it."<sup>73</sup> It is for this reason that "[Paul] said to do what he understands not to be done, acting against conscience."<sup>74</sup> Aquinas explains the tension St. Paul experiences, "For the good which I will I do not: but the evil which I will not, that I do,"<sup>75</sup> as a failure of reason to rule in the individual human person. Aquinas writes:

But it is clear that man's reason, considered in the light of what is proper to it, is not inclined to evil, but insofar as it is moved by concupiscible desire. Therefore, the doing of evil, which reason does, inasmuch as it has been overcome by desire, is not attributed principally to reason...but rather to the desire or habit in virtue of which reason is inclined to evil.<sup>76</sup>

Aquinas reconciles an erroneous judgment of reason with the sanctity of conscience, especially the human participation in the eternal law.

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<sup>71</sup> Aquinas, Thomas. *Commentary on the Letter of Saint Paul to the Romans*. Chapter 2, Lecture 3, §217, 219.

<sup>72</sup> Aquinas is careful to avoid the Pelagian heresy; he does not attenuate the role or necessity of divine Grace. For Aquinas, all nature is imbued by Grace.

<sup>73</sup> Aquinas, Thomas. *Commentary on the Letter of Saint Paul to the Romans*. Chapter 7, Lecture 3, §560.

<sup>74</sup> Aquinas, Thomas. *Commentary on the Letter of Saint Paul to the Romans*. Chapter 7, Lecture 3, §563.

<sup>75</sup> Romans 7:19.

<sup>76</sup> Aquinas, Thomas. *Commentary on the Letter of Saint Paul to the Romans*. Chapter 7, Lecture 3, §571.

Toward the end of his commentary, Aquinas explicates an aspect of the *relational* aspect of conscience as it pertained to the early Christian community, and this discussion merits our critical attention. The fourteenth chapter of the letter to the Romans treats an issue that seems almost incomprehensible to the modern reader, viz. casting judgment on a member of a community on account of the food he consumes. Paul writes, “For if, because of food, your brother be grieved, you no longer walk according to charity. Destroy not him with your food.”<sup>77</sup> Aquinas explains the meaning of this passage:

There were among the Romans some Jews converted to Christ, who distinguished among foods according to the law; but others, having a perfected faith, used all food without distinction, which of itself was lawful.... On this point it should be known...that the Jewish people, boasting that they are God’s portion, call unclean the good which all men use, e.g. the flesh of swine, hares, and food of that sort. Furthermore, the nations which used such foods were not God’s portion; consequently, such food was unclean.<sup>78</sup>

Paul admonishes the Jewish and Gentile believers not to scandalize one another by the food that they eat, since they are now united in Christ. Aquinas takes his meaning even further by showing the importance of community and relationships to the formation of conscience. Aquinas notes that St. Paul asks his readers not to scandalize or cause one another to sin by their actions; members of this new community of faith are responsible for one another and for the *interior* good of other members. If another member of the community in their conscience truly believes that eating a type of food violates the law of God, Paul asks his readers to abstain from engaging in such behavior, even though in truth it does not violate God’s law, since the New Law of grace has perfected the Old Law.

According to Aquinas, the judgment of an erroneous conscience is binding, since “the binding force of even an erroneous conscience and that of the law of God are the same. For

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<sup>77</sup> Romans 14: 15.

<sup>78</sup> Aquinas, Thomas. *Commentary on the Letter of Saint Paul to the Romans*. Chapter 14, Lecture 2, §1117.

conscience does not dictate something to be done or avoided, unless it believes that it is against or in accordance with the law of God. For the law is applied to our actions only by means of our conscience.”<sup>79</sup> Aquinas identifies the law of God with a judgment of conscience; human beings interpret and apply it by conscience. But Aquinas is not simply speculating on the binding aspect of an erroneous conscience. Aquinas argues that if another’s conscience is in error about a particular circumstance, such as the moral gravity of eating a particular food, then those whose conscience guides them correctly are obligated not to engage in the offensive behavior, at least until he can explain that it is not wrong since “someone can get rid of an erroneous conscience.”<sup>80</sup> Aquinas explains that there is an obligation to inform the member of the community with an erroneous conscience. In this particular case from the letter to Romans, he writes that “not to discriminate among foods is a good work; therefore, it should not be avoided just because someone with an erroneous conscience makes a stumbling block of it. For according to this, Catholics would have to abstain from meat and marriage to prevent heretics from being offended according to their erroneous conscience.”<sup>81</sup> Such an assertion has tremendous political implications, especially in debates about how to legislate about moral issues. It points to an essential tension in a political community, viz. the tension between the individual and common good. Aquinas argues that the judgment of one’s conscience is his application of the law of God within his life. It binds him under the penalty of sin. Yet, he must also be attentive to the conscience of his neighbor—even if the conscience of his neighbor is wrong. The obvious question is how do we know who has the erroneous conscience? The particular case given in St. Paul’s letter to Romans, viz. the eating of certain foods, hardly seems

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<sup>79</sup> Aquinas, Thomas. *Commentary on the Letter of Saint Paul to the Romans*. Chapter 14, Lecture 2, §1119.

<sup>80</sup> Aquinas, Thomas. *Commentary on the Letter of Saint Paul to the Romans*. Chapter 14, Lecture 2, §1120.

<sup>81</sup> Aquinas, Thomas. *Commentary on the Letter of Saint Paul to the Romans*. Chapter 14, Lecture 2, §1121.

to be a matter of moral consequence to most today; and in those religious traditions that do distinguish certain foods to be in accord with or against the divine law no longer have much public debate on the matter. Moreover, Paul's advice here is to a spiritual community.

Let us, therefore, consider a more salient, *political* example—such as the question of the definition of marriage—an issue increasingly subject to contentious public debate and legislation in state governments and on the United States Supreme Court docket for the summer of 2013. Robert Vischer points to a recent New Mexico case involving Elane Photography and a woman named Vanessa Willock. Willock was seeking a photographer for her same-sex ceremony and solicited the business Elane Photography for the job. Owners Jonathan and Elaine Huguenin explained that they could not accept this job, since to support homosexuality was against their deeply-held, conscientious religious convictions. In response, “Willock filed a complaint with the [New Mexico] state human rights commission, alleging a violation of the state’s public accommodation laws, which covers sexual orientation.”<sup>82</sup> Willock argued that she was in shock and offended at the Huguenin’s conscience claims regarding her homosexuality, and the human rights commission agreed with her. In this case, how might Aquinas’s ideas about conscience apply? What are the criteria upon which one citizen’s conscience claims are trumped by another’s? What is the responsibility of one citizen to another to inform them of an erroneous judgment of conscience, while still respecting their subjective application of the moral law to their own lives? How might Aquinas reconcile such conflicting conscience claims?

In the *Super Romanos*, Aquinas does point to one solution, although it hardly seems to be consistent with political tolerance that is so vital for contemporary liberalism. He writes:

Among matters of faith some have not been perfectly manifested by the Church, as in the early Church it had been perfectly declared to men that Jewish converts were not bound

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<sup>82</sup> Vischer, Robert K. *Conscience and the Common Good*, 2.

to observe the practices of the law.... Hence in cases of this kind it is enough for a man to keep his faith between himself and God. Nor should he manifest his faith, if it scandalizes his neighbor, except perhaps among those who have to decide about the faith. But certain things of faith have been decided by the Church. In such matters it is not enough to keep one's faith between oneself and God, but one should confess it before his neighbor, no matter what scandal might arise, because doctrinal truth must not be set aside on account of scandal, just as Christ did not set aside the truth of his teaching just because the Pharisees were scandalized.<sup>83</sup>

Aquinas's assertion may seem radical to the modern reader. But let us consider: the Huguenin's followed his advice. They argued that their conscientious, religious convictions teach the moral wrongness of a certain behavior, i.e. homosexuality, and they openly confessed that conviction openly to their neighbor in their refusal to photograph her commitment ceremony. Yet, Aquinas hardly seems to be tolerant of those neighbors whose consciences may instruct them differently. How would he recommend discernment of the correct judgment of conscience in the case of Elane Photography? Elsewhere in his work, Aquinas takes up an issue that contradicts this seeming intolerance. In the *Summa Theologiae*, Aquinas examines the topic of religious toleration. He answers questions regarding whether the religious rites of the Jews should be tolerated and whether children of Jewish parents should be forced into baptism against the will of their parents. In the first case, he answers affirmatively and negatively in the second case. He cites natural justice and natural law as the primary reasons children should not be forced into baptism.<sup>84</sup> In this case of conflicting religious beliefs, Aquinas seems to be much more tolerant than what he says in *Super Romanos*. His conflicting approaches point to a tension between individual good and the common good and between the responsibility of individuals to both respect the consciences of others, but also to inform the consciences of others. Some criterion, then, is needed upon which to make judgments about how to respect and to inform the

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<sup>83</sup> Aquinas, Thomas. *Commentary on the Letter of Saint Paul to the Romans*. Chapter 14, Lecture 3, §1137.

<sup>84</sup> Cf. *Summa Theologiae* II-II, Q. 10, articles 11 and 12. Aquinas seems more tolerant of the Jews than of those whom he considers to be apostates or heretics (i.e. those who had accepted the Catholic faith and then rejected it).

consciences of others. Let us turn to the criteria that Aquinas discusses in the section of the *Summa Theologiae* known as The Treatise on Law.

#### B. Conscience in the *Prima Secundae Pars*: The Treatise on Law

In the prologue to the Treatise on Law, Aquinas states that he will address the extrinsic principles that influence human acts. Conscience (*synderesis* and *conscientia*), since it pertains to the power of reason, is the intrinsic principle that guide human acts. However, since human conscience is for Aquinas also the point of contact between the human person and divine law, it also has an extrinsic component since “the extrinsic principle moving us to good is God, Who both instructs us by means of His Law, and assists us by His Grace.”<sup>85</sup> At the beginning of the Treatise on Law, Aquinas defines law in such a manner that we can anticipate that it is intimately related to his understanding of conscience. Before Aquinas gives his definition of law, he establishes four important aspects of law. First, it pertains to reason; second it is ordained to the common good; third, it must be made by an authority entrusted to either “the whole people or to someone who is the viceregent of the whole people;”<sup>86</sup> and fourth, it must be promulgated so that all citizens know its contents. His argument about law being ordained to the common good is particularly significant for our purposes. Aquinas argues:

The law belongs to that which is a principle of human acts, because it is their rule and measure. Now as reason is a principle of human acts, so in reason itself there is something which is the principle in respect of all the rest: wherefore to this principle chiefly and mainly law must needs be referred. Now the first principle in practical matters, which are the object of the practical reason, is the last end: and the last end of human life is bliss or happiness.... Consequently the law must needs apply principally the relationship to happiness. Moreover since every part is ordained to the whole, as imperfect to perfect; and since one man is part of the perfect community, the law must needs regard properly the relationship to universal happiness.<sup>87</sup>

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<sup>85</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 90, proe.

<sup>86</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 90; Quote is taken from Art. 3, Corpus.

<sup>87</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 90, Art.2, Corpus.

Aquinas begins his explanation of law and the common good by appealing to reason as the principle of human acts. He then explains that the first principle in practical matters is the same for all persons and it is their final end – happiness (*beatitudo*). Every human person makes judgments about what acts to pursue based upon their seeking happiness. Since law directs human actions, it must relate to human happiness and flourishing. But it cannot pertain to one’s man’s happiness alone; rather law directs to the common good and happiness of all.

Earlier in the *Summa Theologiae*, Aquinas has referred to *conscientia* as the law of our intellect<sup>88</sup>; conscience thus relates to reason as a law – and for Aquinas, law is ordained to the common good. Law, then, according to Aquinas, is “an ordinance of reason for the common good, made by him who has the care of the community, and promulgated.”<sup>89</sup> We can begin to ascertain how Aquinas reconciles the individual subjective aspect of conscience with the relational aspect of conscience through the connection to law. Aquinas theorizes that there are four types of law, viz. eternal law, which governs the universe; natural law, which is derived from the eternal law as it relates to rational creatures; human law, which is derived from natural law as it relates to specific human communities; and divine law, or the revelation of God to man where nature is insufficient, or put differently, it reveals the order of grace that perfects nature. It is important to emphasize that the definition of law that Aquinas articulates refers to each type of law that discusses. Eternal law is simply the rational guidance of God for the universe, but its foundation is *reason* and not in *will*. Eternal law is intelligible to the human person, and in fact the human person has a special mode of participation in the eternal law which Aquinas calls the natural law, “A law is in a person not only as in one that rules, but also as participation as in one that is ruled. In the latter way each one is a law unto himself, in so far as he shares in the

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<sup>88</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 79, Art. 13, Corpus. Aquinas quotes Damascene.

<sup>89</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 90, Art.4, Corpus.



direction that he receives from one who rules him.”<sup>90</sup> Let us consider how this understanding of law more concretely relates to conscience.

As we have already seen, Aquinas defines the primary structural level of conscience, *synderesis*, as a “special natural habit” whereby human beings recognize “first practical principles, bestowed on us by nature.”<sup>91</sup> The first practical principle is the first premise of the natural law, namely that good is to be pursued and evil is to be avoided. The natural law governs rational creatures and it is inherent in the very substance of human beings by means of their inclinations, since the natural law supplies human “inclinations to their proper acts and ends.... Wherefore it [i.e. the rational creature] has a share of the Eternal Reason, whereby it partakes of a share of providence, by being provident both for itself and for others.”<sup>92</sup> For Aquinas, natural law applies the “the first principle of natural justice, which is to seek good and to avoid evil, [and it] must primarily be determined by a rule which has reference to the whole state” and the whole human community.<sup>93</sup> It is significant that the human participation in Divine Providence is a participation that extends to each human person – for Aquinas, each person is created with the same human nature that is oriented and directed by Divine Providence. Thus, we see both the individual and relational aspect of law (and conscience) at work in Aquinas’s understanding of conscience and natural law, since the natural law is a share in providence for the individual person and for all persons.

But Aquinas has mentioned something else that figures importantly in his theory of natural law, viz. *inclinations*: “Wherefore [the rational creature] has a share of the Eternal

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<sup>90</sup> Aquinas, *Summa Theologiae*. I-II, Q. 90, Art.3, ad 1. Interestingly, Aquinas immediately quotes Romans 2:15 “Who show the work of the law written in their hearts,” which St. Paul calls conscience. Aquinas uncharacteristically does not attribute this source, nor does he mention conscience here.

<sup>91</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 79, Art. 12, Corpus.

<sup>92</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 91, Art.2, Corpus.

<sup>93</sup> McCoy, Charles N.R. *The Structure of Political Thought*, 27.

Reason, whereby it has a natural inclination to its proper act and end: and this participation of the eternal in the rational creature is called the natural law.”<sup>94</sup> Human participation in the eternal law is manifested by inclinations to acts and ends proper to human persons, and our very participation relies upon something outside of ourselves that is “the light of natural reason, whereby we discern what is good and evil...[it] is nothing else than an imprint on us of the Divine light.”<sup>95</sup> These inclinations have an order to them that is based upon man’s nature, and they are natural characteristics of man that point to the ends that he will endeavor to pursue *in accordance with reason*. That end is *good*, which “is the first thing that falls under the apprehension of the practical reason, which is directed to action: since every agent acts for an end under the aspect of good.”<sup>96</sup> These precepts of the natural law are inclinations such as the first inclination to pursue good and to avoid evil, and the inclinations based upon the first: self-preservation, procreation, education, and a desire to know the truth about God and to live in society.<sup>97</sup> Since human beings by nature seek to know the truth about God and live in society, we see the foundation for the relational aspect of human persons, who, because he has:

An inclination to good, according to the nature of his reason, which nature is proper to him: thus man has a natural inclination to know the truth about God and to live in society: and in this respect, whatever pertains to this inclination belongs to the natural law; for instance to shun ignorance, to avoid offending those among whom one has to live.<sup>98</sup>

Aquinas explains this particular inclination as unique to man—and it relates to his specifically relational nature. To know the truth about God and to live in society include one another as part of man’s *specific, rational* nature.

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<sup>94</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 91, Art.2, Corpus.

<sup>95</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 91, art.2, Corpus.

<sup>96</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 94, art.2, Corpus.

<sup>97</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 94, art.2, Corpus.

<sup>98</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 94, art.2, Corpus.

Thomas' insistence that the natural law is functionally integrated with human reason is at the center his theory of conscience since *synderesis* is the habit of practical reason by which we know the first principles, and *conscientia* is the means of applying those principles. However several perplexing problems seem to proceed from this particular theory, for example: If man knows by his reason through the habit of *synderesis* the first principle of all moral action, how is it that he can act erroneously? Aquinas has examined this theme in every treatment of conscience throughout his corpus, and his answer reveals what seems to be an irreconcilable tension. This tension is well illustrated in the *Summa Theologiae* when Aquinas poses the question whether the natural law is the same in all men. He answers in the affirmative, stating that "to the natural law belongs those things to which a man is inclined naturally: and among these it is proper to be inclined to act according to reason."<sup>99</sup> The natural law appeals to common human experience, since the inclinations Aquinas describes are based in the very nature of the human person.<sup>100</sup> However, since the natural law, known through the habit of *synderesis*, concerns practical reason, "which is busied with contingent matters, about which human actions are concerned: and consequently, although there is necessity in the general principles, the more we descend into matters of detail, the more frequently we encounter defects."<sup>101</sup> So, according to Aquinas, although human beings have a natural understanding of what is right or true action, the more they descend into matter of detail, the more likely they are to err. He gives the example of the ancient Germans described in Caesar's *Gallic Wars* who, since they share a common human nature with other persons, should have known that theft was contrary to the natural law, but they did not consider it an evil to be avoided.<sup>102</sup> Thus, the general first principles of the

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<sup>99</sup> Aquinas, Thomas. *Summa Theologiae*, I-II, Q. 94, art. 4, Corpus.

<sup>100</sup> Cf. Aquinas, Thomas. *Summa Theologiae*, I-II, Q. 94, art. 3. Obj. 3.

<sup>101</sup> Aquinas, Thomas. *Summa Theologiae*, I-II, Q. 94, art. 4, Corpus

<sup>102</sup> Aquinas, Thomas. *Summa Theologiae*, I-II, Q. 94, art. 4, Corpus

natural law, or primary precepts, are self-evident and not changeable. These are held and known through *synderesis*. The application of the natural law to most cases—the secondary precepts that contain “certain detailed proximate conclusions drawn from the first principles” may not be applicable to every particular instance.<sup>103</sup> On the level of the individual human person, this application of the first principles is *conscientia*.

The natural law pertains to the individual good and to the common good, and it is promulgated to the human person through the habit of *synderesis* that directs man’s ethical action in concrete applications of *conscientia*. Aquinas has argued that *synderesis* only contains the knowledge of general principles, and is therefore not fully equipped to dictate specific rules regarding human behavior. Although its precepts are unchangeable because they are constitutive of human nature, they must be applied to concrete instances through the judgment of *conscientia*. Similarly, according to Aquinas, the natural law is unchangeable and it must be the foundation of all human law, since general principles and inclinations are insufficient to make particular determinations. Aquinas explains:

The human reason cannot have a full participation of the dictate of Divine Reason, but according to its own mode, and imperfectly.... On the part of practical reason, man has a natural participation of the eternal law, according to certain general principles, but not as regards the particular determination of the individual case.... Hence the need for human reason to proceed further to sanction them by law.<sup>104</sup>

Although the natural law directs the whole of human life, “For his part, St. Thomas argues that participation in the eternal law [i.e. natural law] includes individual judgment, social judgment, and political judgment,” its generality makes it necessary for human beings to formulate human

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<sup>103</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 94, art.5, Corpus.

<sup>104</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 91, Art.3, ad 1. Aquinas connects natural law (*lex*) with natural right or justice (*ius*) quoting Cicero: “justice has its source in nature; thence certain things came into custom by reason of their utility; afterwards these things which emanated from nature and were approved by custom, were sanctioned by fear and reverence for the law.” Cf. Corpus.

laws.<sup>105</sup> But even the natural law and the human law is not enough for the human person to attain his final end and flourishing, for they are based upon human reason and “human reason is not, of itself, the rule of things.”<sup>106</sup> Human laws cannot direct the interior acts of an individual human person, even if their intended goal is to form good persons.<sup>107</sup>

Moreover, the inclinations that are the basis of the natural law are ordered to the fulfillment or *telos* of man’s nature, viz. happiness. Human actions are guided by reason and will toward an end, “those things that are possessed of reason move themselves to an end; because they have dominion over their actions through their free will, which is the *faculty of will and reason*.”<sup>108</sup> The movement toward the last end is, according to Aquinas, a movement from potentiality toward actuality; it is a movement that aims “so to fill man’s appetite, that nothing is left besides it for man to desire.”<sup>109</sup> The human person’s potential is actualized through the fulfillment of his last end, which is common to all human persons. Aquinas explains, “Now as the last end of man, simply as man, is to the whole human race, so is the last end of any individual to that individual. Therefore, just as of all men there is naturally one last end, so the will of an individual man must be fixed on one last end.”<sup>110</sup> This final end consists in “perfect

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<sup>105</sup> Hittinger, Russell. *The First Grace*, xxxv.

<sup>106</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 91, art. 4 ad 2.

<sup>107</sup> Cf. *Summa Theologiae* I-II, Q. 91, art. 4 and I-II, Q. 92 art 1. In the former, Aquinas declares that ““Human law cannot sufficient curb and direct interior acts.... Human law cannot punish or forbid all evil deeds: since while aiming at doing away with all evils, it would do away with many good things, and would hinder the advance of the common good, which is necessary for human intercourse.” Such a statement seems to contradict the assertion in the latter citation, wherein Thomas claims that, “Every law aims at being obeyed by those who are subject to it. Consequently, it is evident that the proper effect of law is to lead its subjects to their proper virtue: and since first 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, good, either simply or in some particular respect.” However, Aquinas makes the distinction that human laws are insufficient to make men good. The purpose of the law or intended goal of any law is to promote good behavior and since virtue is acquired through habituation for Aquinas (who follows Aristotle), then a good law will aid persons in becoming good. Law itself, however, is limited by human reason’s own insufficiency to attend to every detail of human life and to every aspect of the human person.

<sup>108</sup> Aquinas, Thomas. *Summa Theologiae*, I-II, Q. 1, art 2, Corpus.

<sup>109</sup> Aquinas, Thomas. *Summa Theologiae*, I-II, Q. 1, art. 5, Corpus.

<sup>110</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 1, art.5, Corpus.

happiness” attained only “through union with God.”<sup>111</sup> The movement toward the last end is man’s *potential* to be actualized through the exercise of right reason, a rightly-ordered will, and a life of virtue. Aquinas explains that the human soul “is something existing in potentiality: for it becomes knowing actually, from being potentially knowing; and actually virtuous, from being potentially virtuous.”<sup>112</sup> Aquinas recognizes that human persons can order themselves to lesser ends, which are good in themselves but not the *summum bonum*, goods such as wealth, honor, fame or glory, power, good of the body, pleasure, goods of the soul, or created goods. The final end and actualization of the human person resides in none of these lesser goods, but rather in the happiness (*beatitudo*) that is attained “by knowing and loving God.”<sup>113</sup>

I have posited that for Aquinas, the rational capacity of one human being is insufficient to reach his final end; he needs the guidance of fellow rational creatures to attain his end and to actualize his potential, for “humans at times cannot flourish without arguing with others and learning from them about human flourishing.”<sup>114</sup> I call this the *relational* aspect of conscience. But Aquinas extends the argument further: human reason alone is not the rule of things. Reason is prone to error, as is evident in Aquinas’s discussion of an erring conscience. Even though Aquinas argues that by means of our conscience (particularly *synderesis*), human beings have access to the unchangeable first principles of the natural law, our judgments often miss the mark; reason can very easily be hindered from properly applying the principles of *synderesis* to particular situations. But this is not a matter “of confusing law and conscience or of letting the conscience be destroyed by the law. The conscience, in the face of the clearest and most determinative law, always has the role and the value of interiorizing the law, to implant it by

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<sup>111</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 3, art.8, Corpus.

<sup>112</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q.2, art.7, Corpus.

<sup>113</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 1, art.8, Corpus.

<sup>114</sup> MacIntyre, Alasdair. *Dependent Rational Animals*, 68.

making it personal.”<sup>115</sup> It is at the level of “making it personal” that human beings tend to err for a variety of reasons: attachment to a particular vice, the inability for human beings to know the interior life of others, lack of knowledge of the facts, etc.

Yet, Aquinas also argues that it is precisely human reason that is the means of participation in the rule of things—in the Divine Reason, “for the divine good is called the common good in which all things participate.”<sup>116</sup> The Divine Reason is the transcendent source of order in nature, including human nature. There is, then a tension in Aquinas’s thought: human beings are prone to error in their rational judgments, but their rational capacity is the means by which they participate in the Divine Reason that rules; human reason can err, and yet it is the source from which the human person seeks and experiences his *transcendent* and *transpolitical* end. As such, the judgments of conscience are to be respected, since it by means of conscience, particularly *synderesis*, that the human person is most intimately connected to the Divine Reason. Each human person *participates* in this Divine Reason.<sup>117</sup> As such, respect for individual conscience is inseparable from respect for the relationships that inform our consciences. The relational aspect of conscience does not just call human beings into community with other persons, but also calls them into communion with the Divine Being, who is the basis of their being and of their interpersonal relationships. All human beings participate in the Divine Good, which is the basis of their common good because it is the basis of man’s final *transpolitical end*:

Man is not ordained to the body politic, according to all that he is and has; and so it does not follow that every action of his acquires merit or demerit in relation to the body politic. But all that man is, and can, and has, must be referred to God: and therefore

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<sup>115</sup> Delhaye, Philippe. *The Christian Conscience*, 21.

<sup>116</sup> Aquinas, Thomas. *Commentary on Romans*. Chapter 1, Lecture 6. 117.

<sup>117</sup> Cf. Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 2, art. 8, Corpus: “It is evident that naught can lull man’s will save the universal good. This is to be found in any creature, but in God alone; because every creature has goodness by *participation*.” [Emphasis mine.]

every action of man, whether good or bad, acquires merit or demerit in the sight of God, as far as the action itself is concerned.<sup>118</sup>

Aquinas understanding of the human person promotes an essential *limitedness to politics*, for “What pertains to the nature of man is not subject to human government.”<sup>119</sup> There are some aspects of the human person that simply cannot be governed or subjected to legislation,<sup>120</sup> particularly the interior life of the individual human person that is directed by conscience. The freedom of conscience is a primary freedom for Aquinas, since it is a realm of human life that cannot be dictated by any law because human law has no power over it other than unjust coercion or violence. It is precisely for this reason that claims of conscience often clash with political regimes: a good man in tyrannical regime will likely not be a good citizen, and indeed it is quite likely that he will be an incarcerated citizen in such a society. However, there is seemingly a tension in Aquinas’s view: for he does claim that human law binds a citizen in conscience. This statement is qualified, however, for only just laws can bind the conscience of a man—for these laws are in accord with right reason, which is the basis of morality.<sup>121</sup> For Aquinas, conscience is that by which we seek and act upon the means to attain our final end, an end that transcends any political regime. It is a natural habit of reason (*synderesis*) and the application of that habit (*conscientia*) that enables human beings to become good. Conscience is connected to a life of virtue for Aquinas, since the virtues are habits that enable human beings to

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<sup>118</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 21 art 4, ad 3.

<sup>119</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 93, art 4, Corpus.

<sup>120</sup> Aquinas states that human law is even limited in its goal of making men good, and therefore it cannot legislate against all evil. “Human law cannot punish or forbid all evil deeds: since while aiming at doing away with all evils, it would do away with many good things, and would hinder the advance of the common good, which is necessary for human intercourse.” Cf. *Summa Theologiae*, I-II, Q. 91, art. 4, Corpus and Q. 96, art. 2. Further, human law is on Aquinas’s account or ‘*regula regulata*’ or regulated rule – it is limited by a “higher measure [that] is twofold, viz., the Divine and the natural law.” Cf. *Summa Theologiae*, I-II, Q. 95, art. 3, Corpus.

<sup>121</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 96, art. 4. Interestingly, Aquinas in this article states that if by obeying an unjust law, one avoids giving scandal or disturbance, then he helps to promote the common good. This claim I believe highlights the importance that Aquinas places on human interdependency and relationship. However, Aquinas is not advocating that if a grave injustice occurs or is institutionalized in law, then citizens should do nothing just to avoid disturbance. He cites the Gospel of Matthew 5:40-41 “If a man...take away your coat, let go your cloak also unto him; and whosoever will force you one mile, go with him other two.”



become good, and we become virtuous by acting according to conscience. It is particularly the virtue of *prudence* that is most closely connected to conscience since by Aquinas's account both prudence and *conscientia* "are practical judgments, both proceed in some way from synderesis, and both are described in terms of the operative syllogism."<sup>122</sup> Thus, we next turn to examine Aquinas's discussion of conscience and prudence in the *Summa Theologiae*.

### C. Conscience in the *Secunda Secundae Pars*: Judgment of Conscience and the Virtue of Prudence

There is an ambiguity about the difference between conscience and prudence in Aquinas's work since "Thomas never attempted to explain the relationship between these two realities. He never mentions prudence in his questions concerning conscience, nor does he mention conscience in the questions concerning prudence."<sup>123</sup> For Aquinas, both conscience and prudence relate to right reason. However, while Aquinas does not mention *conscientia* in his discussion of prudence, he does mention *synderesis*, and in this way he does relate conscience to prudence. *Synderesis* "moves prudence" to direct human action, and prudence then "decide[s] in what manner and by what means" to act according to right reason in a given situation.<sup>124</sup> Like *conscientia*, prudence belongs to the practical reason and Aquinas defines prudence as a virtue that applies right reason to action.<sup>125</sup>

In his analysis of prudence, Aquinas illustrates that in order for man to order his life in accord with right reason, "it is necessary that [the intellect, will, passions, sense, and other

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<sup>122</sup> Doherty, Reginald, O.P. *The Judgments of Conscience and Prudence*, vii.

<sup>123</sup> Doherty, Reginald, O.P. *The Judgments of Conscience and Prudence*, vii. I have also encountered in conversation with colleagues on this subject a general confusion over the relationship between Aquinas's understanding of conscience to practical reason and to prudence. I recall two instances, one with Prof. Hadley Arkes of Amherst College in June 2011 who said that conscience for Aquinas is just 'practical reason,' and another in spring 2012 with Jesuit scholar Fr. Aaron Pidel who said that Aquinas's understanding of conscience is more like what we call 'prudence.'

<sup>124</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 47, art. 6, ad 3; Q. 47, art 7, Corpus

<sup>125</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 47, art. 3.

faculties must] be governed by certain operative habits, the virtues.”<sup>126</sup> This governance is achieved particularly through the virtue of prudence, which guides all the moral virtues by assessing whether a human act is in accord with right reason.<sup>127</sup> However, for Aquinas, *synderesis* is a necessary step in this determination:

In the first place then, moral virtue supposes the act of reason insofar as the tendency to the end and to the good presupposes knowledge of the end and of the good. This first function of reason, however, does not pertain to prudence, but rather to *synderesis*. *Synderesis* provides the ends of the moral virtues. Prudence, however, is concerned not with the ends of moral virtues, but with the means to those ends.<sup>128</sup>

For Aquinas, *synderesis* supplies the very general first principles and inclinations, *conscientia* applies the first principle and then makes a judgment about what should or should not be done, and prudence dictates the particular means to carry out an action in accordance with right reason.<sup>129</sup>

Aquinas’s description of prudence sounds similar to the way in which he has defined the function of *conscientia*: both draw from the first principles of practical reason contained in *synderesis* to make a judgment on how best to act in a particular situation, on how to act with right reason. Aquinas does make a distinction between them, but it is difficult for even the most well-versed Thomists. Reginald Doherty explains:

Conscience is a norm of morality and St. Thomas treats it as such. It in some way concerns the knowledge of the moral object which is necessary for a human act. The problem of erroneous conscience is reduced to a problem of an error regarding the moral object. When, however, St. Thomas begins to speak about the human act more in particular and about virtue, he abandons the concept of conscience [*conscientia*], and when it is a question of the intellectual elements of a singular human act, the entire reference is to prudence.... Conscience is oriented to *synderesis* at its root and

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<sup>126</sup> Doherty, Reginald, O.P. *The Judgments of Conscience and Prudence*, 61.

<sup>127</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 47, art. 8.

<sup>128</sup> Doherty, Reginald, O.P. *The Judgments of Conscience and Prudence*, 66.

<sup>129</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 47, art. 6, Corpus: “Prudence...applies universal principles to the particular conclusions of practical matters.”

foundation, and the source of its proper effect, moral obligation. Prudence, on the other hand, being oriented toward practical truth in order to produce operation, is focused upon the rectified appetite as its principle and source of motion.<sup>130</sup>

To make the relationship between conscience and prudence even more difficult, Aquinas mentions the Aristotelian term *synesis* in connection with prudence. *Synesis*, he states, is a virtue connected to prudence that “signifies right judgment, not indeed about speculative matters, but about particular practical matters, about which also is prudence.”<sup>131</sup> It is a virtue that enables one to exercise ‘common sense’ to form right judgments about “a thing just as it is in reality.”<sup>132</sup> A right judgment of *synesis* seems to occur prior to the exercise of prudence, as prudence “commands aright” and gives the final word on the correct course of action to be pursued.<sup>133</sup> It would seem that given the similarity between *synderesis* and *synesis* that Aquinas might connect the two concepts here, but he does not make this connection here or elsewhere in the *Summa Theologiae*. What are we to make of this relationship between *synderesis*, *conscientia*, and prudence? The fine distinctions are difficult to grasp, and even Aquinas himself seems not to have dedicated as much effort to explain this difficulty. Perhaps it will be helpful to consider this problem in the context of the *relational* aspect of conscience that I have traced in Aquinas’s thinking.

For Aquinas, the virtue of prudence is also other oriented; he argues that prudence is an essentially political and relational virtue, “since it belongs to prudence rightly to counsel, judge, and command concerning the means of obtaining a due end, it is evident that prudence regards

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<sup>130</sup> Doherty, Reginald, O.P. *The Judgments of Conscience and Prudence*, 85-86.

<sup>131</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 51, art.3, Corpus. Aquinas also describes two other terms from Aristotle’s *Nicomachean Ethics* as being ‘special virtues’ that are a part of prudence, viz. *eubulia* and *gnome*. *Eubulia* is good counsel and *gnome* is another kind of judgment relating to general law. Cf. *Summa Theologiae*, II-II, Q. 51 for Aquinas’s explanation. I have chosen to highlight *synesis* given its etymological relationship to *synderesis*.

<sup>132</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 51, art.3, ad 1.

<sup>133</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 51, art.3, ad 3.

not only the private good of the individual, but also the common good of the multitude.”<sup>134</sup> The exercise of prudence is one critical expression of conscience in political life, since according to Aquinas prudence and justice are political virtues *par excellence*. This is not to say that Aquinas reduces either prudence or justice to their political expressions only. Rather, since these virtues are directed to the common good, they are particularly important for politics. Even when directed toward the individual, prudence still has a political component:

Prudence is in the reason. Now ruling and governing belong properly to the reason; and therefore it is proper to man to reason and be prudent in so far as he has a share in ruling and governing.... Every man, for as much as he is rational, has a share in ruling according to the judgment of reason.<sup>135</sup>

It is the notion of a share in ruling or *governance* that makes prudence so essential, for it is by means of self-governance that human beings participate in the Divine Governance, particularly by taking part in the “dignity of causality.”<sup>136</sup> To explain what Aquinas means by this assertion, let us consider that Aquinas compares prudence (*prudentia*) with Divine Governance, or more properly, with Divine Providence (*providentia*).<sup>137</sup> Providence, according to Aquinas, comes from *porro videns*, meaning “seeing from afar,” the same root from which *prudentia* is derived.<sup>138</sup> Divine *Providentia*, by which God has ordered all things to their proper end, is expressed in individual human persons through the virtue of *prudentia* insofar as it directs man

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<sup>134</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 47, art.11, Corpus.

<sup>135</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 47, art.12, Corpus. See also II-II, Q. 50, articles 1 and 2.

<sup>136</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 23, art.2, ad 2. Aquinas writes: “One is said to be helped by another in two ways; in one way, inasmuch as he receives power from him: and to be helped thus belongs to the weak; but this cannot be said of God, and thus we are to understand, *Who hath helped the Spirit of the Lord?* In another way one is said to be helped by a person through whom he carries out his work, as a master through a servant. In this way, God is helped by us; inasmuch as we execute His orders.... Nor is this on account of any defect in the power of God, but because He employs intermediary causes, in order that the beauty of order may be preserved in the universe; and He may communicate to creatures the dignity of causality.”

<sup>137</sup> I must thank Professor Rémi Brague for pointing out Aquinas’s play on the words ‘*providentia*’ and ‘*prudentia*’ to me in a private conversation at the University of Notre Dame in October 2012.

<sup>138</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 49, art.6, Obj. 1.

to make judgments regarding his final end.<sup>139</sup> It is by their participation in the Divine Providence, Aquinas argues, that God furnishes human beings with many of the necessary tools to attain their good while also allowing them to remain free. Human beings participate in the ‘dignity of causality’ by exercising their freedom in their individual lives and in their relationships and communities that shape the core of their convictions of conscience. It is this share in the dignity of causality that gives the claim of conscience its place in politics as that which both limits and challenges politics.

The exact philosophical distinctions between *synderesis*, *conscientia*, and *prudentia*, although important, are not the focus of this study.<sup>140</sup> It is enough to know that they are essential for how Aquinas understands not only human action, but also the dignity of human freedom. These, viz. *synderesis*, *conscientia*, and *prudentia*, direct human persons toward their *final* end—an end that cannot be determined or realized politically. Moreover, conscience, here being made up *synderesis* and *conscientia*, is not simply subjectivity or opinion; it is grounded in and guided by common human inclinations and experience, right reason, the pursuit of moral virtue, and it requires a life guided by prudence, *prudentia*, in the fullest sense. Conscience points beyond politics: it directs us out of ourselves and orients our actions with the consideration of others and ultimately, according to Aquinas, with reference to a relationship to a Divine God with whom human persons are drawn into a friendship of faith formed in charity, “since there is a communication between man and God, inasmuch as He communicates His happiness to us, some kind of friendship must needs be based on this same communication....The love which is based on this communication, is charity; wherefore it is evident that charity is the friendship of man for

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<sup>139</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 49, art.6, Corpus.

<sup>140</sup> Reginald Doherty, O.P. gives a concise summary of this debate from the mid-18<sup>th</sup> century through the mid-20<sup>th</sup> century on pages 86-89.

God.”<sup>141</sup> For Aquinas, conscience is the place of participation in this friendship and it is the source of what binds human persons together in pursuit of the common good.

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<sup>141</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 23, art.1, Corpus.

## Chapter V: Thinking Together about the Common Good: Toward a Renewed Understanding of Conscience

“Caritas autem qua nos Deum diligimus, dicitur in cordibus nostris diffusa, id est quia ad omnes mores et actus animae perficiendos se extendit.”<sup>1</sup>

“The destruction of conscience is the real prerequisite for totalitarian followers and totalitarian rule. Where conscience prevails, there is a limit to the dominion of human command and human choice, something sacred that must remain inviolate and that in its ultimate sovereignty eludes all control, whether someone else’s or one’s own. Only the unconditional character of conscience is diametrically opposed to tyranny; only the recognition that conscience is sacrosanct protects man from man’s inhumanity and from himself; only its rule guarantees freedom.”<sup>2</sup>

### I. Politics and Conscience

In this examination of Aquinas’s theory of conscience, I have sought to construct a holistic account of the development of his thought on the topic and in doing so, to offer a renewed sense of the importance of conscience, particularly as expressed in politics, such as respect for the freedom of conscience and the common good. The beginning of this dissertation highlighted some historical and contemporary conflicts of conscience as manifested in Nazi Germany (historical) and in American political discourse (contemporary) such as conscientious objection to the recently promulgated HHS mandate by individuals, religious institutions, and businesses, and the question of homosexual marriage legislation.<sup>3</sup> We considered the origins of conscience conflicts, which contemporary French scholar Pierre Manent argues can be summed up in a conflict between human will and reason. In relation to the contemporary, liberal, democratic regime, he writes:

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<sup>1</sup> Aquinas, Thomas. *Commentary on Romans*. Chapter 5, Lecture 1. 392.

<sup>2</sup> Ratzinger, Joseph. “Conscience in its Time: A Lecture Given to the Reinhold Schneider Society,” in *Church, Ecumenism, and Politics: New Endeavors in Ecclesiology*. (San Francisco: Ignatius Press, 2008). 160. (Original German edition published in 1987).

<sup>3</sup> Cf. Chapter 1 of this dissertation.

It is the fact that in the liberal state, in its first project, or primary purpose, wants to institutionalize the sovereignty of the human will. Recognizing only free and equal individuals, it has no legitimacy except that founded on their will: the institutions of this state have for their *raison d'être* the manifesting of this will through suffrage, then the putting of this will into action by representative government.<sup>4</sup>

Manent's assertion that the bedrock of contemporary politics is both the emancipation of the will and the imposition of the will institutionalized in a political regime *at the expense of reason*. For the contemporary liberal regime, he argues that government based upon consent is only legitimate in so far as it is the expression of the will of the citizens in the regime, or at least of those who have the power to impose their will.<sup>5</sup> But Aquinas offers a very different foundation that we have considered in this dissertation, viz. reason.

It is precisely because of the centrality of the will that contemporary political discourse has a very difficult time discerning between conscience claims. For Aquinas, however, a will not in accord with reason is a perversion of the will.

In fact, the discussion about how to decide the legitimacy of these claims seems largely incomprehensible in the public sphere, and increasingly, at least in the United States, this task is being relegated to the courts. In America today lawyers, lobbyists, and *amici curiae* battle with claimants to decide whose conscience claim is most publicly

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<sup>4</sup>Manent, Pierre. "Christianity and Democracy: Some Remarks on the Political History of Religion, or, on the Religious History of Modern Politics," in *Modern Liberty and its Discontents*. Trans. and Eds. Daniel J. Mahoney and Paul Seaton. (Lanham: Rowman and Littlefield, 1998), 99. Manent's cultural assessment as a Frenchman probably largely influences his interpretation of liberalism. In the Anglo-American tradition, there is an interpretation of constitutionalism as a liberal regime informed by the tradition of *lex-ratio*. Cf. the beginning of Chapter III of this dissertation and See Ellis Sandoz's *A Government of Laws: Political Theory, Religion, and the American Founding* for a detailed account of this interpretation. However, even in the American tradition, 'ambition countering ambition' can be seen as a conflict of human wills. American constitutionalism is not immune from this kind of liberalism.

<sup>5</sup> Manent appeals to Tocqueville's observation that such a democracy can easily derail into a tyranny of the majority or into despotism (cf. pages 105-106). However, we can go back further to Plato's admonition about the ease with which democracy can fall into tyranny. Cf. *Republic* Book VIII, 557B-571B.



palatable.<sup>6</sup> Conscience conflicts in public discourse today are particularly contentious about moral and religious issues (e.g. school vouchers, school choice, religious freedom, sex, marriage, adoption, and abortion). But there hardly seems to be much civil, rational, public discourse on these matters beyond talking points or ideological commitments. And without a rational public discourse, laws can easily become unjust. Aquinas explains that “Human law has the nature of law in so far as it partakes of *right reason* [emphasis mine]; and it is clear that, in this respect, it is derived from the eternal law. But in so far as it deviates from reason, it is called an unjust law, and has the nature, not of law but of violence.”<sup>7</sup> Some may argue that this inability to pass all encompassing legislation about matters of conscience contributes to protecting the freedom of conscience. We need to be sure that the account of conscience claims also dictates “which claims of conscience are *reasonable* and which are not.... Apart from such an account, talk of conscience will remain elusive and malleable,”<sup>8</sup> and conflicts will continue to arise. To discern what claims should be considered worthy of protection by the law or from unjust laws, Aquinas might argue, should be the role of prudence. Moreover, Aquinas would not argue that every moral evil can be outlawed: “Human law cannot punish or forbid all evil deeds: since while aiming at doing away with all evils, it would do away with many good things, and would hinder the advance of the common

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<sup>6</sup> Melissa Moschella argues in a recent article, “The HHS Mandate and Judicial Theocracy” that the danger of allowing the courts to deal with these matters, especially matters where claimants argue that a law violates their religious beliefs, is that the courts risk becoming a judge of the soundness of certain theological claims. [www.thepublicdiscourse.com/2013/01/7403](http://www.thepublicdiscourse.com/2013/01/7403). Aquinas, with Aristotle, also argues that law should not be that judges should not be the primary framers or arbiters of the law. Cf. I-II, Q. 95, art. 1. ad 2.

<sup>7</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 93, art.3, ad 2.

<sup>8</sup> Moreland, Michael P. “Practical Reason and Subsidiarity: Response to Robert K. Vischer *Conscience and the Common Good*. *Journal of Catholic Legal Studies* 49 (2010), 323

good, which is necessary for human intercourse.”<sup>9</sup> The decision about what human evils to outlaw is a matter left to prudential judgment, but prudence is oriented and guided by *synderesis* as a kind of ‘first illumination’ of the principles of practical reason.<sup>10</sup>

## II. The Enduring Problem of Synderesis

We have seen Aquinas’s concept of conscience in its two-fold dimension, *synderesis* and *conscientia*, with *synderesis* as a habit of practical reason by which we know the first principles and *conscientia* that act by which we apply those principles to concrete experience. Aquinas’s working out of this concept take into account many aspects, such as how can human persons know the good and not always do what is good? How is conscience related to other parts of the soul? Is our conscience simply innate knowledge? How does conscience relate to law, to community, to God? What are the constraints on conscience? Aquinas would not argue that conscience is synonymous with personal preference, opinion, or a radically individual autonomy. His distinction of conscience as *synderesis* and *conscientia* helps clarify some of these questions.

However, as many scholars have pointed out, *synderesis* remains an unclear concept, and Aquinas himself seems to move away from using it in his later work.<sup>11</sup> Although it was at Aquinas’s time a traditional word for describing an element of moral knowledge, there is the problematic issue that *synderesis* is actually a deformation of a Greek word. Oscar James Brown writes that:

Aquinas is not at all averse to that traditional manner of speaking, and he retains the substance, at least, of the notion even in his later works—although no longer

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<sup>9</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 91, art.4, Corpus. There is, therefore, an implication of human progress in human knowledge and understanding for Aquinas; one that is based on his understanding of the actualization of human potential.

<sup>10</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, 80, §2.

<sup>11</sup> Cf. Michael B. Crowe’s *The Changing Profile of the Natural Law*, Reginald Doherty’s *The Judgments of Conscience and Prudence*, and Oscar James Brown’s *Natural Rectitude and Divine Law in Aquinas*.

under the rubric of *synderesis*, a term he increasingly eschewed as he developed doctrines of natural law and legal epistemology. In any event, St. Thomas was to continue to make use of what he understood to be the content of the term *synderesis*, namely, the natural habit of the first practical principle (or principles, depending on whether it be viewed exactly or extensively). As such, *synderesis* corresponds to the understanding (*intellectus*) of principles in the speculative sphere in fact, *synderesis* is often similarly denominated (v.g. *intellectus practicus* or, simply, *intellectus*).... So then, it is this natural cognitive habit, divine instilled and reaching to the plane of angelic intelligence, that contains the ‘universal principles of the natural law’ and precontains, in a manner of speaking, the whole of the developing corpus of the quasi-legal conclusions of the natural ethical reason.<sup>12</sup>

Brown argues that Aquinas, while retaining the concept of *synderesis*, drops the use of the term. There is, however, a transcendental dimension acknowledged by the participatory rise to the dimension of ‘angelic intelligence’ regardless of whether the terminology is dropped.

Douglas Kries finds the word term so problematic that he believes it should be abandoned altogether by scholars who are serious about resurrecting a natural law discourse that would enable the citizens of liberal regimes to think (or perhaps more precisely, to *reason*) together again about the common good.<sup>13</sup> Moreover, Kries finds Aquinas’s use of *synderesis* “scandalously democratic, for the knowledge of first principles does not immediately depend on either the influx of increate light or the educational conventions of the city.”<sup>14</sup> But it is precisely his pointing outside of the city that *is* Aquinas’s great contribution to political philosophy—conscience limits politics.

One way in which conscience limits politics is expressed in religious liberty. Since conscience is based upon a friendship between God and man, man’s participation

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<sup>12</sup> Brown, Oscar James. *Natural Rectitude and Divine Law in Aquinas*.(Toronto: Pontifical Institute of Medieval Studies, 1981), 35.

<sup>13</sup> Cf. Kries, Douglas. *The Problem of Natural Law*, chapter 4.

<sup>14</sup> Hittinger, Russell. “Examination of Conscience.” *First Things*, January 2009. Obtained from <http://www.firstthings.com/article/2008/12/004-examination-of-conscience-5>.

in the life of the Divine, human persons will seek to order their lives and their communities according to their conscientious and religious convictions. It is critical to remember that “religious liberty extends beyond the freedom to believe and worship as one chooses.”<sup>15</sup> For Aquinas, *conscientia* is an act; it is an act that involves the exercise of moral virtue and practical wisdom—it is an act that is lived in every day experience. Thus, to live according to one’s conscience means not just belief, but *action*. This means that the individual man’s exercise of conscience becomes social, political, and relational. Since conscience points the individual human person both horizontally toward others in his relationships and vertically toward his Divine Creator, it both limits and challenges the power of political regimes. “Put simply, conscience means acknowledging that man—oneself and the other—is a creation and respecting the Creator in him. This defines the limit of every power and at the same time indicates its proper direction.”<sup>16</sup> Conscience is, as Vaclav Havel calls it, the very ‘power of the powerless,’ the only sure means of resistance against political injustice.<sup>17</sup> Thus, “it is not just individuals that must be immune from coercion, but also communities...not just in private, but in public; not just in secret assent, but in open witness.”<sup>18</sup>

But perhaps we are still left with many questions. A conscience claim is always politically vulnerable, and perhaps with good reason, for “the more boldly men claim that

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<sup>15</sup> Müller, Gerhard Ludwig. “Faith’s Political Witness.” *First Things*.(April 2013), 35.

<sup>16</sup> Ratzinger, Joseph. “Conscience in its Time,” 164.

<sup>17</sup> Havel, Vaclav. “The Power of the Powerless,” in *The Power of the Powerless: Citizens against the State in Central-Eastern Europe*. Ed. John Keane. (Armonk, N.Y.: M.E. Sharpe, 1985), 23-96. Cf. page 41: “It seems that the primary breeding ground for what might, in the widest possible sense of the word, be understood as an opposition in the post-totalitarian system is living within the truth. The confrontation between these opposition forces and the powers that be, of course, will obviously take a form essentially different from that typical of an open society or a classical dictatorship. Initially, this confrontation does not take place on the level of real, institutionalized, quantifiable power which relies on the various instruments of power, but on a different level altogether: *the level of human consciousness and conscience, the existential level.*”[emphasis mine].

<sup>18</sup> Müller, Gerhard Ludwig. “Faith’s Political Witness.” *First Things*.(April 2013), 35.

*conscience* is, directly or vicariously, a divine lawgiver and the ‘spotless mirror of God’s majesty,’ the more troublesomely aware they are they must become that this lawgiver gives different laws to different men; this mirror reflects different faces.”<sup>19</sup> Conflicts of conscience claims still remain, and attributing one’s conscience claims to the sacred realm of God’s law certainly can and does lead to political violence. As discussed at length in the beginning of this dissertation, conscience claims may seem to be either “the principle of subjective self-will, taken as an absolute” or “the principle of incapacitating the ego and substituting a generality of an outside ego.”<sup>20</sup> Claims of conscience are therefore “to be made carefully and honestly, in the knowledge that what is great is misused when it is called into action prematurely.”<sup>21</sup> Thus, “the concept of conscience has to be purified constantly;”<sup>22</sup> it must be grounded in *reason* and its claims must be made and heeded with respect to the natural inclinations of each human person’s unique relationships as they inform their individual conscience.

Aquinas offers a grounding of conscience in common reason that is guided by *synderesis* as a solution to such a problem. But we must also consider if Aquinas’s assessment of conscience, particularly of *synderesis* is convincing—is the term too philosophically imprecise to convince anyone that there is some kind of natural knowledge of right that is grounded in common human experience and in reason? Can we argue for a convincing reconsideration of the natural law without this account of conscience as Douglas Kries suggests but does not develop?<sup>23</sup> Can a reconsideration of how conscience relates to the natural law enable us to think and to *reason* together about

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<sup>19</sup> Lewis, C.S. *Studies in Words*, 199.

<sup>20</sup> Ratzinger, Joseph. “Conscience in its Time,” 164.

<sup>21</sup> Ratzinger, Joseph. “Conscience in its Time,” 164.

<sup>22</sup> Ratzinger, Joseph. “Conscience in its Time,” 164.

<sup>23</sup> Cf. footnote 13 *supra*

the common good? Some scholars have pointed out that the term *synderesis* needs further clarification and development. For example, J. Budziszewski describes *synderesis* as ‘deep conscience’; he writes, “*synderesis*—some prefer to call it *anamnesis*, remembrance—[...] might be called ‘deep conscience.’ Deep conscience is the interior witness to the most general norms of practical reason.”<sup>24</sup> In this short passage, Budziszewski points to two different ways of defining *synderesis*: *anamnesis* or ‘deep conscience.’ While his explanation of the function of *synderesis* sounds familiar, Budziszewski does not, however, tell us who prefers to call *synderesis* by another Greek term *anamnesis*.

This suggested new term is found in a speech given by then Joseph Cardinal Ratzinger in 1991 to his fellow Catholic bishops. Though a speech given in a theological context, Ratzinger’s reflections primarily address a philosophical investigation of conscience. Following Aquinas, he too posits that conscience has two component parts:

The medieval tradition was right, I believe in according two levels to the concept of conscience. These levels, though they can be well distinguished, must be continually referred to each other. It seems to me that many unacceptable theses regarding conscience are the result of neglecting either the difference or the connection between these two. Mainstream scholasticism expressed these two levels in the concepts ‘*synderesis*’ and ‘*conscientia*.’<sup>25</sup>

But *synderesis*, Ratzinger argues, “remained unclear in its exact meaning, and for this reason became a hindrance to a careful development of this essential aspect of the whole question of conscience. I would like, therefore...to replace this problematic word with the much more clearly defined Platonic concept of *anamnesis*.”<sup>26</sup> Here, Ratzinger does

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<sup>24</sup> Budziszewski, J. *The Line Through the Heart: Natural Law as Fact, Theory, and Sign of Contradiction*. (Wilmington, DE: ISI Books, 2011), 14-15.

<sup>25</sup> Ratzinger, Joseph. “Conscience and Truth.” *On Conscience*. (San Francisco: Ignatius Press, 2007), 30.

<sup>26</sup> Ratzinger, Joseph. “Conscience and Truth.” Pp. 30-31. For the use of the term in Plato, Cf. *Phaedo* 72e and 92d and *Philebus* 34c.

not give much of an explanation about how this concept is more clearly defined, but he points to two passages, viz. Romans 2:14-15 and a passage from the monastic rule of St.

Basil to define what he means by *anamnesis*.<sup>27</sup> Ratzinger writes:

[Anamnesis] means that the first so-called ontological level of the phenomenon of conscience consists in the fact that something like an original memory of the good and true...has been implanted in us, that there is an inner ontological tendency in within man, who is created in the likeness of God, toward the divine. From its origin, man's being resonates with some things and clashes with others. This anamnesis of the origin, which results from the god-like constitution of our being...is, so to speak, an inner sense, a capacity to recall.<sup>28</sup>

Like Aquinas, Ratzinger follows a philosophical anthropology that views the human person as constituted and defined by his relation to God and to others as *imago Dei*. He proposes the word '*anamnesis*' as a kind of 'original memory' of the good that exists in each person by nature. It is an awareness or a 'recollection' of one's origin that orients the human person toward what is true and good. Ratzinger has called it a Platonic concept, and it is used in the *Phaedo* first by Cebes to describe how Socrates has described the process of learning and again referred to in this context by Socrates when he speaks to Simmias about the immortality of the soul.<sup>29</sup> Thus *anamnesis* is a recollection of what is somehow already known.

What are the implications of such new terminology for this level of conscience? The term suggests a kind of 'givenness' or *arche* from which the human person is able to reflect and to recollect based upon that reflection. To recollect suggests that there is in fact something to be recollected—that is the givenness to which we refer. Of what does

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<sup>27</sup> From St. Basil: "The love of God is not founded on a discipline imposed on us from outside, but is constitutively established in us as the capacity and necessity of our rational nature." Quoted in "Conscience and Truth," P. 31.

<sup>28</sup> Ratzinger, Joseph. "Conscience and Truth." P. 32.

<sup>29</sup> Cf. Plato's *Phaedo* 72e and 92d; cf. also *Philebus* 34c.

this givenness consist? We could look to Aquinas's Treatise on Law for part of the answer:

All those things to which man has a natural inclination are naturally apprehended by reason as being good, and consequently as objects of pursuit, and their contraries as evil, and objects of avoidance. Wherefore according to the order of natural inclinations, is the order of the precepts of the natural law. Because in man there is first of all an inclination to good in accordance with nature which he has in common with all substances: inasmuch as every substance seeks the preservation of its own being, according to its nature.... Secondly, there is in man an inclination to things that pertain to him more specifically, according to the nature which he has in common with other animals: and in virtue of this inclination, those things which nature has taught all animals, such as sexual intercourse, education of offspring, and so forth. Thirdly, there is in man an inclination to good, according to the nature of his reason, which nature is proper to him: thus man has a natural inclination to know the truth about God, and to live in society.<sup>30</sup>

Aquinas gives an account of self-evident inclinations as part of the givenness of man's created nature and as expressed in the natural law. He grounds these inclinations and the natural law in God's *Providentia*, the order of created nature, and man's created participation in Divine *Providentia*. But such a concept may be more difficult for a secular political culture to grasp—how can a pluralist society agree on the nature and scope of Divine *Providentia*? If a pluralist society and culture cannot accept the grounding in a common and particular view of Divine *Providentia*, Aquinas's pointing toward the natural inclinations seem a much more reasonable starting point; and it is a starting point that leaves human inquiry open to transcendence and inquiry about the Divine, “there is in man an inclination to good, according to the nature of his reason, which nature is proper to him: thus man has a natural inclination to know the truth about

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<sup>30</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 94, art.2, Corpus.



God, and to live in society.”<sup>31</sup> It is therefore natural for the human person to seek the supernatural, the transcendent, the Divine.

Perhaps *anamnesis* is a more helpful term to explain the primary role of conscience: we must first recall this very givenness in which the human person exists, including his participatory role in the Divine. To explain how *anamnesis* might be more instructive, I turn to political philosopher Eric Voegelin, who develops a theory of *consciousness* in his work entitled *Anamnesis*. Voegelin, a German scholar who was confronted with the Nazi regime, spent his career both diagnosing and seeking a solution what he calls the ‘pneumopathology’ of modernity.<sup>32</sup> This ‘pneumopathology’ or ‘illness of the spirit’ is the ideological thinking that willfully forgets and rejects the givenness of the reality in which a human person both exists and participates in favor of its own constructed (and distorted) view of reality. In the case of a willful forgetfulness, an *anamnesis* of the givenness of reality is absolutely an appropriate solution. But what has this to do with conscience? Let us return briefly to Aquinas.

Recall that in the *Summa Contra Gentiles*, Aquinas explains Divine Providence in terms of Divine governance, which is simply the rule and order of being, “it must be that God, Who is in all ways perfect in Himself and Who endows all things with being from His own power, exists as the Ruler of all beings, and is ruled by none other.”<sup>33</sup>

Aquinas continues:

The result of this rule is manifested differently in different beings, depending on the diversity of their natures. For some beings so exist as God’s products that,

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<sup>31</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 94, art.2, Corpus.

<sup>32</sup> Cf. Voegelin, Eric. *Science, Politics, and Gnosticism*, 76. Here Voegelin cites Schelling, who coined the term. Voegelin writes, “it will be advisable to use the term ‘pneumopathology,’ which Schelling coined for this purpose.” Voegelin describes the pneumopathological condition as one in which a person “revolt[s] against the world as it has been created by God, arbitrarily omits an element of reality in order to create his fantasy of new world.”

<sup>33</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 1, 3.

possessing understanding, they bear likeness and reflect His image. Consequently, they are not only ruled but also are rulers of themselves, inasmuch as their own actions are directed toward a fitting end.<sup>34</sup>

Aquinas underscores that the human creature, who possesses understanding—*intellectus* (i.e. the capacity for rational reflection) participates in the Divine Governance. It is precisely a consciousness of the human capacity for rational reflection that, to turn back to Eric Voegelin, is in need of being recollected. Voegelin describes this consciousness as a “ceaseless act of expanding, ordering, articulating, and correcting itself; it is an event in the reality in which partakes.”<sup>35</sup> There are several preliminary observations to make. First, we note the similar root of the word *conscience* with Voegelin’s choice, viz. *consciousness*. Both words imply something *with knowledge*; and Aquinas cites that a kind of *consciousness* is linked to the term *conscience*. He explains:

Some say that *conscience* (*conscientia*) can have three meanings. For, at times it is taken for the thing itself of which one is conscious, just as faith is taken for the thing believed. Sometimes it is taken for the power by which we are conscious, and sometimes for the habit.<sup>36</sup>

Aquinas, of course, does not accept these definitions of *conscientia*, but instead defines it as an act. Yet, he still retains the idea of *conscientia* as a kind of consciousness or awareness of something:

But the name *conscience*, according to common usage, seems at times to be used for the thing of which one is conscious, as when one says: ‘I will reveal my conscience to you,’ that is, what is in my conscience. But this title cannot properly be given to the power or habit, but only to the act. For all things which are attributed to conscience fit only this meaning.<sup>37</sup>

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<sup>34</sup> Aquinas, Thomas. *Summa Contra Gentiles*. Book III, Chapter 1, 4. Also quoted page 127 of this dissertation.

<sup>35</sup> Voegelin, Eric. *Anamnesis*. Trans. and Ed. Gerhart Niemeyer.(Columbia: University of Missouri Press), 4.

<sup>36</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art. 1, Corpus.

<sup>37</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art. 1, Corpus.

Aquinas explicitly links *conscientia* with consciousness: “Hence to be conscious (*conscire*) means to know together (*simul scire*). But any knowledge can be applied to a thing. Hence, conscience cannot denote a special habit or power, but designates the act itself.”<sup>38</sup> Voegelin describes *consciousness* in much the same way that Aquinas defines *conscientia*, viz. as an act.<sup>39</sup> In both cases, however, there is something about which the human person is conscious or aware. Aquinas calls this ‘something’ the first principles of practical reason, the content of *synderesis*.

Like Aquinas, Voegelin also explicitly connects his theory of consciousness with reason (which he calls the constituent of human beings at all times) and begins his analysis of ethics and moral choice with concrete human experience. This emphasis on experience is perhaps the most important component for Voegelin’s understanding of human consciousness, and in this regard, both Voegelin and Aquinas rely upon the Aristotelian tradition.<sup>40</sup> Voegelin theorizes that reason is,

The process in reality in which concrete human beings, the ‘lovers of wisdom, the philosophers...were engaged in an act of resistance against the personal and social disorder of their age. From this *act* [emphasis mine] there emerged the *nous* as the cognitively luminous force that inspired the philosophers to resist and, at the same time, enabled them to recognize the phenomena or disorder in the light of a humanity ordered by the *nous*. Thus reason in the noetic sense was discovered as both the force and the criterion of order.<sup>41</sup>

Voegelin’s description of consciousness and reason emphasize the act of particular human persons from which reason is expressed as being ‘cognitively luminous,’ something that enables human persons to resist disorder. In this context, Voegelin refers particularly to Plato and Aristotle, whose philosophical inquiries emerge as a response to

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<sup>38</sup> Aquinas, Thomas. *De Veritate*. Q. 17, art. 1, Corpus.

<sup>39</sup> Cf. footnote 27 supra.

<sup>40</sup> See Voegelin’s *The New Science of Politics*, (Chicago: University of Chicago Press, 1987), pages 34 and 64-66 where Voegelin discusses Aristotle’s grounding of his own theoretization in practical experience.

<sup>41</sup> Voegelin, Eric. *Anamnesis*, 89.

a corrupt and crumbling Athenian polis.<sup>42</sup> Voegelin believed this analysis of reason (*nous*) as a means to resist disorder to be particularly apt to his own time in the late twentieth century, and perhaps it is still a message for us in the early twenty-first century. Indeed, it is a message that all persons in all times are in need of hearing, viz. that reason properly understood enables human beings to resist disorder in their individual lives, in their relationships, and in their communities. Right reason properly orders conscience (and the persons to whom those consciences belong) toward pursuing a life of virtue. But let us give more attention to the idea of right reason.

According to Voegelin, a recollection of the entire scope of reason's (*nous* or noetic interpretation) ability to discern the truth about God, man, and society is necessary to ensure a just political order. This is the content of *anamnesis*—recollecting what reason is capable of achieving through participation; “the noetic exegesis lifts the logos of participation into the light of consciousness by interpreting the noetic experience of participation.”<sup>43</sup> Voegelin argues that a resurrection of reason's capabilities, particularly through a reconsideration of the Greek insights, will give reason its proper dignity of seeking and knowing. Drawing from Aristotle, Voegelin asserts that man comes closest to the transcendent divine through the exercise of *nous*:

A man whose activity is guided by intelligence (*nous*), who cultivates his intelligence and keeps it in the best condition, seems to be most beloved by the gods. For if the gods have any concern for human affairs—and they seem to have—it is to be expected that they rejoice in what is best and most akin to them, and that is our intelligence<sup>44</sup>

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<sup>42</sup> Cf. Voegelin's excellent volume, *Plato*, Columbia: University of Missouri Press, 2000.

<sup>43</sup> Voegelin, Eric. *Anamnesis*, 183

<sup>44</sup> Aristotle. *Nicomachean Ethics*, 1179a.

Moreover, reason (*nous*) gives man his proper dignity, since “reason [is] the source of order in the *psyche* of man.”<sup>45</sup> Reason as the source of order is on account of its “content of openness toward reality.”<sup>46</sup> Voegelin continues—reason alone does not order the human person. Rather, it is “the bond between reason and existential *philia*, between reason and openness toward the ground.”<sup>47</sup> Voegelin’s language ‘the ground of reality’ is what Aquinas calls the Divine, God. Thus, both thinkers reach the same conclusion—reason is the means by which man participates in something other than himself. It extends the human person beyond himself not only to others, but to the transcendent, Divine source of his being through a between reason and *philia* (or, for Aquinas, *caritas*) that directs all of our moral habits and choices through conscience.<sup>48</sup> This bond between reason and *philia* or *caritas* necessitates an awareness in the human person about who he is in his createdness—and that awareness can only occur in the context of right relationship: with oneself, the Divine, and others. Man is pulled toward the divine ground of his being, and it is through the exercise of his reason (*nous*) that he comes to a greater degree of clarity and luminosity concerning the nature of his own existence and his relation to the divine.

If the human person (or an entire society) turns away from the bond of reason and love, then disorder, irrationality, and injustice result. According to Voegelin, such a turn risks objectifying or ideologizing truth, since the human person always remains in tension with his finite existence and his transcendent end. Voegelin describes this tension within the context of political society:

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<sup>45</sup> Voegelin, Eric. *Anamnesis*, 89, see also page 149: “With a view to the thus complete exegesis, we may speak of the *ratio* as the material structure of consciousness and its order.”

<sup>46</sup> Voegelin, Eric. *Anamnesis*, 98.

<sup>47</sup> Voegelin, Eric. *Anamnesis*, 98.

<sup>48</sup> Cf. Aquinas, Thomas. *Commentary on Romans*. Chapter 5, Lecture 1. 392

The tension in political reality, which historically produces the phenomenon of the noetic interpretation, is not a thing about which objective propositions could be formed. Rather, it must be traced back to its origin in the consciousness of men who desire true knowledge of order.... The experience of concrete-human order, too, is not of an object but itself a tension, insofar as man experiences himself as ordered through the tension to the divine ground of his existence.<sup>49</sup>

Voegelin refers to this process of objectifying the noetic insights of philosophy as the process of ‘derailment,’ a process that is a “conscious, deliberate, and painstakingly elaborated obstruction of *ratio*.”<sup>50</sup> The obstruction of *ratio* (i.e. reason) at the level of a political society leads to a society that easily becomes subject to totalitarian ideologies.<sup>51</sup>

Voegelin speaks with the authority of one who lived under and escaped Nazi Germany:

What we have to deal with is not the National Socialists and their heinous crimes, nor the atrocities...these are all phenomena situated in the continuity and causality of history; but our problem is the spiritual condition of a society in which the National Socialists could come into power.<sup>52</sup>

Aquinas points to the way in which such a spiritual condition can happen, and to how in it can be prevented.

Aquinas, like Voegelin, grapples with the problem of evil, one that is both individually and politically experienced as the obstruction of *ratio*, which leads to disorder. According to Aquinas, moral evil resides in the human will, man’s free elective power, whereby he “desire[s] something for the sake of obtaining something else.”<sup>53</sup>

But, in order to freely choose to do those things which are good, the will must be informed by *right reason*. Right reason is habituated through the exercise of virtue, “the rational powers, which are proper to man, are not determined to one particular action, but

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<sup>49</sup> Voegelin, Eric. *Anamnesis*, 147.

<sup>50</sup> Voegelin, Eric. *Science, Politics, and Gnosticism*. (Wilmington, DE: ISI Books, 2004), 17.

<sup>51</sup> Cf. Voegelin, Eric. *Science, Politics, Gnosticism*, part II, pages 61 and following.

<sup>52</sup> Voegelin, Eric. *Hitler and the Germans*. Trans. and Eds. Detlev Clemens and Brendan Purcell. Columbia: University of Missouri Press, 1999. P. 77.

<sup>53</sup> Aquinas, Thomas. *Summa Theologiae*. I, Q. 83, art.4, Corpus.

are inclined differently to many; but they are determined to acts by means of habits. . . . Therefore, human virtues are habits.”<sup>54</sup> Just as virtue habituates right reason, so vice habituates faulty reason. Thus, moral evil is a defection of the will, and it is the result of an improperly formed or obstructed rational capacity.

One way to prevent defection of the will is a proper education that is aimed at formation of character and virtue, of reason, and of conscience; and, as I have argued, right *relationship* is a critical component of this formation. Through his participation in the moral life, man is brought into the life of the community. But it also requires an ever-present awareness of the fundamental tension of the human person, viz. that the reality of man is his orientation toward that which is beyond himself, whether it is through relationships with other human beings, or a desire for communion with the Divine. The two are intimately connected, and both call man to a life beyond himself, which in turn calls him to pursue a vision of reality based on a primacy of morality and ethics. Both also signal that every human person is part not only of a political community, a family, or institutions of civil society, but also of a spiritual community that transcends any earthly community. Aquinas calls this community the *corpus mysticum*, or the ‘mystical body of Christ.’ He writes:

This is the difference between the natural body of man and the Church's mystical body, that the members of the natural body are all together, and the members of the mystical are not all together--neither as regards their natural being, since the body of the Church is made up of the men who have been from the beginning of the world until its end--nor as regards their supernatural being, since, of those who are at any one time, some there are who are without grace, yet will afterwards obtain it, and some have it already. We must therefore consider the members of the mystical body not only as they are in act, but as they are in potentiality. Nevertheless, some are in potentiality who will never be reduced to act, and some are reduced at some time to act; and this according to the triple class, of which the first is by faith, the second by the charity of this life, the third

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<sup>54</sup> Aquinas, Thomas. *Summa Theologiae*. I-II, Q. 55, art.1, Corpus.

by the fruition of the life to come. Hence we must say that if we take the whole time of the world in general, Christ is the Head of all men, but diversely.<sup>55</sup>

Aquinas's vision of a human community is one based in the reality of the Incarnation, that is, of the Divine who became a human person and so radically transforms the meaning of human relationships and of the relationship between God and man.

Augustine puts this idea into political language, calling it the tension between the city of man and the City of God—two cities in which the every human person exists. The city of man is *by its nature* limited in its scope and accomplishments. The City of God is not of the world, but the Incarnation has brought its order (the order of grace, divine love, and redemption) to the world. The bond of the mystical body of Christ—one that includes all human persons in all times—is grounded in Aquinas's view of the human person exists under “the presence of God, and the presence of God in the world.”<sup>56</sup> If these truths about the human person are not acknowledged, what ensues is a “spiritual disorder [consisting] in the universal awareness of what ought to be done, combined with the universal refusal to do it and the pervasive flight toward rationalizations. Without this inner process of psychic disintegration, the external process of uninhibited political destruction could never occur.”<sup>57</sup> The problem of moral evil (and in particular political evil) is particularly difficult for contemporary, liberal political societies to confront because of “the loss of contact with the ordering spiritual traditions of Western civilization, and the resulting necessity of reestablishing the connection or discovering

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<sup>55</sup> Aquinas, Thomas. *Summa Theologiae*. III, Q. 8, art. 3, Corpus.

<sup>56</sup> Voegelin, Eric. *Hitler and the Germans*, Trans. and Ed. Detlev Clemens and Brendan Purcell. (Columbia: University of Missouri Press, 1999), 202

<sup>57</sup> Walsh, David, *After Ideology*, 90.



new spiritual sources of order.”<sup>58</sup> To resist political disorder calls for a recollection of these spiritual sources—resistance calls for *anamnesis*.

### III. An Anamnetic Politics: A Reorientation toward the Common Good

Let us consider this analysis into the context of conscience and political order. First, we have considered the connection between *anamnesis* and reason. While, as many scholars have rightfully pointed out, the term *synderesis* remains philosophically imprecise, it is very clear by our analysis that this concept is connected to reason. *Synderesis* has a very particular meaning for Aquinas, viz. the special natural habit by which human beings know the first principles of practical reason.<sup>59</sup> Aquinas calls it a natural ‘habit’ “to avoid conflating natural habits with innate knowledge.”<sup>60</sup> Does the more Platonic term *anamnesis* run the risk of calling the content of *synderesis* innate knowledge? By Ratzinger’s and Voegelin’s analysis, the answer is negative. For Ratzinger, *anamnesis* is, “the capacity and disposition for observing all divine commandments” and the “ontological tendency within man, who is created in the likeness of God, toward the divine. From its origin, man’s being resonates with some things and clashes with others.”<sup>61</sup> Like Aquinas, Ratzinger refers to *anamnesis* as the primary level of conscience, and describes it as a disposition or a capacity, a tendency or an *inclination* toward what is good and repulsion from what is not good. Aquinas, while he does not expound a philosophical concept of *anamnesis* does recognize the importance of memory (*memoria*) as a part of prudence—which is a virtue of practical reason which

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<sup>58</sup> Walsh, David. *After Ideology*, 258.

<sup>59</sup> Cf. Aquinas, Thomas. *Summa Theologiae*, I, Q. 79, art. 12.

<sup>60</sup> Hittinger, Russell. “Examination of Conscience.” *First Things*, January 2009. Obtained from <http://www.firstthings.com/article/2008/12/004-examination-of-conscience-5.P.3>. Also quoted in chapter 3, page 110 of this dissertation.

<sup>61</sup> Ratzinger, Joseph. “Conscience and Truth,” 32.

treats “contingent matters of action” “wherein there is no fixed way of obtaining the end.”<sup>62</sup> Aquinas’s emphasizes the important role of memory to guide human action

because it enables human beings to recall experience. He explains:

Prudence regards contingent matters of action... Now in such like matters a man can be directed, not by those things that are simply and necessarily true, but by those which occur in the majority of cases: because principles must be proportionate to their conclusions, and *like must be concluded from like* (*Ethics*, vi). But we need *experience to discover what is true in the majority of cases*[emphasis mine]... Now experience is the result of many memories as stated in *Metaph.* i, 1, and therefore prudence requires the memory of many things.<sup>63</sup>

Aquinas emphasizes the experiential basis as the starting point for moral knowledge and action, recognizing that innate ideas or ‘those things which are simply and necessarily true’ are not always an appropriate starting point for contingent, human matters. Thomas understood “that a habitual grasp of first principles hardly constitutes a morality. The agent needs the facts drawn from experience and inquiry; conclusions need to be framed in the manner of adequate propositions; and conclusions need to be drawn from facts,”<sup>64</sup> because human actions always deal with particulars. The content of conscience (*anamnesis* or *synderesis* in particular) provides a critical part of the framework in which to analyze experience and to direct inquiry.

Similarly, Voegelin’s theory of consciousness as *anamnesis* is “a process which we know from within” and has “the character of an inner ‘illumination’; i.e. it is not blind but can be experienced in its inner dimensions of a past and future.”<sup>65</sup> The process of consciousness is “the only *experiential* [emphasis mine] model to serve as the orientation

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<sup>62</sup>First quotation Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 49, art.1, Corpus; second quotation II-II, Q. 47, art.2, ad. 3.

<sup>63</sup> Aquinas, Thomas. *Summa Theologiae*. II-II, Q. 49, art.1, Corpus.

<sup>64</sup> Hittinger, Russell. “Examination of Conscience.” *First Things*, January 2009. Obtained from <http://www.firstthings.com/article/2008/12/004-examination-of-conscience-5>. P. 5.

<sup>65</sup> Voegelin, Eric. *Anamnesis*, 20, 21.

point of the conceptual apparatus through which we must also grasp the processes that transcend consciousness.”<sup>66</sup> Voegelin emphasizes that individual human beings only have access to their own consciousness. Human understanding about reality is always perspectival; man can never fully know all Truth, for his knowledge is experientially based, and that experience is incomplete. It is prone to error and incorrect judgments just as Aquinas describes. For Voegelin, the recognition of the incomplete knowledge of Truth ought to guard human beings from subscribing to any particular dogmatic ideology that claims absolute Truth. Human beings “cannot descriptively grasp ‘pure’ consciousness as process; rather [they] can only interpretively grasp a human consciousness as consciousness in the body and the world.”<sup>67</sup> However, it must be noted that Voegelin’s theory of consciousness does not end up in solipsism or autonomous subjectivism—it too has a relational and transcendent component. What is common to human beings is the life of the spirit that is to be sought within *anamnetic* consciousness; it is the Heraclitean *xynon*, or the Christian understanding of man as *imago Dei*.

Voegelin states,

Through the life of the spirit, which is common to all, the existence of man becomes existence in community. In the openness of the common spirit there develops the public life of society. He, however, who closes himself against what is common, or who revolts against it, removes himself from the public life of the human community.<sup>68</sup>

Voegelin’s theory of consciousness, like Aquinas’s theory of conscience, is one that aims to illustrate the nature of the human person as oriented into relationships with others that are ultimately based in the common pursuit of relationship with the Divine—which Aquinas calls man’s final end and perfection. It constitutes an understanding of human

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<sup>66</sup> Voegelin, Eric. *Anamnesis*, 21.

<sup>67</sup> Voegelin, Eric. *Anamnesis*, 31.

<sup>68</sup> Voegelin, Eric. “On the German University and German Society: A Reconsideration of the Nazi Era,” 7.

relationships as communion wherein individuals who are “equal in dignity...are fulfilled as persons in relationship to other persons.”<sup>69</sup> Neither consciousness nor conscience is an object, but rather, the means by which human persons *participate* in reality, and are oriented toward the common good, a common good that is lived “by flesh-and-blood persons constituting the community. It is the well-being of those persons and their families and other associations of persons...of which they are members.”<sup>70</sup>

The essence of Voegelin’s theory of consciousness is *anamnesis*, for the very modes of consciousness, according to Ellis Sandoz, are knowledge, forgottenness, and recollection. Sandoz writes:

What is remembered. . . is what has been forgotten; and the troublesome task of recollecting the forgotten must be assayed because it should not remain forgotten. Through recollection of the forgotten that which ought to be remembered is brought to the present of knowledge; and the tension to knowledge shows forgottenness to be the situation of not-knowing, the ignorance (*agnoia*) of the soul in Plato’s sense. Knowledge and not-knowing are situations of existential order and disorder. What is forgotten can, however, only be remembered because it is a knowledge in the mode of a forgottenness whose presence in forgottenness stirs existential discontent in a man, and this discontent presses toward conscious knowledge. Recollection [*anamnesis*] is, therefore, the activity of the consciousness through forgottenness; and this means that the latent knowledge of the unconscious is aroused through recollection and returned in an observable manner into specific presence in consciousness where it is articulated.... [W]hat is recollected that preeminently ought to be known (and not remain forgotten) is the sources of man’s humanity and the order of society and history in *participatory attunement to the divine reality of the Ground*.<sup>71</sup>

According to Sandoz, what is ‘forgotten’ is what must not remain forgotten—it is the reality of the human person’s participatory existence; man is the epitome of being, for he

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<sup>69</sup> Müller, Gerhard Ludwig. “Faith’s Political Witness.” *First Things*.(April 2013), 34.

<sup>70</sup> George, Robert P. “Ruling to Serve.” *First Things*.(April 2013), 40.

<sup>71</sup> Sandoz, Ellis. *The Voegelinian Revolution: A Biographical Introduction*. (Baton Rouge: Louisiana State University Press, 1981), 182-183.

participates in all modes of reality from the highest to the lowest strata.<sup>72</sup> Human participation in reality requires an openness to reality, in particular to the *givenness* of human nature as oriented to a final transcendent end. If we consider the term *anamnesis* as the primary level of conscience, then the primary act of conscience is one of recollection. However, there is more work to be done to determine with greater philosophical precision the full scope of implications for replacing *synderesis* for *anamnesis*, for using a Platonic concept (*anamnesis*) for ultimately a Pauline concept (*syneidesis*) albeit one whose spelling was corrupted. It is important to realize that *anamnesis* is probably not a one-to-one substitution for Aquinas's understanding of *synderesis*, since for Aquinas, *synderesis* is a habit, and least by Voegelin's description, *anamnesis* itself is an *act* – an act of recollection. The impetus for the recollection is an awareness, a consciousness of something other than oneself, stirred by an 'existential discontent in a man, and this discontent presses toward conscious knowledge'—ultimately leading one on a search for the *summum bonum*.<sup>73</sup> What we can conclude is that this recollection—an act of conscience—draws man out of himself and toward his fulfillment in authentic relationship. No political regime has the power to interfere or to dictate the act of conscience, even if there remains a central paradox that conscience is constant need of purification and must continue to be corrected and expanded.<sup>74</sup> The work of the purification of conscience is done largely at the level of concrete human relationships and within the context of pre-political or extra-political institutions, e.g.,

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<sup>72</sup> Cf. especially Voegelin's *Anamnesis* pp. 113-115, Sandoz's *Voegelinian Revolution*, Chapter 7, and Aquinas's description of the inclinations in *Summa Theologiae*, I-II, Q. 94, art. 2, Corpus.

<sup>73</sup> To develop a theory of *anamnesis* as conscience with greater philosophical precision, I would examine Augustine's *Confessions*, in particular Book X, where he offers a meditation on memory and forgetfulness in human consciousness.

<sup>74</sup> Cf. footnote 35 supra.

marriage, family, civic associations. Freedom of conscience is an important basis for human freedom, and for self-government. In those places where law conflicts with the claims of conscience, we should remember that, “Law needs no human testimony; its basis is above man, not in him. But when they are not in agreement, they can ask their conscience for advice, and if they do so without hatred or rancor, their conscience will help them.”<sup>75</sup>

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<sup>75</sup> Schneider, Reinhold, *Las Casas vor Karl V* from a speech by Las Casas to Bernadino. Quoted in Joseph Ratzinger’s “Conscience in its Time,” 170.

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**Vita**

Angela Concetta Miceli was born in Olympia Fields, Illinois and raised in Munster, Indiana. She graduated from the Thomas More College of Liberal Arts in 2005 and was awarded a Bachelor of Arts in political science. She immediately enrolled in the Department of Political Science graduate program at Louisiana State University. In 2010, she was awarded a Masters of Arts degree in political science. She will receive the Doctor of Philosophy in political science from the graduate school of Louisiana State University in May 2013.