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HOW TO BE AN ANALYTIC EXISTENTIAL THOMIST

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SAINT THOMAS AQUINAS'S metaphysics of existence was a central focus of the twentieth-century Thomistic revival and remains a defining interest of the school of Existential Thomism.[1] The Thomistic revival flourished mostly among Catholic intellectuals outside the mainstream of contemporary analytic philosophy. But just as the revival began to wane among Catholic intellectuals, analytic philosophers

[1] For some representative work, see Etienne Gilson, *Being and Some Philosophers*, 2d ed. (Toronto: Pontifical Institute of Mediaeval Studies, 1952); idem, *Thomism: The Philosophy of Thomas Aquinas*, 6th ed. (Toronto: Pontifical Institute of Mediaeval Studies, 2002); Jacques Maritain, *A Preface to Metaphysics* (New York: Sheed & Ward, 1939); idem, *Existence and the Existent* (New York: Pantheon Books, 1948); Gerald B. Phelan, *Collected Papers* (Toronto: Pontifical Institute of Mediaeval Studies, 1967); George Klubertanz, *An Introduction to the Philosophy of Being* (New York: Meredith Publishing Company, 1963); Joseph Owens, *St. Thomas Aquinas on the Existence of God*, ed. John R. Catan (Albany, N.Y.: State University of New York Press, 1980); idem, *An Elementary Christian Metaphysics* (Houston, Tex.: Center for Thomistic Studies, 1985); idem, *An Interpretation of Existence* (Houston, Tex.: Center for Thomistic Studies, 1985); Leo Sweeney, *A Metaphysics of Authentic Existentialism* (Englewood Cliffs, N.J.: Prentice Hall, 1965); Leo Sweeney, William Carroll, and John Furlong, *Authentic Metaphysics in an Age of Unreality*, 2d ed. (New York: Peter Lang, 1993); John F. X. Knasas, *Being and Some Twentieth-Century Thomists* (New York: Fordham University Press, 2003); John Wippel, *Metaphysical Themes in Thomas Aquinas* (Washington, D.C.: The Catholic University of America Press, 1995); idem, *The Metaphysical Thought of Thomas Aquinas* (Washington, D.C.: The Catholic University of America Press, 2000); idem, *Metaphysical Themes in Thomas Aquinas II* (Washington, D.C.: The Catholic University of America Press, 2007).

started taking more interest in Aquinas. That interest has continued to grow over the past fifty years, giving rise more recently to the school of Analytic Thomism.[2] Yet in spite of an enthusiasm for other aspects of Aquinas's thought, interested analytic philosophers have been hesitant about his view of existence; indeed, some of them have been positively scornful of it. Anthony Kenny, for example, calls Aquinas's view of existence "sophistry and illusion"[3] and "thoroughly confused."[4]

This negative assessment of Aquinas's view of existence is due in large part to a positive assessment of the rival view of existence developed by Frege, Russell, and Quine.[5] That positive assessment is near universal among contemporary analytic philosophers. But a growing number of analytic philosophers have come to question this mainstream consensus, and to propose alternative views of existence more like Aquinas's

[2] For some representative work, see *The Monist* 80, no. 4 (1997); John Haldane, ed., *Mind, Metaphysics, and Value in the Thomistic and Analytical Traditions* (Notre Dame: University of Notre Dame Press, 2002); Craig Paterson and Matthew Pugh, eds., *Analytical Thomism: Traditions in Dialogue* (Aldershot, U.K.: Ashgate Publishing Limited, 2006).

[3] Anthony Kenny, *Aquinas* (Oxford: Oxford University Press, 1980), 60.

[4] Anthony Kenny, *Aquinas on Being* (Oxford: Oxford University Press, 2002), v. For critical responses to Kenny, see Gyula Klima, "On Kenny on Aquinas on Being," *International Philosophical Quarterly* 44 (2004): 567-80; Brian Davies, "Kenny on Aquinas on Being," *The Modern Schoolman* 82 (2005): 111-29; Lawrence Dewan, "On Anthony Kenny's *Aquinas on Being*," *Nova et vetera* (English ed.) 3 (2005): 335-400.

[5] Some interpreters of Aquinas have found his view of existence compatible with this rival view, especially in the form developed by Frege. For such interpretations of Aquinas, see G. E. M. Anscombe and P. T. Geach, *Three Philosophers* (Ithaca, N.Y.: Cornell University Press, 1961), 88-100; Peter Geach, "Form and Existence," *Proceedings of the Aristotelian Society* 55 (1969): 251-72; Christopher F. J. Martin, *Thomas Aquinas: God and Explanations* (Edinburgh: Edinburgh University Press, 1997), 65-73; Brian Davies, "Aquinas, God, and Being," *The Monist* 80 (1997): 500-520. For a critical response to Geach, see John F. X. Knasas, "Haldane's Analytical Thomism and Aquinas's *actus essendi*," in Paterson and Pugh, eds., *Analytical Thomism*, 233-52. For critical responses to Davies, see Brian Shanley, "Analytic Thomism," *The Thomist* 63 (1999): 125-37; Knasas, *Being and Some Twentieth-Century Thomists*, 203-7. Davies, however, has since changed his mind about Aquinas on existence. For his more recent thoughts, see Brian Davies, "The Action of God," in *Mind, Method, and Morality: Essays in Honor of Anthony Kenny*, ed. John Cottingham and Peter Hacker (Oxford: Oxford University Press, 2010), 165-84.

own.[6] This recent development suggests the possibility of a Thomism that is both analytic and existential. Some Existential Thomists have been pessimistic about such a possibility, suggesting that Continental philosophy (especially phenomenology) would be a better partner.[7] But there is reason to be more optimistic: analytic philosophers have already shown their openness to views of existence like that of Aquinas.

This article explores the strategies available for defending Aquinas's view of existence in the context of contemporary analytic philosophy. Not all of these strategies can be accepted by Thomists, but some of them certainly can be, and those that

[6] For some noteworthy examples, see G. E. Moore, "Is Existence a Predicate?," *Proceedings of the Aristotelian Society Supplementary Volumes* 15 (1936): 175-88; Geach, "Form and Existence," 251-72; Milton Munitz, *Existence and Logic* (New York: New York University Press, 1974); J. L. Mackie, "The Riddle of Existence," *Proceedings of the Aristotelian Society Supplementary Volumes* 50 (1976): 247-65; Gareth Evans, *The Varieties of Reference* (Oxford: Oxford University Press, 1982), 343-72; Richard Routley, *Exploring Meinong's Jungle and Beyond: An Investigation of Noneism and the Theory of Items* (Canberra, Australia: Research School of the Social Sciences, Australian National University, 1980); Barry Miller, "In Defence of the Predicate 'Exists'," *Mind* 84 (1975): 338-54; idem, "'Exists' and Existence," *Review of Metaphysics* 40 (1986): 237-70; idem, *The Fullness of Being: A New Paradigm for Existence* (Notre Dame: University of Notre Dame Press, 2002); Colin McGinn, *Logical Properties: Identity, Existence, Predication, Necessity, Truth* (Oxford: Oxford University Press, 2000), 15-51; William Vallicella, *A Paradigm Theory of Existence: Onto-Theology Vindicated* (Dordrechet: Kluwer Academic Publishers, 2002); idem, "Existence: Two Dogmas of Analysis," in *Neo-Aristotelian Perspectives in Metaphysics*, ed. Daniel D. Novotny and Lukas Novak (New York: Routledge, 2014), 45-75; Graham Priest, *Towards Non-Being: The Logic and Metaphysics of Intentionality* (Oxford: Clarendon Press, 2005); idem, "The Closing of the Mind: How the Particular Quantifier Became Existentially Loaded behind Our Backs," *Review of Symbolic Logic* 1 (2008): 42-55; Richard Mendelsohn, *The Philosophy of Gottlob Frege* (Cambridge: Cambridge University Press, 2005), 100-124; David Oderberg, *Real Essentialism* (New York: Routledge, 2007), 121-25; Howard Robinson, "Can We Make Sense of the Idea That God's Existence Is Identical to His Essence?," in *Reason, Faith, and History: Philosophical Essays for Paul Helm*, ed. Martin W. F. Stone (Aldershot, U.K.: Ashgate Publishing Limited, 2008), 127-44; Tim Crane, "Existence and Quantification Reconsidered," in *Contemporary Aristotelian Metaphysics*, ed. Tuomas E. Tahko (Cambridge: Cambridge University Press, 2012), 44-65; idem, "What Is the Problem of Non-Existence?," *Philosophia* 40 (2012): 417-34; idem, *The Objects of Thought* (Oxford: Oxford University Press, 2013).

[7] See Knasas, "Haldane's Analytical Thomism"; and Gaven Kerr, O.P., "Thomist *esse* and Analytical Philosophy," *International Philosophical Quarterly* 55 (2015): 25-48.

are unacceptable can be supplemented by other acceptable strategies. The article unfolds as follows. Section I traces the basic outlines of the mainstream view of existence prevalent among contemporary analytic philosophers. Section II summarizes some of the best reasons to question that view. Section III traces the basic outlines of Aquinas's alternative view of existence. Sections IV and V address the main contemporary analytic objections to Aquinas's view. Section VI considers strategies for defending the meaningfulness of Aquinas's view of existence. Section VII considers one strategy for defending the truth of his view, and section VIII proposes a better strategy. By the end of the article I hope to have allayed at least some of the doubts about the possibility of developing an Analytic Existential Thomism.

I. The Frege-Russell-Quine View of Existence

The mainstream view of existence among contemporary analytic philosophers was developed and defended in different forms by Gottlob Frege, Bertrand Russell, and W. V. Quine.[8]

[8] Gottlob Frege, *The Foundations of Arithmetic*, 2d rev. ed. (New York: Harper & Brothers, 1953), §53; idem, *Translations from the Philosophical Writings of Gottlob Frege*, ed. Peter Geach and Max Black (Oxford: Basil Blackwell, 1960), 48-50; Bertrand Russell, "On Denoting," *Mind* 14 (1905): 479-93; idem, "The Philosophy of Logical Atomism," *The Monist* 29 (1919): 190-222; W. V. Quine, "On What There Is," *The Review of Metaphysics* 2, no. 5 (1948): 21-38; idem, *Word and Object* (Cambridge, Mass.: MIT Press, 1960), §§37-38; idem, "Existence and Quantification," in *Ontological Relativity and Other Essays* (New York: Columbia University Press, 1969), 91-113. For the best recent defenses of the Frege-Russell-Quine view of existence, see C. J. F. Williams, *What Is Existence?* (Oxford: Oxford University Press, 1981); idem, *Being, Identity, and Truth* (Oxford: Oxford University Press, 1992); David Wiggins, "The Kant-Frege-Russell View of Existence: Toward the Rehabilitation of the Second-Order View," in *Modality, Morality, and Belief: Essays in Honor of Ruth Barcan Marcus*, ed. Walter Sinnot-Armstrong, Dianna Raffman, and Nicholas Asher (Cambridge: Cambridge University Press, 1995), 93-113; Peter Van Inwagen, "Existence, Ontological Commitment, and Fictional Entities," in *The Oxford Handbook to Metaphysics*, ed. Michael Loux and Dean Zimmerman (Oxford: Oxford University Press, 2003), 131-60; idem, "Being, Existence, and Ontological Commitment," in *Metametaphysics: New Essays on the Foundations of Ontology*, ed. David Chalmers, David Manly, and Ryan Wasserman (Oxford: Oxford University Press, 2009), 472-506.

Their view can be explained most easily by contrasting it with what Colin McGinn calls the "naïve view,"[9] which I prefer to call the commonsense view. According to the commonsense view, existence is similar to other properties we ascribe to individuals or objects.[10] Given this similarity, statements of existence (both singular and plural) are similar to other statements that ascribe properties to individuals or objects. "Socrates is wise," for example, ascribes a property to a single individual, that is, wisdom to Socrates. "Tame tigers are harmless" ascribes a property to multiple individuals, that is, harmlessness to tame tigers. According to the commonsense view, statements of existence are similar. "Socrates exists" ascribes a property to a single individual, that is, existence to Socrates. "Tame tigers exist" ascribes a property to multiple individuals, that is, existence to tame tigers. That is the commonsense view of existence.

According to the Frege-Russell-Quine view, however, existence is not similar to other properties we ascribe to individuals or objects. Indeed, existence is not a property of individuals or objects at all. Accordingly, statements of existence (both singular and plural) are not similar to other statements that ascribe properties to individuals or objects. Instead, existence is a property *of properties*, namely, the second-order property of having an instance or being instantiated. Thus statements of existence ascribe this second-order property to properties themselves; they do not ascribe any properties to individuals or objects. "Socrates exists" does not say that Socrates has the property of existence, since there is no such property. Rather, it says that a certain property (other than existence) has an

[9] McGinn, *Logical Properties*, 17.

[10] Throughout the article I use the term "property" in the standard way that contemporary analytic philosophers do. A property in this sense is just something ascribable to a thing, as being round is ascribable to a ball, or something had by a thing, as redness is had by a rose. I am not using the term for what Aquinas calls an *accidens* or *proprietas* or *proprium*. For more information on the contemporary analytic use of the term "property," see Chris Swoyer and Francesco Orilia, "Properties," The Stanford Encyclopedia of Philosophy (Winter 2017 Edition), ed. Edward N. Zalta, https://plato.stanford.edu/archives/win2017/entries/properties/.

instance or is instantiated. Just what it says will depend upon just what properties (if any) are expressed by the name "Socrates." But what it definitely does not say is that Socrates has the property of existence. "Tame tigers exist" does not say that tame tigers have the property of existence. Rather, it says that the property of being a tame tiger has one or more instances. That is the Frege-Russell-Quine view of existence.

This view of existence is often stated thus: existence is what is expressed by the existential quantifier, "$\exists x$," interpreted as meaning, "There is an x such that . . ." or "For some x . . .". According to the Frege-Russell-Quine view, every sensible use of the word "exist(s)" can be paraphrased without any loss of meaning in terms of the existential quantifier, and since the existential quantifier is incomplete without a first-order predicate, this means that every sensible use of the word "exist(s)" can be paraphrased in terms of the existential quantifier and a first-order predicate (other than "exist(s)," of course). So, according to their view, existential statements are all equivalent to statements of the form, "$\exists xFx$," interpreted as meaning, "There is an x such that x is F" or "For some x, x is F." The precise interpretation of the existential quantifier is not important here. What matters most for the Frege-Russell-Quine view is that the quantifier not be interpreted as involving any first-order use of "exist(s)." Any such use of "exist(s)" to ascribe a property to individuals or objects is merely apparent, and must disappear in the appropriate paraphrase in terms of the existential quantifier and a first-order predicate.

II. Questioning the Frege-Russell-Quine View

Despite its status as established orthodoxy, the Frege-Russell-Quine view of existence has been called into question by a

growing number of contemporary analytic philosophers.[11] As McGinn says, the view is riddled with problems.[12]

The first problem with the Frege-Russell-Quine view is that its analysis of existence in terms of property instantiation presupposes existence, since an individual or object must exist in order to instantiate any properties. McGinn gives the following example. Take the statement "Planets exist," and now consider Vulcan (the mistakenly posited inter-Mercurial planet). Does Vulcan instantiate the property of being a planet? If so, then the analysis of existence in terms of property instantiation is mistaken. Since Vulcan does not in fact exist, its instantiating the property of being a planet does not show that planets exist. But if Vulcan does not instantiate the property of being a planet, of course that can only be because it does not in fact exist, which shows that existence is presupposed by property instantiation, rather than being explained by it. This suggests that the existential quantifier can be interpreted as meaning, "For some *x*, *x* exists and *x* is . . ." where "exists" is used as a first-order predicate.[13] Of course no defender of the Frege-Russell-Quine view of existence would allow such an interpretation of the quantifier. But the point is that even if it were always possible to replace the predicate "exist(s)" with the existential quantifier, that alone would not show that existence is not a property of individuals or objects, since existential quantification presupposes existence. This undermines the standard way of defending the Frege-Russell-Quine view of existence by conceptual analysis and paraphrase.

The second problem with the Frege-Russell-Quine view is that it cannot serve as a general theory of existence, since it does not apply to all cases of existence. In particular, it does not apply to the existence of properties themselves. Properties must exist, presumably, if they are to have instances or be instantiated. But what shall we say about their existence? On the

[11] See above, n. 6.

[12] For the following three problems and others, see McGinn, *Logical Properties*, 21-28. For a critical response to McGinn on existence, see Peter Van Inwagen, "McGinn on Existence," *Philosophical Quarterly* 58 (2008): 36-58.

[13] Cf. Evans, *Varieties of Reference*, 346-47; Priest, "The Closing of the Mind."

Frege-Russell-Quine view, the existence of everything consists in its instantiating a property. So the existence of a property itself will consist in its instantiating *another* property. But we can ask the same question about this other property, whose existence will then consist in its instantiating yet another property, whose existence will consist in its instantiating still another property, and so on to infinity. The regress appears to be vicious since no property will exist unless the other property it instantiates exists, which will not exist unless the other property it instantiates exists, and so on to infinity. In other words, the existence of any property is put off indefinitely, thus vitiating the explanation of the existence of properties themselves in terms of the instantiation of properties. So the analysis of existence in terms of property instantiation does not apply to the existence of properties themselves, and thus does not cover all cases of existence.

The third problem with the Frege-Russell-Quine view is that not all uses of the predicate "exist(s)" can be paraphrased in terms of property instantiation. Consider singular existential statements with proper names such as "Socrates exists." According to the Frege-Russell-Quine view, this statement can be paraphrased into the claim that some property (other than existence) is instantiated or has an instance. In order for such a paraphrase to be adequate, however, it is not enough for there to be some property (or properties) necessarily and uniquely instantiated by Socrates. Rather, the name "Socrates" has to *mean* that very property (or properties). In other words, the Frege-Russell-Quine view must endorse the theory of proper names as abbreviated definite descriptions.[14] But Saul Kripke is supposed to have shown that the description theory of names is false.[15] If Kripke is right, as he is very widely taken to be, then

[14] Cf. Michael Nelson, "Existence," Stanford Encyclopedia of Philosophy (Winter 2012 Edition), ed. Edward N. Zalta, http://plato.stanford.edu/archives/win2012/entries/existence; Robinson, "Can We Make Sense of the Idea," 132.

[15] Saul Kripke, *Naming and Necessity* (Cambridge: Harvard University Press, 1980); idem, *Reference and Existence: The John Locke Lectures* (Oxford: Oxford University Press, 2013).

the Frege-Russell-Quine view will not do for singular existential statements with proper names.

The same problem applies to singular existential statements with demonstratives and indexicals such as "That exists" and "I exist." Indeed, a description theory of demonstratives and indexicals is even less plausible than a description theory of names.[16] Yet things look even worse for the statement "Something exists." At least demonstratives and indexicals refer to individuals or objects, which always instantiate some properties. The word "something" does not even refer. So even though "Something exists" is perfectly meaningful and obviously true, there is no hope of paraphrasing it in terms of the instantiation of a property (other than existence), since the word "something" does not suggest any properties at all. Russell tried to analyze "Something exists" as "There is an x such that x is identical to x,"[17] but it is very doubtful that this is what the statement actually means. This third problem extends to a host of common predicates such as "began to exist," "ceased to exist," "no longer exists," "might not have existed," and so on.[18] It is very hard to see how a first-order use of "exist(s)" could plausibly be eliminated from all of them.[19] The best attempts to paraphrase away these uses of "exist(s)" face the same problem as Russell's analysis of "Something exists." It is simply very doubtful that the proposed analyses (which are all quite sophisticated) are actually what these common predicates mean.

These three problems show that the Frege-Russell-Quine view is not an adequate account of existence; it only appears adequate for a limited set of cases because the notion of instantiating properties presupposes existence. Given these and other such problems, a growing number of contemporary analytic philosophers have abandoned the Frege-Russell-Quine

[16] For some reasons why, see McGinn, *Logical Properties*, 45-47 and nn. 46-47.

[17] Russell, "The Philosophy of Logical Atomism," 204-5.

[18] Cf. Moore, "Is Existence a Predicate?"; Miller, *Fullness of Being*, 28; Robinson, "Can We Make Sense of the Idea," 132.

[19] The best attempt to eliminate a first-order use of "exist(s)" from such predicates is Williams, *What is Existence?*, 81-152.

view in favor of the commonsense view. These philosophers agree that existence is something had by individuals or objects, and can be sensibly ascribed to them with a first-order predicate. In that sense they all agree that existence is a property of individuals or objects.[20] Yet such agreement leaves room for a wide range of substantive disagreements about the precise nature of the property of existence and of our talk about it. There is still a real question about which version of the commonsense view is the best.

III. Aquinas's Commonsense View of Existence

Aquinas's view of existence is a version of the commonsense view. He has a number of standard ways of talking about the existence of individuals or objects. Most often he uses the infinitive of the verb "to be" (*esse*) as a noun for the purpose. So, for example, he often says, "the word 'existent' is imposed from existence [*esse*],"[21] and "the word 'existent' means sort of having existence [*habens esse*]."[22] Again he often says that it is "because a thing has existence [*esse*] that it becomes an actual existent [*ens*]."[23] Other phrases Aquinas uses to refer to the existence of individuals or objects include "that by which a thing exists [*quo est*]" and "the act of existing [*actus essendi*]." So he says, for example, "that by which a thing exists [*quo est*] is the very act of existing [*actus essendi*], namely, existence [*esse*]."[24] And he says that the word "'existence' [*esse*] signifies

[20] David Oderberg prefers not to call existence a property, since he uses the term "property" for what Aquinas calls a *proprietas* or *proprium*. See Oderberg, *Real Essentialism*, 124-25. Yet Oderberg insists that existence is something *true of* existing individuals, which is what contemporary analytic philosophers mean by the term "property." For more information on the contemporary analytic use of the term "property," see the article cited above, n. 10.

[21] I *Sent*., d. 19, q. 5, a. 1; *De Pot*., q. 7, a. 2, ad 9; *ScG* I, c. 25; *ScG* II, c. 54; IV *Metaphys*., lect. 2. References to the works of Aquinas are to the Busa-Alarcon edition online at www.corpusthomisticum.org. English translations are my own.

[22] XII *Metaphys*., lect. 1. Cf. *Quodl*. II, q. 2, a. 1.

[23] *De Pot*., q. 7, a. 2, ad 9. Cf. *Quodl*. IX, q. 2, a. 2; *Quodl*. XII, q. 5, a. 1; *ScG* I, c. 22; *STh* I, q. 4, a. 1, ad 3.

[24] I *Sent*., d. 8, q. 5, a. 2.

the act of existing [*actus essendi*]."[25] Again he says that "the word 'existent' [*ens*] is imposed from the act of existing [*actus essendi*]."[26]

The English word "act" is not a perfect translation for the Latin term "*actus*," since the English word is ambiguous, encompassing more abstract and static notions like *actuality* and more concrete and dynamic notions like *action*.[27] But "act" is probably the best compromise, since the Latin term "*actus*" expresses a notion at once abstract and dynamic. The dyamism comes out most clearly in the analogies that Aquinas commonly uses to illustrate his view of existence. He says, for example, "as change is the act [*actus*] of a changeable thing insofar as it is changeable, so existence [*esse*] is the act [*actus*] of an existent [*ens*] insofar as it is an existent [*ens*]."[28] Or again he says, "that by which a thing exists [*quo est*] is the very act of existing [*actus essendi*], namely, existence [*esse*], as that by which a thing runs is the act [*actus*] of running."[29] Or again he compares "existence [*esse*]," which he calls "the act [*actus*] of an existent [*ens*]," to "shining," that is, "the act [*actus*] of a shining thing."[30]

Such analogies show that Aquinas regards existence as something had by individuals or objects. Indeed, he says explicitly that he thinks the terms "existent" (*ens*) and "existence" (*esse*) are conceptually and grammatically on a par with the terms "runner" and "running."[31] He also thinks that existence is expressible by a first-order predicate attributable to individuals or objects. He says explicitly, "This word 'exists' [*est*] signifies in the first place that which occurs to the mind in the sense of actuality absolutely. For 'exists,' predicated by itself, signifies

[25] *STh* I, q. 3, a. 4, ad 2.

[26] I *Sent*., d. 8, q. 1, a. 1; IV *Metaphys*., lect. 2; *De Verit.* q. 1, a. 1, corp. and ad s.c. 3.

[27] Cf. John O'Callaghan, "The Identity of Knower and Known: Sellars's and McDowell's Thomisms," *Aristotle Then and Now: Proceedings of the American Catholic Philosophical Association* 87 (2013): 15.

[28] I *Sent*., d. 19, q. 2, a. 2.

[29] I *Sent*., d. 8, q. 5, a. 2. Cf. *Quodl.* IX, q. 4, a. 1.

[30] III *Sent*., d. 6, q. 2, a. 2.

[31] Cf. *In Boet. De Hebdomad.*, c. 2.

actual existence [*esse*]. Thus it signifies as a verb."[32] And he says: "This word 'exists' [*est*] is sometimes used in a sentence by itself, as when we say 'Socrates exists,' by which we just mean to signify that Socrates exists in reality."[33] So Aquinas holds that existence is something really had by individuals or objects and sensibly expressible by a first-order predicate attributed to them. In that sense he thinks that existence is a property of individuals or objects,[34] which is the commonsense view.

There is much more to Aquinas's unique version of the commonsense view, which I can only hint at here.[35] Aquinas sees existence as the most basic and fundamental source of actuality in things, since everything else about a thing, and the thing itself, depends upon existence for its actuality: without existence it is all literally nothing.[36] He sees existence as accidental to things, since he thinks it is not included in their essence, understood in the Aristotelian sense of what things are.[37] Yet he denies that existence is an accident in the Aristotelian sense.[38] At the same time he sees existence as essential to things,[39] not only because he thinks that things are nothing at all without existence, but more because he thinks that the essences of things specify and determine their specific kind of existence.[40] Thus he sees things and their existence

[32] I *Peryherm*., lect. 5. Cf. II *Post. Anal*., lect. 1.

[33] II *Peryherm*., lect. 2.

[34] On my use of the term "property," see above, n. 10.

[35] For much more, see the works referenced above, n. 1.

[36] Cf. II *Sent*., d. 1, q. 1 , a. 3; d. 1, q. 1, a. 4; *ScG* II, c. 21; *ScG* III, c. 66; *STh* I, q. 5, a. 2, s.c.; q. 8, a. 1; q. 45, a. 4, ad 1; q. 105, a. 5; *Comp. Theol.* I, c. 68; c. 130; *De Pot*., q. 3, a. 4; q. 3, a. 5 ad 2; q. 3, a. 7; *De Anima*, a. 9; I *Liber de Causis*, lect. 4.

[37] Cf. I *Sent*., d. 8, exp.; d. 19, q. 2, a. 2; *De Verit*., q. 28, a. 1, ad 8; *Quodl*. II, q. 2, a.1, corp. and ad 2; *Quodl*. II, q. 2, a. 2, corp. and ad 1; *Quodl*. X, q. 2, ad 4; *In Boet. De Hebdomad*., lect. 2; IV *Metaphys*., lect. 2.

[38] Cf. *De Pot*., q. 5, a. 4, ad 3; *Quodl*. II, q. 2, a.1, ad 2; *Quodl*. XII, q. 5, a. 1; IV *Metaphys*., lect. 2.

[39] On Aquinas's view of the essential character of existence, see Joseph Owens, "The Accidental and Essential Character of Being in the Doctrine of St. Thomas Aquinas," *Mediaeval Studies* 20 (1958): 1-40.

[40] Cf. I *Sent*., d. 8, exp.; d. 8, q. 4, a. 1, s.c. 2; d. 38, q. 1, a. 3; III *Sent*., d. 6, q. 2, a. 2; IV *Sent*., d. 44, q. 2, a. 2, qcla. 3; *ScG* II, c. 54; c. 68; *STh* I, q. 4, a. 1, ad 3; q. 7, a. 2; *De ente*, c. 1; *De Verit*. q. 1, a. 1; *De Pot*., q. 5, a. 4, ad 3; q. 7, a. 2, ad 5 and ad 9;

related as potentiality and actuality in the Aristotelian sense, which is why he considers existence the most formal, actual, and perfect source of all a thing's actual forms and perfections.[41] All of this makes Aquinas's version of the commonsense view of existence unique.

IV. Defending Aquinas's View: Accusations of Nonsense

Yet Aquinas's unique version of the commonsense view cannot even be proposed in the context of contemporary analytic philosophy without first defending the commonsense view as the right general approach to existence. After all, most contemporary analytic philosophers still reject the commonsense view in favor of the Frege-Russell-Quine view. Moreover, it is not enough to defend the commonsense view by raising objections to the Frege-Russell-Quine view, for the commonsense view faces objections of its own. A defense of Aquinas's commonsense view of existence must therefore first address the main contemporary objections to that view.[42] I shall begin with objections that accuse the commonsense view of being nonsensical, all of which can be shown to beg the question.

On the Frege-Russell-Quine view, the predicate "exist(s)" is a second-order predicate ascribing the second-order property of being instantiated to a property itself. "Men exist" says that the property of being a man has instances, and is thus equivalent to the statement "There are men." But it would be a category mistake and therefore nonsense to apply such a second-order

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Quodl. II, q. 2, a. 1, ad 2; *Quodl.* XII, q. 5, a. 1; *In Boet. De Trin.*, q. 5, a. 3; *In Boet. De Hebdomad.* I, lect. 2; IV *Metaphys.*, lect. 2; V *Metaphys.*, lect. 9; IV *Metaphys.*, lect. 2.

[41] Cf. *ScG* I, c. 22; *ScG* II, c. 54; *STh* I, q. 4, a. 1, corp. and ad 3; q. 4, a. 2; q. 7, a. 1; q. 8, a. 1; *De Pot.*, q. 7, a. 2, ad 9; q. 7, a. 9; *Quodl.* XII, q. 5, a. 1.

[42] Many contemporary objections to the commonsense view of existence have been addressed by Barry Miller. See Miller, "In Defence of the Predicate 'Exists'"; idem, "'Exists' and Existence"; idem, *Fullness of Being*, 23-56; idem, "Negative Existential Propositions," *Analysis* 42 (1982): 181-88; idem, *From Existence to God: A Contemporary Philosophical Argument* (London: Routledge, 1992), 64-78. For a helpful guide to Miller's thought, see Elmar Kremer, *Analysis of Existing: Barry Miller's Approach to God* (London: Bloomsbury, 2014).

predicate to an individual or object. "There is a Socrates" is clearly nonsense. "Socrates exists" must then be nonsense too. We are only tempted to think that "Socrates exists" makes sense because "Men exist" and "Socrates is a man" make sense. But this is a mistake. Compare: "Men are numerous. Socrates is a man. Therefore, Socrates is numerous." Just as it is nonsense to ascribe the second-order property of being numerous (having many instances) to Socrates, so it is nonsense to ascribe the second-order property of existence (having an instance) to Socrates. But this is just what the commonsense view of existence appears to do. Thus, the commonsense view appears to be nonsense.

This is Russell's objection,[43] and it begs the question. The statement "Socrates exists" is only shown to be nonsense by assuming that the *only* sensible talk of existence is second-order talk. But of course whether there is any sensible first-order talk of the existence of individuals or objects is just what is in question. When Russell was pressed in discussion about the possibility of a distinct first-order concept of existence, he fell back on another standard objection to such a concept, which I shall discuss in the next section.[44] For now the important point to note is that it is possible to agree with Russell's second-order analysis of general existential statements such as "Men exist" while still accepting the commonsense first-order analysis of particular existential statements such as "Socrates exists." Indeed, a number of contemporary analytic philosophers espouse just such a "two-sense view" of existence. Other philosophers doubt the adequacy of a second-order analysis of general existential statements. But either way a first-order analysis of singular existential statements remains so far possible.

A couple of related objections to Aquinas's commonsense view beg the question in a similar way. Sometimes a first-order use of "exist(s)" is objected to on the grounds that the role

[43] Russell, "Philosophy of Logical Atomism," 195-97. Cf. Bertrand Russell, *Introduction to Mathematical Philosophy* (London: George Allen & Unwen, Ltd., 1919), 164-65.

[44] Russell, "Philosophy of Logical Atomism," 206.

played by "exist(s)" in statements like "Tame tigers exist" is the same as the role played by "some" in supposedly equivalent statements like "Some tigers are tame." Since "some" obviously does not ascribe a property to an individual or object, neither does "exist(s)."[45] Now it seems doubtful that the role played by "some" is the same as the role played by "exist(s)." Expressions of quantity ("some," "all," "few," etc.) are one thing; expressions of existence ("is/are," "exist(s)," etc.) are another.[46] The phrase "Some Greek gods" does not assert the existence of any Greek gods. It does not assert anything at all: it is an incomplete sentence. The same cannot be said for "Greek gods exist." But even if "some" and "exist(s)" did play the same role in statements like "Some tigers are tame" and "Tame tigers exist," that would not prove anything about the role played by "exist(s)" in other kinds of statements such as "Socrates exists." Again a two-sense view of existence remains so far possible.

The same goes for the related objection that statements of existence are equivalent to statements of number. Statements of number obviously do not ascribe a property to individuals or objects. The statement "The king's carriage is drawn by four horses" cannot mean that each individual horse is four, since that is nonsense. So if "exist(s)" is just a way of saying "There is one," then it cannot mean anything about an individual or object either. To suppose otherwise is equally nonsense. This is Frege's objection,[47] and it begs the question too. Equating statements of existence with statements of number is even plausible only for statements like "*F*s exist," "An *F* exists," "There is an *F*," and "There are *F*s." Yet the adequacy of a second-order analysis of "is/are" or "exist(s)" as a number ascription in such statements obviously cannot be used as proof against a first-order analysis of "is/are" or "exist(s)" as a property ascription to an individual or object in other kinds of statements like "Socrates exists," "Socrates began to exist," "Socrates no longer

[45] Cf. Williams, *Being, Identity, and Truth*, 8-19.

[46] Cf. Munitz, *Existence and Logic*, 73-104.

[47] Frege, *Foundations of Arithmetic*, §53; idem, *Translations from the Philosophical Writings*, 48-50. Cf. Williams, *What Is Existence?*, 54-55.

exists," and so on. Defenders of the second-order analysis of existence have gone to great lengths to give a sense to such statements.[48] Russell and Quine even tried to reduce proper names like "Socrates" to supposedly equivalent predicates ("Socratizes," for example) in order to apply their second-order analysis of existence to such statements.[49] But all this appears unnecessary without independent reasons to think that first-order ascriptions of existence to individuals or objects are meaningless in the first place. Yet there are no such reasons.

V. Defending Aquinas's View: Accusations of Paradox and Absurdity

The other main contemporary objections to Aquinas's commonsense view accuse it of being paradoxical and absurd. I shall begin with the accusation of paradox, which is the objection Russell fell back on when he was pressed about the possibility of a first-order concept of existence.[50]

If "exist(s)" can be predicated of individuals or objects, then all affirmative statements of existence seem to be necessarily true tautologies, while all negative statements of existence seem to be necessarily false contradictions. For in order to affirm or deny anything of an individual or object, we first have to identify an individual or object, either by naming it or by pointing it out in some other way. But once we have successfully identified an individual or object, what more could we possibly mean by affirming existence of it? When we affirm existence of an individual or object, we only seem to say what is already presupposed by successfully identifying the individual or object in the first place. So affirming existence of such an individual seems tautological. And if existence is presupposed

[48] See, for example, Williams, *What Is Existence?*, 42-152.

[49] Russell, "On Denoting"; idem, "Philosophy of Logical Atomism"; idem, *Introduction to Mathematical Philosophy*, 178-79; Quine, "On What There Is"; idem, *Word and Object*, §§37-38.

[50] Russell, "Philosophy of Logical Atomism," 206. Cf. A. J. Ayer, *Language, Truth, and Logic*, 2d ed. (New York: Dover Publications, Inc., 1952), 42-43; Williams, *Being, Identity, and Truth*, 5-6.

by successfully identifying an individual or object, then denying existence of such an individual or object seems contradictory. That is the paradox.

Barry Miller and others point out that this objection wrongly conflates the *bearer* of a name with the *referent* of a name.[51] A name can have a reference now without its bearer existing now, otherwise it would be impossible to say things like, "Mr. N. N. is dead," as Wittgenstein pointed out.[52] Miller thinks that a name can only have reference if its bearer exists or has existed, but others doubt even this restriction on reference. For it seems absurd to suppose that I can think about, want, fear, love, or hate what has not, does not, and will not exist—which I obviously *can* do—but that I still cannot sufficiently identify it in order to refer to it.[53] But whether or not reference should be restricted to what has or does exist, the above objection still fails, since we can refer to individuals that existed but no longer exist. So it is not the case that we can only affirm or deny "exist(s)" of what *does* exist, as the objection supposes.

Moreover, as Howard Robinson points out, even if the objection's supposition were true, and reference were in fact restricted to what exists, that alone would not show that there is anything wrong with the predicate "exist(s)" in itself.[54] Granted, sheer affirmations of existence would be tautological and sheer negations of existence would be contradictory, but that would only be a matter of those linguistic contexts. There would still be nonredundant and noncontradictory uses of "exist(s)" in other contexts, like those embedded within the predicates "ceased to exist," "might not have existed," and so on. The same is true (to use Robinson's example) of the predicate "is a thinking thing." This predicate is perfectly sensible in itself, and yet in the first-person context it leads to the same kind of paradox: "I am a thinking thing" seems tautological and "I am

[51] Anscombe and Geach, *Three Philosophers*, 91; Geach, "Form and Existence," 58-59; Miller, *Fullness of Being*, 32.

[52] Ludwig Wittgenstein, *Philosophical Investigations*, 4th rev. ed. (Oxford: Wiley-Blackwell, 2009), I, §40.

[53] Cf. Robinson, "Can We Make Sense of the Idea," 132.

[54] Ibid.

not a thinking thing" seems contradictory. Such a paradox casts no doubt on the predicate "is a thinking thing." The same goes for the predicate "exist(s)."

A related objection to the commonsense view accuses it of absurdity. The view seems to imply that one is "obliged to examine several specimens of blue buttercup before concluding that none of them exist,"[55] which is absurd. But in fact the commonsense view involves no such obligation. One might as well be obliged to examine everything that exists before concluding that blue buttercups do not exist. Or one might not be obliged to examine anything. Perhaps one concludes that blue buttercups do not exist after realizing that they are made up. Or perhaps one does so for other reasons entirely. The point is that nothing about a first-order use of "exist(s)" requires a particular way of discovering the truth of its negation. So this objection can be set aside. Miller adds that the absurdity objection seems to assume that if affirmations of existence ascribe a property of existence, then negations of existence must ascribe a property of *nonexistence*.[56] First get ahold of blue buttercups, and then see whether nonexistence is among their properties—which seems absurd. Miller thinks that the assumption of this property of nonexistence is what leads to the absurdity, and expends much effort refuting this assumption.[57]

Miller begins by noting that the statement "Socrates does not exist" can be taken either to mean "It is not the case that (Socrates exists)" or "Socrates (does-not-exist)." The former is a case of external or propositional negation, while the latter is a case of internal or predicate negation. Miller then argues for the distinction between these two kinds of negation in order to take the external negation as the logically basic form of the above statement, since it avoids absurdly predicating nonexistence of Socrates. Miller defends the distinction between internal and external negation with the example "*a* is not moral," which can

[55] Williams, *Being, Identity, and Truth*, 1.
[56] Miller, *Fullness of Being*, 24.
[57] Ibid., 32ff.

be taken either to mean "It is not the case that (*a* is moral)" or "*a* (is not-moral)." If there were no distinction between internal and external negation then the latter two statements would be equivalent, but they are not. For the second means "*a* is immoral," whereas the first means "*a* is either immoral or amoral." Aquinas uses the same example in his most extended discussion of these two kinds of negation.[58] Since the distinction between internal and external negation is a substantive one, and since the reading of "Socrates does not exist" as an internal negation leads to the absurd commitment to the property of nonexistence, the reading of the statement as an external negation is preferable.[59] But then we can recognize existence as a property without recognizing nonexistence as one.

VI. Defending the Meaningfulness of Aquinas's View

Even if the main contemporary analytic objections to Aquinas's commonsense view of existence can be shown to fail, that still does not mean that the view makes sense. We need further reasons to think it does so.

Peter Geach and Barry Miller both point to the *prima facie* evidence already present in our language.[60] Ordinary English usage is full of existence ascriptions to individuals and objects: "Socrates exists." "Socrates is no more." "Socrates might never have existed." "John does not know that this beach exists." "Joseph is not and Simeon is not." "Before Abraham was, I am." The last two examples are taken from the King James Version of the Bible—hardly to be dismissed as bad English. The widespread use of "is/are" and "exist(s)" to ascribe existence to individuals and objects provides good *prima facie* reason to think that doing so in fact makes sense. Once all the main objections to such first-order existence ascriptions have been addressed, it seems acceptable to take this *prima facie* evidence

[58] II *Peryherm.*, lect. 2.

[59] Cf. Mendelsohn, *Philosophy of Gottlob Frege*, 107.

[60] Geach, "Form and Existence," 266-67; Miller, *Fullness of Being*, 23.

at face value. This is Miller's whole strategy for defending the meaningfulness of the commonsense view.

Geach offers further reasons for taking this evidence at face value.[61] He claims that in the case of living things "is/are" and "live(s)" have the same reference. As Aquinas often says, "for living things living is existing" (*vivere viventibus est esse*). It obviously makes sense to say, "Poor Fred was alive and is dead." What difference does it make to say instead, "Poor Fred was, and is not"? In other words, Geach paraphrases "is/are" or "exist(s)" as "live(s)." If "live(s)" is an adequate paraphrase of "is/are" or "exist(s)," then given that "live(s)" is sensibly predicable of individuals, "is/are" or "exist(s)" is sensibly predicable of individuals as well. It must be said, however, that "live(s)" is not really an adequate paraphrase of "is/are" or "exist(s)." After all, not everything that exists is alive; not everything that does not exist is dead. Geach explicitly limits his paraphrase to living things. At least in their case, he thinks, "is/are" and "live(s)" *do* mean the same thing. He suggests that Aquinas agrees with him by referencing his use of the popular Aristotelian tag about the existence of living things. Aquinas certainly uses this tag a lot, but his own understanding of it shows that his view of existence cannot consistently be defended with the paraphrase that Geach offers.[62]

Throughout his career Aquinas consistently makes an important distinction between two different senses of "living" (*vivere*) or "life" (*vita*).[63] As he himself says:

> In one sense living [*vivere*] refers to a living thing's existence [*esse viventis*]; and living [*vivere*] in this sense is not caused by the soul's powers, but by its essence. In another sense living [*vivere*] refers to a living thing's activity

[61] Geach, "Form and Existence," 267-68.

[62] On Aquinas's understanding of the tag, especially as it differs from Aristotle's own, see Albert Wingell, "*Vivere viventibus est esse* in Aristotle and St. Thomas," *The Modern Schoolman* 38 (1961): 85-120.

[63] Both "living" (*vivere*) and "life" (*vita*) signify the same thing, Aquinas thinks, but the one does so abstractly and the other concretely. Cf. *ScG* I, c. 98; *STh* I, q. 18, a. 2.

[*operatio viventis*]; and in this sense living [*vivere*] is caused by the soul's powers, which are the sources of its life activities [*operationes vitae*].[64]

By "a living thing's activity" and "its life activities" Aquinas is referring to the activities that, following Aristotle, he takes to be properly characteristic of living things, such as nourishing oneself, growing, reproducing, moving oneself, and so on.[65] All of these activities are performed by individuals, hence the terms for them are sensibly predicable of individuals as well. Aquinas thinks that "Socrates lives" can be taken to mean that Socrates performs these activities. That is the second sense of "living" that he distinguishes above. So if Aquinas thinks that "Socrates exists" only means "Socrates lives" in this second sense, then his view of existence could be defended with such a paraphrase. But in fact *no* life activities are included in what Aquinas thinks is meant by "living" in the Aristotelian tag "for living things living is existing."

Aquinas consistently applies the above distinction to his understanding of the Aristotelian tag. He says that it is *only* true in the first sense of "living," and *not* in the second.[66] In other words, in the case of living things Aquinas just uses the term "living" to refer to their existence.[67] His reasons for doing so need not concern us here.[68] For now the important point to note is that whether "live(s)" in this first sense is sensibly predicable of individuals is surely as doubtful as whether "exist(s)" itself is, for this first sense of "live(s)" does not refer

[64] III *Sent*., d. 33, q. 2, a. 4, sol. 1, ad 3. Cf. I *Sent*., d. 33, q. 1, a. 1, ad 1; II *Sent*., d. 38, q. 1, a. 2, ad 3; *STh* I, q. 18, a. 2; *De Verit.*, q. 13, a. 4, ad 2; *STh* I-II, q. 3, a. 2, ad 1; *STh* I-II, q. 56, a. 1, ad 1; *STh* II-II, q. 179, a. 1, obj. 1.

[65] I *De Anima*, lect. 14; II *De Anima*, lect. 3; II *De Anima*, lect. 5-6. On Aristotle's understanding of life in reference to life activities, see Gareth Matthews, "*De Anima* 2. 2-4 and the Meaning of Life," in *Essays on Aristotle's "De Anima*," ed. Martha C. Nussbaum and Amelie O. Rorty (Oxford: Oxford University Press, 1992), 185-93.

[66] I *De Anima*, lect. 14. Cf. I *Sent*., d. 8, q. 5, a. 3, ad 3; d. 33, q. 1, a. 1, ad 1; II *Sent*., d. 27, q. 1, a. 2, ad 8; d. 38, q. 1, a. 2, ad 3; *STh* I, q. 18, a. 2; *STh* I-II, q. 56, a. 1, ad 1; I *Metaphys.*, lect. 1; I *Nic. Ethic*., lect. 10.

[67] Cf. Knasas, "Haldane's Analytical Thomism," 239.

[68] But see, for example, IV *Sent*., d. 49, q. 1, a. 2, qcla. 3; and *STh* II-II, q. 179, a. 1, ad 1.

to anything but a living thing's existence. That is why the sense of predicating "exist(s)" of individuals cannot be established by appealing to the sense of predicating "live(s)" of living things. There is no independent way of establishing a meaning for "live(s)" in the sense in which Aquinas thinks that it can serve as proxy for "exist(s)." The meaningfulness of this use of "live(s)" depends upon the meaningfulness of Aquinas's first-order use of "exist(s)," and so cannot be used to establish it.

I have belabored this point about Geach's paraphrase for two reasons. First, because this is a popular strategy for defending Aquinas's view of existence among some Thomists. But second, and more importantly, because any attempt to show the meaningfulness of Aquinas's view by the method of paraphrase will likely run the same risk. Such paraphrases could only lend meaning to the use of "exist(s)" by robbing it of its own meaning. Of course Aquinas has other ways of talking about existence: "act," "actuality," "act of an essence," and so on. But these are elements of his theory of the nature of existence; they are not attempts to say what "exist(s)" means. When he attempts to say what "exist(s)" means, Aquinas usually says that it means existence. That is just what one would expect, given that he takes existence to be basic and fundamental to things: talk of something basic and fundamental cannot be replaced by talk of something else. Instead of paraphrases, Aquinas uses analogies to illustrate his view of the nature of existence and the meaning of our talk about it. Since such analogies do not run the same risk as paraphrases, they are a better strategy for defending the meaningfulness of his commonsense view of existence.

VII. Defending the Truth of Aquinas's View: An Untenable Strategy

Even if it can be shown that Aquinas's commonsense view of existence makes sense, that does not mean that it is true. We need further reason to think that existence is a real property of individuals or objects. Miller recognizes this need, but his strategy for defending the truth of the commonsense view is not

one that a Thomist can accept. Identifying the problem with Miller's strategy suggests a better way of defending the truth of Aquinas's view.

Miller's defense of the reality of existence as a property of individuals or objects is based upon a view of the relationship between language and ontology that Aquinas does not accept. Indeed, it is just the opposite of Aquinas's view. Miller is helpfully explicit about his view of this relationship. He says:

> In seeking to describe something of the actual categorial structure of the world, I shall be following Frege in maintaining the priority of linguistic categories over ontological ones. This is simply the claim that the categories of the things we talk about are to be determined by the linguistic categories of the language we employ to speak about them. In other words, the way in which the world is sliced up mirrors the way in which our language is sliced up by logical analysis.[69]

Miller's defense of the reality of existence follows this approach to ontology through language. He first defines a property as the ontological correlate of a predicate,[70] and then defends the property of existence by defending the predicate "is/are" or "exist(s)." First he answers all the objections to taking "is/are" or "exist(s)" as a predicate of individuals or objects, then, given the evidence of such predications of existence in our language, he concludes that existence is a property of individuals and objects. He then argues that existence is a real property rather than a Cambridge one (i.e., a nonrelational property rather than a relational one). Yet this entire way of defending the reality of existence would only convince someone who thinks that ontology can be read off of language, which Aquinas does not.

It might look as if Aquinas agrees with Miller about the relationship between language and ontology. Aquinas thinks that Aristotle's ten categories—the ten different kinds of things there are—can be established by attending to ten different kinds of predications.[71] But he adopts this procedure for deriving the

[69] Miller, *Fullness of Being*, 67-68.

[70] Ibid., 63.

[71] Cf. V *Metaphys*., lect. 9; III *Phys*., lect. 5. On Aquinas's derivations of the ten categories, see John Wippel, "Thomas Aquinas's Derivation of the Aristotelian

ten categories because he thinks that "diverse modes of predicating . . . *follow* diverse modes of existing."[72] John Wippel explains the reasoning behind this procedure of Aquinas. He says:

> As Thomas sees things, supreme and diverse modes of predication (as expressed in the predicaments) ultimately follow from and depend upon supreme and diverse modes of being. It is for this very reason that Thomas thinks we can discover these supreme modes of being by proceeding in the opposite direction, as it were, that is, by beginning with diversity in the order of predication.[73]

Yet this is the very view of the relationship between language and ontology that Miller himself rejects, namely, "the view that linguistic categories *reflect* ontological ones."[74] Even if Aquinas thought that ontology could be read off of language, it would not be for the reason that underlies Miller's defense of the reality of existence as a property of individuals and objects.

But in fact Aquinas does not think that ontology can be read off of language. He thinks, for example, that we cannot do without abstract terms like "whiteness" and "humanity," since he thinks they are our only way of referring to the forms signified by the corresponding concrete terms like "white" and "human." Yet he thinks that the presence of such abstract terms in our language should not lead us to posit any corresponding abstract entities in reality. He makes this point clearly in a

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Categories (Predicaments)," *Journal of the History of Philosophy* 25 (1987): 13-34; Wippel, *Metaphysical Thought of Thomas Aquinas*, 208-28; John Tomarchio, "Aquinas's Division of Being according to Modes of Existing," *Review of Metaphysics* 54 (2001): 585-613. For a compelling contemporary attempt at such a derivation, see Herbert McCabe, "Categories," in *Aquinas: A Collection of Critical Essays*, ed. Anthony Kenny (Garden City, N.Y.: Anchor Books, 1969), 54-92. For a helpful introduction to the medieval context of such derivations, see William McMahon, "The Medieval Sufficientiae: Attempts at a Definitive Division of the Categories," in *Categories and What Is Beyond: Proceedings of the Society for Medieval Logic and Metaphysics*, vol. 2, ed. Gyula Klima and Alex Hall (Newcastle upon Tyne, U.K.: Cambridge Scholars Publishing, 2011), 19-36.

[72] V *Metaphys*., lect. 9 (emphasis added). Cf. III *Phys*., lect. 5.

[73] Wippel, "Thomas Aquinas's Derivation of the Aristotelian Categories," 18.

[74] Miller, *Fullness of Being*, 68.

discussion of the signification of abstract terms in his commentary on Aristotle's *Metaphysics*.[75] The structure of reality cannot be read off of the structure of language, he explains, because language only reflects reality indirectly: "For the way that words signify does *not* follow the way that things exist *directly*, but *via* our ways of thinking. For thoughts are likeness of things, and words of thoughts."[76] He then notes that we can distinguish things in thought that are not distinguished in reality. This is how he thinks we get the abstract concepts signified by our abstract terms. It was precisely the failure to realize this difference between how we can think of things and how things are in themselves that Aquinas thinks led Plato and his followers into the mistake of positing really existing universals. Aquinas opts for Aristotle's conceptualism over Plato's realism about universals because he thinks that our abstract way of thinking is enough to account for the signification of our abstract terms without having to posit any corresponding abstract entities in reality.

Since Aquinas does not think that ontology can be read off of language, Miller's strategy for defending the truth of the commonsense view cannot be used by a Thomist to defend Aquinas. But Aquinas's approach to language and ontology, and his criticisms of Plato, suggest a better strategy for defending his view of existence.

VIII. Defending the Truth of Aquinas's View: A Tenable Strategy

As explained above (section III), Aquinas thinks that the predicate "exist(s)" signifies existence, which he considers a property of individuals or objects.[77] But why? What reason is there to think that existence is a real property of individuals or objects? Aquinas himself never quite considers this question. The closest he comes to doing so is his defense of the real

[75] VII *Metaphys*., lect. 1.

[76] Ibid. (emphasis added).

[77] On my use of the term "property," see above, n. 10.

distinction between essence and existence in creatures.[78] But most of his arguments for the real distinction would beg the question if they were presented as a defense of his common-sense view of existence, since they assume too much of that view.[79] Nevertheless, his approach to language and ontology, and his criticisms of Plato, suggest another way of defending his view of existence as a real property of individuals or objects.

Aquinas's criticisms of Plato show that he takes what contemporary analytic philosophers call a *sparse* rather than an *abundant* view of properties.[80] On the *abundant* view, there are as many properties as there are predicates. On the *sparse* view, there are fewer properties than there are predicates. The sparse view is based on a principle of parsimony like Ockham's razor, and thus only admits properties that do some work, such as explaining the resemblance of their possessors, or the causal powers of their possessors, and so on. Some people think that properties explain the meaning of predicates, and so they adopt an abundant view of properties. Yet Aquinas does not take this view, as his criticisms of Platonic forms make clear.

Aquinas rejects Platonic forms for a host of reasons, all of which derive from Aristotle.[81] The most important of these reasons, at least for our present purposes, are based upon a

[78] For an overview of Aquinas's arguments for the real distinction between essence and existence in creatures, see Wippel, *Metaphysical Thought of Thomas Aquinas*, 132-76.

[79] To see how each argument would beg the question, see David Twetten, "Really Distinguishing Essence from *Esse*," in *Wisdom's Apprentice: Essays in Honor of Lawrence Dewan, OP,* ed. Peter Kwasniewski (Washington, D.C.: The Catholic University of America Press, 2007), 40-84.

[80] For helpful overviews of the contemporary analytic debate about properties, see David Armstrong, *Universals: An Opinionated Introduction* (Boulder, Co.: Westview Press, 1989); D. H. Mellor and Alex Oliver, eds., *Properties* (New York: Oxford University Press, 1997), 1-33; Douglas Edwards, *Properties* (Cambridge: Polity Press, 2014).

[81] See, for example, I *Metaphys*., lect. 14-17; and VII *Metaphys*., lect. 13-16. For a fuller treatment of Aquinas's criticisms of Platonic forms, see Turner C. Nevitt, "What Has Aquinas Got against Platonic Forms?," in *Hylomorphism and Mereology: Proceedings of the Society for Medieval Logic and Metaphysics*, vol. 15, ed. Gyula Klima and Alex Hall (Newcastle upon Tyne: Cambridge Scholars Publishing, 2018), 67-79.

principle of parsimony.[82] Aquinas argues at length that Platonic forms should be rejected because they do not explain any of the things that Plato posited them to explain.[83] The details of these objections are not important here. The important point to note is that Aquinas thinks these are the strongest *kinds* of objections against Platonic forms. He says so explicitly when he first introduces them: "Of all the difficulties that stand against Plato, this is the greatest: the forms that Plato posited do not seem to confer anything on sensible things."[84] In other words, Platonic forms do not do any descriptive or explanatory work, and so Aquinas rejects them. This shows that he takes a sparse approach to ontology, and thus a sparse approach to properties.

This sparse approach to properties suggests that one can defend Aquinas's view of existence by appealing to its descriptive and explanatory usefulness. The successful use of his view of existence would give us good reason to think it is true, and thus that existence is in fact a real property of individuals or objects. Moreover, Aquinas puts his view of existence to a lot of use. It informs his approach to a wide range of issues in metaphysics, such as the problem of the one and the many, substance and accidents, change and causality, the analogy of being, the metaphysics of creation and participation, the nature of God and proofs for God's existence, and much more.

To give one historical example: Aquinas's view of existence allows him to preserve the absolute uniqueness of divine simplicity while rejecting universal hylomorphism. Universal hylomorphism is the claim that all creatures, including incorporeal substances such as angels, are composed of matter and form. Universal hylomorphism was a popular view in Aquinas's time partly because of how straightforwardly it preserves the uniqueness of divine simplicity: God alone is simple because God alone lacks the composition of matter and form. Nevertheless, Aquinas rejects universal hylomorphism because of what he considers its absurd commitment to "spiritual matter" in

[82] I *Metaphys*., lect. 14.
[83] I *Metaphys*., lect. 15.
[84] Ibid.

incorporeal substances.[85] Yet he can still preserve the uniqueness of divine simplicity by appeal to the real distinction between essence and existence in creatures, including incorporeal substances. Thus, God alone is simple because God alone lacks the composition of essence and existence; everything else is composed of a distinct essence and existence.[86] But this explanation of divine simplicity is only possible if existence is a real property of created things.

To give another example: Aquinas's theory of existence can be used to account for the relationship between the primary causality of God and the secondary causality of creatures.[87] As the creator of the universe, God is supposed to be the first cause of everything that exists. But, of course, creatures cause things to exist as well. This makes it look either as if such things are over-determined by having more causes than they need, or as if creatures are not really causes of such things at all. But Aquinas's theory of existence can explain how both God and creatures can concur in producing the same effect without that effect being over-determined: creatures cause the effect's essence—what it is—whereas God alone properly causes its existence.[88] This solution only works if essence and existence are really distinct in creatures, and if existence is a real property of created things.

Geach discusses three other applications of Aquinas's view of existence.[89] First, it allows Aquinas to explain increases and de-

[85] I *Sent*., d. 8, q. 5, a. 2; II *Sent*., d. 3, q. 1, a. 1; *De Ente*, c. 4; *Quodl*. III, q. 8; *Quodl*. IX, q. 4, a. 1; *De Spirit. Creat*., a. 1; *De Sep. Sub*., c. 8; *STh* I, q. 50, a. 2.

[86] *De Ente*, cc. 4 and 5; *ScG* II, c. 52; *Quodl*. II, q. 2, a. 1; *Quodl*. III, q. 8; *De Spirit. Creat*., a. 1; VIII *Phys*., lect. 21; *De Sep. Sub*., c. 8.

[87] On Aquinas's view of God's concurrence with secondary causes, see Alfred Freddoso, "Medieval Aristotelianism and the Case against Secondary Causation in Nature," in *Divine and Human Action: Essays in the Metaphysics of Theism*, ed. Thomas V. Morris (Ithaca, N.Y.: Cornell University Press, 1988), 74-118; idem, "God's General Concurrence with Secondary Causes: Why Conservation Is Not Enough," *Philosophical Perspectives* 5 (1991): 553-85; idem, "God's General Concurrence with Secondary Causes: Pitfalls and Prospects, *American Catholic Philosophical Quarterly* 67 (1994): 131-56.

[88] II *Sent*., d. 1, q. 1, a. 4; *De Pot*., q. 3, a. 7; *ScG* III, c. 66.

[89] Anscombe and Geach, *Three Philosophers*, 92-97.

creases in the intensity of a quality such as whiteness. Such changes in intensity can be explained as changes in the quality's existence (how it is) rather than as changes in its essence (what it is). Thus existence is a real property of qualities that differ in intensity. Second, Aquinas's view of existence can explain the distinction between members of a common genus. Since two human beings are as human beings so far alike, the fact that they are distinct cannot be explained by what it is to be a human being, which the two have in common. Instead, the fact that they are distinct can be explained by their distinct existences, which are proper to each. Thus existence is a real property of distinct members of the same genus. Third, Aquinas's view of existence can explain how the thought of an *x* is indeed *of an x*: the form of an *x* exists with a "natural existence" in reality, but with an "intentional existence" in thought. Thus existence is a real feature of the real things that we think about; indeed, it is what makes them real rather than mere thoughts.

These uses for Aquinas's view of existence are not all equally persuasive, but together they represent an overall strategy for defending his view of existence as a real property of individuals or objects. Even if none of these particular uses would convince contemporary analytic philosophers, there are likely other uses of it that would. Thomists interested in defending Aquinas's view of existence in the context of contemporary analytic philosophy should look for other uses of his view of existence to present as evidence for it. If his view of existence can provide the best description and explanation of the relevant phenomena (whatever they may be), that would serve as good reason to think that existence is really as Aquinas views it. Such inferences to the best explanation are a standard way to defend even basic metaphysical commitments in contemporary analytic philosophy,[90] and they are in line with Aquinas's own sparse approach

[90] Here I disagree with Kerr, "Thomist *Esse* and Analytical Philosophy." Kerr argues that Aquinas's view of existence cannot possibly be defended in the context of contemporary analytic philosophy on the grounds that analytic philosophy *by definition* proceeds only by means of conceptual analysis toward simpler principles, the most basic of which must be either undeniable or explanatorily useless. Kerr's definition of analytic

to ontology. This strategy for defending the truth of his view of existence is one that a Thomist could readily accept and deploy in the context of contemporary analytic philosophy.

There are many areas in contemporary analytic metaphysics where Aquinas's view of existence could likely make a useful descriptive and explanatory contribution. One is contemporary essentialism, which is often understood in terms of existence: a property *F* is essential to an object *x* if *x* cannot exist without being *F*. As McGinn points out, it is hard to make sense of this account of essentialism on the Frege-Russell-Quine view of existence.[91] Aquinas's commonsense view of existence could probably serve better. A second area is substance-attribute ontology. The best contemporary attempts to give an account of substances and attributes in terms of their relative independence and dependence run into problems.[92] Aquinas's view of existence could probably improve on such accounts, since his view makes it possible to recognize different kinds or modes of existence—namely, independent and dependent—in terms of which substances and attributes can be understood. A third area is ontological pluralism, a recent movement to retrieve the classic doctrine of the analogy of being.[93] The recognition that

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philosophy seems to me to exclude much of the work being done in contemporary analytic metaphysics.

[91] Cf. McGinn, *Logical Properties*, 47-48.

[92] For some of the best attempts, see E. J. Lowe, *The Possibility of Metaphysics: Substance, Identity and Time* (Oxford: Clarendon Press, 1998); Joshua Hoffman and Gary Rosenkrans, *Substance among Other Categories* (Cambridge: Cambridge University Press, 1994); idem, *Substance: Its Nature and Existence* (London: Routledge, 1997). For a brief account of some of their problems, see Penelope Mackie, "Review of *Substance among Other Categories*," *Mind* 109 (2000): 149-52; Howard Robinson, "Substance," The Stanford Encyclopedia of Philosophy (Spring 2014 Edition), ed. Edward N. Zalta, https://plato.stanford.edu/archives/spr2014/entries/substance/.

[93] See Kris McDaniel, "Ways of Being," in *Metametaphysics: New Essays on the Foundations of Ontology*, ed. David Chalmers, David Manley, and Ryan Wasserman (New York: Oxford University Press, 2009), 290-319; idem, "Being and Almost Nothingness," *Nous* 44 (2010): 628-49; idem, "A Return to the Analogy of Being," *Philosophy and Phenomenological Research* 81 (2010): 688-717; idem, "Ontological Pluralism and the Question of Why There Is Something Rather Than Nothing," in *The Philosophy of Existence: Why Is There Something Rather Than Nothing?*, ed. Tyron Goldshmidt (New York: Routledge, 2013); idem, "Degrees of Being," *Philosophers*

our best descriptions of reality will have to appeal to distinct modes or ways or degrees of being or existing cannot be made on the Frege-Russell-Quine view of existence: instantiation does not come in any modes or ways or degrees. Ontological pluralism requires a view of existence more like that of Aquinas.

SUMMARY

The fact that the analogy of being—the most maligned Aristotelian-Thomistic doctrine—is being seriously discussed by contemporary analytic philosophers should encourage Thomists who are hesitant to engage such philosophers with Aquinas's view of existence. There are other reasons to be encouraged as well. As I have shown, there are a number of strategies available for defending Aquinas's view of existence in the context of contemporary analytic philosophy. The rival view of existence prevalent among contemporary analytic philosophers is subject to serious objections. At the same time, the main contemporary analytic objections to Aquinas's view of existence can be answered. The widespread use of "exist(s)" to ascribe existence to individuals and objects provides good reason to think that such use makes sense. Even though its sense cannot be further defended with paraphrases, analogies like those of Aquinas can help to illustrate the commonsense meaning of "exist(s)" to those who doubt it. And the truth of Aquinas's view of existence as a real property of individuals or objects can be defended at least in principle by appealing to its descriptive and explanatory usefulness. In addition to Aquinas's own uses of it, there are a number of areas of contemporary analytic metaphysics where his view of existence could likely be of use. These various strategies may not be the only way to defend Aquinas's view of existence in the context of contemporary

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Imprint 13 (2013), no. 19, https://quod.lib.umich.edu/p/phimp/3521354.0013.019/1; idem, *The Fragmentation of Being* (New York: Oxford University Press, 2017); Jason Turner, "Ontological Pluralism," *Journal of Philosophy* 107 (2010): 5-34; idem, "Logic and Ontological Pluralism," *Journal of Philosophical Logic* 41 (2012): 419-48; Joshua Spencer, "Ways of Being," *Philosophy Compass* 7 (2012): 910-18.

analytic philosophy, but they still seem like a good way to try to be an Analytic Existential Thomist.

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CAPITAL PUNISHMENT AND THE INFALLIBILITY OF THE ORDINARY AND UNIVERSAL MAGISTERIUM

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ON AUGUST 1, 2018, Pope Francis approved a revision of paragraph 2267 of the *Catechism of the Catholic Church*, ordering that three paragraphs be inserted to replace the three paragraphs amended by Pope St. John Paul II in 1997, five years after the *Catechism*'s initial release.[1] This magisterial intervention has raised questions about the status of the Church's teaching on capital punishment. Francis's often strong language concerning the death penalty has sometimes been interpreted as condemning capital punishment as intrinsically evil. This article will argue that Pope Francis's teaching is better seen in the context of Catholic magisterial teaching as a development of John Paul II's "intervention in the prudential order."[2] Moreover, this article will argue that the conditions laid out in *Lumen Gentium* 25 for an exercise of the ordinary and universal magisterium have been met for the Church's doctrine on capital punishment, and that it is impossible for the magisterium to teach definitively that capital punishment is intrinsically evil.

[1] Congregation for the Doctrine of the Faith, "Rescriptum ex Audientia SS.MI: On the Death Penalty," *L'osservatore romano*, English edition, August 3, 2018, 7. *Catechismus catholicae ecclesiae* (Vatican City: Libreria editrice vaticana, 1997), 579. *Catéchisme de l'Eglise catholique* (Paris: Mame/Plon, 1992), 464.

[2] Congregation for the Doctrine of the Faith, *Donum veritatis*, 24

To this end, this article will first explain the Church's teaching on capital punishment, and what it does and does not say. Second, this article will examine the teaching of sacred Scripture on capital punishment. Third, this article will explain the teaching of *Lumen Gentium* 25 on the ordinary and universal magisterium. The article will then examine the various sources for knowledge of the ordinary and universal magisterium, such as the papal magisterium, catechisms, canon law, the Fathers of the Church, and the consensus of theologians, to show that the conditions have indeed been met with respect to capital punishment. Finally, this article will examine what problems arise if one attempts to define capital punishment as intrinsically evil, and whether such a declaration could ever be said to constitute a development of doctrine.

I. The Church's Teaching on Capital Punishment

Catholic theologians have described the Catholic doctrine on capital punishment, as classically formulated, as a mean between two extremes. The first extreme was held by groups such as the Waldensians, Anabaptists, and Quakers, who taught that capital punishment was contrary to the gospel and intrinsically evil.[3] The second extreme was held by some Reformed theologians who taught that sacred Scripture required that capital punishment be used by every state.[4] These theonomists, as they are

[3] Robert Bellarmine, *Disputationes Roberti Bellarmini politiani societatis Jesu, de Controversiis christianae fidei, adversus hujus temporis Haereticos* (Paris: Triadelphorum, 1613), 2:505 (hereafter *De Controversiis*); F. P. Kenrick, *Theologia moralis* (Mechlin: Dessain, 1861), 1:76-78.

[4] George Gillespie, *Wholesome Severity Reconciled with Christian Liberty, or, The True Resolution of a Present Controversie Concerning Liberty of Conscience: Here You Have the Question Stated, the Middle Way betwixt Popish Tyrannie and Schismatizing Liberty Approved and also Confirmed from Scripture and the Testimonies of Divines, Yea of Whole Churches* (London: Printed for Christopher Meredith, 1645), 6. Herbert Palmer held "That whatsoever Law of GOD, or Command of His, we find recorded in the Lawbooke, in either of the Volumnes of GODS Statute, the N. T. or the Old, Remaines obligatory to us, unless we can prove it to be expired, or repealed" (Herbert Palmer, *The Glasse of Gods Providence Towards His Faithfvll Ones* [London: Printed by G.M. for Th. Vnderhill, 1644], 52). On theonomy, see Timothy R. Cunningham, *How*

sometimes called, held that with Christ's advent the Old Law was to remain intact except where it was explicitly amended by Christ. In between these two errors is the doctrine of the Catholic Church. One moral manual states: "The traditional doctrine of the church is that capital punishment is not opposed to the divine law, nor is it required by this law as a necessary thing; its necessity depends on circumstances."[5]

According to this doctrine, the state by divine right may have recourse to capital punishment, but it is not required to do so. Thus, any particular society at any given point may conclude that capital punishment is unnecessary, or may require that the death penalty not be inflicted due to the circumstances of a particular age or even a particular case. As we will see, popes and bishops in different ages have held that capital punishment was sometimes appropriate and sometimes not, given either the intention or the circumstances. Thus, a few Fathers of the Church counseled restraint in the use of capital punishment. By contrast, St. Peter Damian, a Doctor of the Church, rebuked a temporal lord for extending mercy to criminals instead of executing some of them, to the harm of his subjects.[6]

Entailed in the magisterium's acceptance of capital punishment is the idea that capital punishment is not intrinsically evil (*intrinsece malum*). It is important to be precise about what an intrinsically evil act is. As the *Catechism of the Catholic Church* has it, "there are certain specific kinds of behavior that are always wrong to choose, because choosing them involves a disorder of the will, that is, a moral evil."[7] These acts are immoral simply on account of their moral object. Moreover, as

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Firm a Foundation?: An Exegetical and Historical Critique of the "Ethical Perspective of [Christian] Reconstructionism" Presented in Theonomy in Christian Ethics (Eugene, Ore.: Wipf & Stock Publishers, 2012).

[5] Francesco Roberti, Pietro Palazzini, and Henry J. Yannone, *Dictionary of Moral Theology* (Westminster, Md.: Newman Press, 1962), 1009.

[6] See n. 139 below.

[7] *CCC* 1761. John F. Dedek, "Intrinsically Evil Acts: An Historical Study of the Mind of St. Thomas," *The Thomist* 43 (1979): 385-413.

John Paul II notes, neither circumstances nor intentions can ever "transform an act intrinsically evil by virtue of its object into an act 'subjectively' good or defensible as a choice."[8] Thus, if the act is intrinsically evil, it was, is, and always will be evil. The Church has taught that among such intrinsically evil acts are homicide, genocide, abortion, euthanasia, voluntary suicide, and prostitution.[9]

II. Sacred Scripture

The Second Vatican Council holds that the books of both the Old and the New Testaments in their entirety, with all their parts, are sacred and canonical because, written under the inspiration of the Holy Spirit, they have God as their author and have been handed on as such to the Church herself. While the sacred authors "made use of their powers and abilities . . . they, as true authors, consigned to writing everything and only those things which He wanted."[10] Therefore, since everything asserted by the inspired authors or sacred writers must be held to be asserted by the Holy Spirit, it follows that the books of Scripture must be acknowledged as "teaching solidly, faithfully and without error that truth which God wanted put into sacred writings for the sake of salvation."[11]

The Old Testament is exceedingly clear that God killed humans punitively either directly or indirectly. He killed a number of individuals such as Lot's wife, Er, Onan, King Ahaziah, Jeroboam, and Jehoram.[12] He killed Uzzah for touch-

[8] John Paul II, *Veritatis Splendor*, 81.

[9] Ibid., 80.

[10] *Dei Verbum*, 11.

[11] Ibid.

[12] Gen 19:4-5; Gen 38:7; Gen 38:9-10; Exod 12:29; Exod 14:28; Lev 10:1-3; Num 11:1-3; Num 14:36-38; Num 16:27-32; Num 16:35; Num 21:4-9; Num 25:9; Josh 10:10-11; 1 Sam 6:19; 1 Sam 25:38; 2 Sam 12:14-18; 2 Sam 24:10-17; 1 Kgs 13:21-24; 1 Kgs 14:10-18; 1 Kgs 20:35-36; 1 Kgs 22:51; 2 Kgs 1:9-12; 2 Kgs 17:25-26; 2 Kgs 19:35; 2 Chr 13:20; and 2 Chr 21:14-19. All biblical citations are from *The New Oxford Annotated Bible, Expanded Edition,* Revised Standard Version (New York: Oxford University Press, 1977).

ing the ark as it was beginning to tip over.[13] He also repeatedly killed various sized groups for sinning against him. For example, he killed the entire human and animal populations of the earth, saving only Noah, the seven other members of his family, and two of each kind of animal.[14] He also killed the populations of the cities of Sodom and Gomorrah except for Lot and his family.[15] In response to Pharaoh's obstinacy, God killed all the firstborn of Egypt. He personally takes responsibility for these actions, saying, "For I will pass through the land of Egypt that night, and I will smite all the first-born in the land of Egypt, both man and beast; and on all the gods of Egypt I will execute judgments: I am the LORD."[16] He killed forty-two youths for mocking Elisha's baldness,[17] and he killed a number of Israelites for complaining about him and for complaining about food.[18]

God also frequently commanded that humans execute other human beings for a whole series of infractions of his divine law. After the Flood, for example, God made a covenant with Noah that included the following law: "Whoever sheds the blood of man, by man shall his blood be shed; for God made man in his own image" (Gen 9:6). This command was essentially reissued in the Mosaic period (Num 35:33). There are several things to note about this Noahide law. First, contrary to the suggestion of some contemporary theologians that the death penalty as such is contrary to the dignity of man,[19] God in Genesis makes exactly the opposite claim. The divine command to execute those who

[13] 2 Sam 6:6-7.

[14] Gen 6:7.

[15] Gen 19:4-5; Ezek 16:46-50.

[16] Exod 12:12.

[17] 2 Kgs 2:23-24.

[18] Num 11:1-35.

[19] E. Christian Brugger, *Capital Punishment and Roman Catholic Moral Tradition,* 2d ed. (Notre Dame, Ind.: University of Notre Dame Press, 2014), 188. Rino Fischella, "The Death Penalty Is Inadmissible," *L'osservatore romano*, Eng. ed., August 3, 2018, pp. 1, 6. James J. Megivern, *The Death Penalty: An Historical and Theological Survey* (New York: Paulist Press, 1997), 488.

murder is based on man's dignity as a creature made in God's image. Second, in the context of Genesis, Noah and his family were the only humans left, and therefore this law was intended to apply to all humans. Third, some theologians have suggested that in evaluating these Noahide laws, we should have recourse to Aquinas's distinction between ceremonial, judicial, and moral laws. One could argue that the command is merely part of the judicial law, and therefore abrogated with the coming of the New Covenant. Aquinas, however, does not see the moral content of the Noahide law as part of judicial or ceremonial law, but rather as part of the moral law.[20] Moreover, if one examines the other Noahide laws (e.g., "be fruitful and multiply," and the permission to eat animal flesh), they do not appear to be part of the ceremonial law.[21] Fourth, one could argue that this could not possibly be a justification for capital punishment since, according to the Church's traditional doctrine, only the state has the authority to execute someone, and Noah simply was not a state. However, in the context of Genesis, Noah's family were the only humans left, and so Noah was both the head of the family and the head of the inchoate state.

God also commanded others to kill as ministers of his justice. God commanded the Israelites to kill everyone in the cities of the Canaanites (Deut 20:16-18). God also sent an angel to kill 185,000 men in an Assyrian camp (2 Kgs 19:35). God also ordered Saul and the Israelites to kill the Amalekites (1 Sam 15).

God gave another and more expansive series of laws in the Mosaic Law, and this contains a number of religious practices that require the death penalty: (i) sacrificing to false gods (Exod 22:20), (ii) violating the Sabbath (Exod 35:2; Num 15:32-36), (iii) blaspheming (Lev 24:10-16, 23), (iv) being a false prophet

[20] *STh* II-II, q. 64, a. 2. Aquinas, *Collationes de decem praeceptis*, a. 7.

[21] One could argue that the law forbidding the eating of "meat that has its lifeblood still in it" is an indication that Genesis 9:6 is part of the judicial or ceremonial law. This is more likely a prohibition of eating flesh that was severed from a living animal. Even if it is a ceremonial law, it is a ceremonial law that flows from the moral law just issued granting permission to eat animal flesh.

(Deut 13:1-11), (v) sacrificing humans (Lev 20:2), (vi) divination (Exod 22:18; Lev 19:26, 31; 20:27; Deut 18:9-14).

In the Mosaic Law, God also mandated the death penalty for a number of moral behaviors. Thus the following sins require death: (i) murder (Exod 21:12-14, 22-23; Lev 24:17; Num 35:16-21), (ii) kidnapping (Exod 21:16; Deut 24:7), (iii) striking or cursing one's parents (Exod 21:15, 17; Lev 20:9), (iv) persistent rebelliousness against the Lord's priest or judge (Deut 17:12), (v) adultery (Lev 20:10-21; Deut 22:22), (vi) bestiality (Exod 22:19; Lev 20:15-16), (vii) incest (Lev 18:6-17; 20:11-14), (viii) sodomy (Lev 18:22; 20:13), (ix) fornication (Lev 21:9; Deut 22:20-21), and (x) rape of an engaged or married woman (Deut 22:25-27).

The New Testament repeatedly reaffirms that God inflicted death upon all mankind as a punishment for Adam's sin, death and destruction for Sodom and Gomorrah, and the death of mankind through a flood.[22] The New Testament therefore does not distance itself from the Old Testament claims about God's killing, although, of course, these are seen in a new light. Moreover, God in the New Testament both directly and indirectly kills individuals for personal sin. Thus, God directly kills both Ananias and Sapphira for withholding money from the community.[23] God also indirectly kills King Herod through the ministry of an angel.[24] In the book of Revelation, it is prophesied that God will command the angels to unleash seven plagues upon mankind.[25] It also states that God will kill those who are part of the Devil's last army and the dead will be as numerous as "the sand of the sea."[26]

Romans 13:1-4 was consistently cited across the ages as supporting capital punishment. Paul writes:

[22] 2 Pet 2:6; 1 Pet 3:20; 2 Pet 2:5.
[23] Acts 5:1-10.
[24] Acts 12:23.
[25] Rev 16:2-17.
[26] Rev 20:8-9.

Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. [2] Therefore he who resists the authorities resists what God has appointed, and those who resist will incur judgment. [3] For rulers are not a terror to good conduct, but to bad. Would you have no fear of him who is in authority? Then do what is good, and you will receive his approval, [4] for he is God's servant for your good. But if you do wrong, be afraid, for he does not bear the sword in vain; he is the servant of God to execute his wrath on the wrongdoer.

There are three things to note about this passage. First, the entire passage hinges on what is meant by "bearing the sword." The word "sword" (μάχαιραν) in Romans 13 refers to the sword typically carried by government officials.[27] It was carried by prison guards, as we see in Acts 16:27 where a guard, upon realizing that Paul was free, attempted to take his life with his own sword. We also see in Acts 12:2 that King Herod had James put to death "with the sword" (μάχαιραν). Clearly, this term was used in biblical Greek to signify not only capital punishment but also an instrument to inflict death. Hebrews 11:37 speaks of those who "were killed with the sword" (μάχαιραν). The Vulgate translates μάχαιραν as *gladius*, which was the sword carried by soldiers. *Gladius* also was used in the expression *ius gladii*, that is, "the right to try and punish capital crimes."[28] Given all this testimony it cannot be said that the term μάχαιραν was used in the New Testament to refer merely to government authority in general and not to include capital punishment. Second, Paul clearly affirms that the state is an

[27] Gerhard Kittel, Gerhard Friedrich, and G. W. Bromiley, *Theological Dictionary of the New Testament: Abridged in One Volume* (Grand Rapids, Mich.: W.B. Eerdmans, 1985), 572-73; William F. Arndt, F. Wilbur Gingrich, Frederick W. Danker, and Walter Bauer, *A Greek-English Lexicon of the New Testament and Other Early Christian Literature: A Translation and Adaptation of the Fourth Revised and Augmented Edition of Walter Bauer's Griechisch-Deutsches Wörterbuch zu den Schriften des neuen Testaments und der übrigen urchristlichen Literatur* (Chicago: University of Chicago Press, 1979), 496.

[28] P. G. W. Glare, ed., *Oxford Latin Dictionary* (Oxford: Clarendon Press, 2002), 765; E. A. Andrews, William Freund, Charlton Thomas Lewis, and Charles Short, *A Latin Dictionary Founded on Andrews' Edition of Freund's Latin Dictionary* (New York: Oxford University Press, 1998), 816.

instrumental means whereby God's justice is executed, and that God uses officers of the state "to execute his wrath on evildoers." Third, in Paul's Letter to the Romans, the death penalty is a means to an end, and from this one should conclude that human life does not have an absolute value. Fourth, the text does not require the state to use the death penalty but simply affirms that the ruler can wield the sword with justice.

III. Ordinary and Universal Magisterium

The Second Vatican Council taught that "it is not from Sacred Scripture alone that the Church draws her certainty about everything which has been revealed."[29] While the privilege of authoritatively interpreting the Scriptures is limited exclusively to the teaching office of the Church, this office is not superior to God's word but instead serves it, "teaching *only* what has been handed on, listening to it devoutly, guarding it scrupulously and explaining it faithfully" (emphasis added).[30] The Church, as the council notes,

> has always venerated the divine Scriptures just as she venerates the body of the Lord, since, especially in the sacred liturgy, she unceasingly receives and offers to the faithful the bread of life from the table both of God's word and of Christ's body. She has always maintained them, and continues to do so, together with sacred tradition, as the supreme rule of faith.[31]

There are two ways that the Church can teach infallibly. First, the pope alone or with the college of bishops can solemnly proclaim a matter of faith or morals to be held definitively; this is the extraordinary magisterium. Second, a doctrine can be defined as infallible by a series of acts of the

[29] *Dei Verbum*, 9.
[30] Ibid., 21.
[31] Ibid.

ordinary and universal magisterium.[32] In *Lumen Gentium* 25 the Second Vatican Council articulated the conditions under which the ordinary and universal magisterium can teach in a definitive way:

> Although the bishops individually do not enjoy the prerogative of infallibility, they nevertheless proclaim the teaching of Christ infallibly, even when they are dispersed throughout the world, provided that they remain in communion with each other and with the successor of Peter and that in authoritatively teaching on a matter of faith and morals they agree in one judgment as that to be held definitively.[33]

The text presents four conditions to be met in determining whether a teaching of the ordinary and universal magisterium should be understood as taught infallibly. The first condition is that although dispersed throughout the world, the bishops are in hierarchical communion with one another and with the pope.[34]

The second condition is that the bishops teach authentically on a matter of faith or morals. This means that each bishop must intend to speak with the authority of his office and not

[32] On the origin of the concept of the ordinary and universal magisterium, see John P. Boyle, "The Ordinary Magisterium: Towards a History of the Concept," *Heythrop Journal* 20 (1979): 380-98; 21 (1980): 14-29. See also John P. Boyle, *Church Teaching Authority: Historical and Theological Studies* (Notre Dame, Ind.: University of Notre Dame Press, 1995), 10-29.

[33] "Licet singuli praesules infallibilitatis praerogativa non polleant, quando tamen, etiam per orbem dispersi, sed communionis nexum inter se et cum Successore Petri servantes, authentice res fidei et morum docentes in unam sententiam tamquam definitive tenendam conveniunt, doctrinam Christi infallibiliter enuntiant. Quod adhuc manifestius habetur quando, in Concilio Oecumenico coadunati, pro universa Ecclesia fidei et morum doctores et iudices sunt, quorum definitionibus fidei obsequio est adhaerendum" (*Lumen Gentium*, 25 [Peter Hünermann, Helmut Hoping, Robert L. Fastiggi, Anne Englund Nash, and Heinrich Denzinger, eds., *Compendium of Creeds, Definitions, and Declarations on Matters of Faith and Morals*, 43rd ed. (San Francisco: Ignatius Press, 2012), 4149] [hereafter *DH*]). On the development of *Lumen Gentium*, 25, see Umberto Betti, *La dottrina sull' episcopato nel capitolo III della constituzione dommatica Lumen gentium* (Rome: Città Nuova, 1968).

[34] Germain Grisez, *The Way of the Lord Jesus*, vol. 1, *Christian Moral Principles* (Chicago: Franciscan Herald Press, 1983), 843. Francis A. Sullivan, S.J., *Magisterium: Teaching Authority in the Catholic Church* (New York: Paulist Press, 1983), 124.

merely as a private theologian or as a believer. The phrase "faith and morals" was customary by the sixteenth century but admitted a wide range of meanings.[35] In contemporary theology, the term "faith" refers to those matters of belief which pertain to the deposit of faith. The term *mores* is slightly more difficult to define. Historically, *mores* was often used by theologians and the magisterium in very different ways, covering a range of issues from moral principles to issues of ecclesiastical discipline. In contemporary usage, however, the term "morals" refers to those teachings which concern human acts, that is, that kind of activity that proceeds, as Aquinas puts it, from a "deliberate will."[36] For the Church to teach authentically on *mores,* these must pertain to one's salvation and they must be either *per se* good or *per se* evil.[37] Moreover, *mores* here does not concern what is done *per se* but rather concerns the intellectual judgment on the goodness or badness of those actions.

The third condition is that the bishops agree in one judgment. There are two things to be clear about here. First, as Francis A. Sullivan points out, it is "not enough for [bishops] to not contradict the pope"; they must act in their function of "judges of faith and morals."[38] Second, it is not necessary that every bishop agree with the proposed teaching nor that every bishop think that the doctrine is definitively proposed. A simple

[35] Piet Fransen, "A Short History of the Meaning of the Formula 'Fides et mores,'" in *Hermeneutics of Councils and Other Studies*, ed. H. E. Mertens and F. de Graeve (Leuven: Leuven Univ. Press, 1985), 287-318; Maurice Bevenot, "Faith and Morals in Vatican I and in the Council of Trent," *Heythrop Journal* 3 (1962): 15-30; John Mahoney, *The Making of Moral Theology* (Oxford: Clarendon, 1987), 120-74; Johann Beumer, "Res fidei et morum: Die Entwicklung eines theologischen Begriffes in den Dekretem der drei letzten Okumenischen Konzilien," *Annuarium Historiae Conciliorum* 2 (1979): 112-34; Teodoro López Rodriguez, "'Fides et mores' en Trento," *Scripta Theologica* 5 (1973): 175-221; Marcelino Zalba, S.J., "'Omnis et salutaris veritas et morum disciplina': Sentido de la expresión 'mores' en el Concilio de Trento," *Gregorianum* 54 (1973): 679-715.

[36] *STh* I-II, q. 1, a. 1.

[37] Bellarmine, *De Controversiis*, 3.4.5 (Paris ed., 1:804).

[38] Sullivan, *Magisterium*, 125.

moral, not mathematical, unanimity is sufficient to show that the bishops agree in one judgment.[39]

Lastly, bishops must propose the teaching as something "to be held definitively by all the faithful." This condition requires that the teaching is not proposed as being something optional and that the faithful have an obligation to accept it. As Germain Grisez correctly notes, "in the case of moral teaching, however, it is unlikely that those proposing the teaching will explicitly present it as something to be intellectually accepted as true; it is more likely that they will leave this demand implicit and will propose it as a norm which followers of Jesus must try to observe in their lives."[40] It is also the case that the moral teaching could be proposed simply as the express content of Scripture or as part of the content of revelation, which would also be sufficient for showing that it is proposed to be definitively held (*definitive tenenda*). Thus, John Ford and Grisez rightly argue that one does not necessarily find explicit language concerning the definitive nature of the teaching; instead they note that there are other ways in which the magisterium and theologians can indicate that it is definitive. They write:

> If one considers the explicit appeals made to Gen. 38:9-10 together with the implicit appeals made to the same passage, to Rom. 1:26-27, and to the Ten Commandments, one realizes that most who handed on the Catholic teaching on contraception claimed the authority of Scripture, which they believed to be the authority of divine revelation, in support of this teaching. Whether one thinks this claim was valid or not—a question we are not considering here—no one can deny that those who made it proposed the teaching on behalf of which they made it as a moral norm to be held definitively.[41]

Thus, when the above conditions are met, appeals to Scripture are sufficient for showing that a teaching is being proposed as having to be held definitively.

[39] Grisez, *The Way of the Lord Jesus*, 1:843.

[40] Germain Grisez, *The Way of the Lord Jesus*, vol. 2, *Living a Christian Life* (Quincy, Ill.: Franciscan Press, 1993), 43.

[41] John C. Ford and Germain Grisez, "Contraception and the Infallibility of the Ordinary Magisterium," *Theological Studies* 39 (1978): 284-85.

Evidence of the ordinary and universal magisterium can be either direct or indirect. In the case of the ordinary papal magisterium, for example, direct evidence of magisterial teaching is found in such things as encyclical letters, apostolic constitutions, decrees of the pontiffs, and decisions of the Roman congregations. Indirect evidence of the ordinary papal magisterium may be found in, for example, canon law, approved liturgical prayers, and the writings of the Doctors of the Church.[42] There is also evidence of direct magisterial teaching of bishops found in such things as the writings of the Fathers of the Church and in pastoral instructions of bishops. Often we only have indirect evidence of episcopal teaching, found in such things as the consensus of theologians, approved theological texts, and approved catechisms.[43] There are a number of steps in the practical order that have to be taken to identify this evidence, since the universality of the teaching must be established both synchronically and diachronically.[44] One must sift through the various acts of the ordinary magisterium in order to determine if there is an ordinary and universal teaching—a daunting process, given the sheer volume of material to consider. For this reason, some theologians have proposed shortcuts so that one

[42] These things do not come from the papal magisterium as such, but are approved by it. As we shall see, the consensus of theologians can be regarded as belonging to the ordinary and universal magisterium insofar as the theologians are approved by the magisterium. In the same way, insofar as the designation "Doctor of the Church" comes from the pope, the testimony of the Doctors can be regarded as belonging to the ordinary papal magisterium. This is most obvious when the pope, in making the designation, says in what respect the specific Doctor's teaching is of value for the Church. But even in the absence of this, and especially considering those Doctors who were not designated by a papal act (i.e., those from the patristic era), the consensus of the Doctors receives special approbation, and therefore may be used as evidence of the mind of the papal magisterium.

[43] Timothy Zapelena, *De Ecclesia Christi,* 6th ed. (Rome: Gregorian University, 1954-55), 2:185-86. Christian Pesch, *Praelectiones dogmaticae: Institutiones propaedeuticae ad sacram theologiam,* 6th ed. (Friburgi Brisgoviae: Herder, 1924), 1:326.

[44] Francis A. Sullivan, *Creative Fidelity: Weighing and Interpreting Documents of the Magisterium* (New York: Paulist Press, 1996), 106.

need not go through two thousand years of acts of the ordinary magisterium. Francis A. Sullivan, for example, has argued that the consensus of theologians and the *consensus fidelium* are signs that something has been proposed by the ordinary and universal magisterium.[45] Brian Ferme has proposed that one can look for confirming acts of the papal magisterium.[46]

A) Ordinary Papal Magisterium

The ordinary papal magisterium is an important source for the teaching of the ordinary and universal magisterium, since the pope teaches as "the supreme shepherd and *teacher* of all the faithful."[47] From the early Church until modern times, popes have preached and written on capital punishment. The first known papal discussion of capital punishment occurred in A.D. 405, when Pope St. Innocent I (d. 417) responded to a question posed by Exsuperius, the bishop of Toulouse. Exsuperius had asked a question about whether baptized Christians who were in positions of authority could participate in putting others to death. Innocent answered:

> You also inquired about those who, having been baptized, took on roles of public administration and either carried out only torments or even issued a death sentence. About these things we read nothing defined by the forefathers. For they remembered that these powers had been granted by God, and that, for the punishment of malefactors, the sword was permitted. They remembered that God is the minister given for vengeance upon such evildoers (Rom. 13: 1, 4). How therefore would they reprove something which they see was granted through the authority of God? About these matters therefore, what has been observed hitherto, we hold to, lest we may seem either to overturn sound order or to go against the authority of the Lord.[48]

[45] Ibid., 104.

[46] Brian Ferme, "The Response of the Congregation for the Doctrine of the Faith to the *dubium* Concerning the Apostolic Letter *Ordinatio Sacerdotalis*: Authority and Significance," *Periodica* 85 (1996): 701-10.

[47] *Lumen Gentium*, 25.

[48] "Quaesitum etiam est super his, qui post baptismum administraverunt, et aut tormenta sola exercuerunt, aut etiam capitalem protulerere sententiam; De his nihil legimus a majoribus definitum. Meminerant enim a Deo potestates has fuisse concessas, et propter vindictam noxiorum, gladium fuisse permissum, et Dei esse ministrum

It is clear that, in this magisterial act, the pope recognized that both he and the "forefathers" understood that it is not sinful to participate in capital punishment since the state receives this authority from God. In referencing Romans 13, the pope made it clear that he considered this not only part of divine revelation, but also part of the New Law. Moreover, in proposing it as part of the New Law, Innocent was proposing it as a doctrine to be definitively held.

Gregory the Great (ca. 540-604), in a letter to a bishop, made a passing reference to the death penalty, but he refrained from commenting on its morality.[49] In a letter to Passivus, bishop of Fermo, however, Gregory noted that a certain Importunus should be ordained as long as he was not found guilty of having committed any crime that "sacred law" (*lex sacra*) has penalized with death.[50] This is almost certainly a reference to a Levitical order that homosexuals be killed (Lev 20:13). It is clear that the pope viewed the death penalty as at least part of the Old Law and therefore not intrinsically evil. Moreover, while it is true that Gregory is not advocating the death of homosexuals according to the New Law, he is willing to use the moral content of the Old Law as reason for not ordaining someone.

In the twelfth and thirteenth centuries, the Church was confronted with the Waldensian heresy. In 1208, Pope Innocent III imposed a profession of faith upon those Waldensians who wished to be reconciled to the Church. In 1209 and 1210 the pope modified this profession to include the following:

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vindicem in hujusmodi datum (Rom. 13:1, 4). Quemadmodum igitur reprehenderent factum, quod auctore Deo viderent esse concessum? De his ergo ita, ut hactenus servatum est , sic habemus, ne aut disciplinam evertere, aut contra auctoritatem Domini venire videamur. Ipsis autem in ratione reddenda gesta sua omnia servabuntur" (Innocent I, *Epist*. 6, C. 3. 8, *ad Exsuperium, Episcopum Tolosanum*, February 20, 405 [*PL* 20:499]).

[49] Gregory the Great, *Epistle XLVII,* to Sabinianus (*NPNF* second series, 12:161).

[50] Gregory the Great, lib. 12, ep. 12 (*PL* 77:1226–27).

With regard to the secular power, we affirm that it can exercise a judgment of blood without mortal sin, provided that in carrying out the punishment it proceeds, not out of hatred, but judiciously, not in a precipitous manner, but with caution.[51]

While this is not a definitive declaration, acceptance of this doctrine was required to re-establish ecclesial communion.

Early in his career as a revolutionary, Luther had repeatedly denied that it was consistent with the gospel to kill heretics,[52] although he would later retract this view, on the basis of Romans 13.[53] In any case, in 1520 Leo X issued the bull *Exsurge Domine*, in which he identified forty-one errors and gave Luther sixty days to repudiate these or be excommunicated. Among the forty-one condemned propositions is the claim, "that heretics be burned is against the will of the Spirit" (prop. 33).[54] Many theologians—e.g., Billot, Dublanchy, Fessler, Franzelin, Gonzalez, and Journet—considered this document as containing a series of infallible condemnations.[55] The difficulty

[51] *Additum a. 1210:* "De potestate saeculari asserimus, quod sine peccato mortali potest iudicium sanguinis exercere, dummodo ad inferendam vindictam non odio, sed iudicio, non incaute, sed consulte procedat" (*DH* 795).

[52] Luther, *Resolutiones disputationum de indulgentiarum virtute* (1518) (*WA* 1:522-628).

[53] Luther, *Commentary on the 82nd Psalm* (*LW* 13:39-72). See also John Stanley Oyer, *Lutheran Reformers against Anabaptists: Luther, Melanchthon, and Menius, and the Anabaptists of Central Germany* (The Hague: M. Nijhoff, 1964).

[54] "33. Haereticos comburi est contra voluntatem Spiritus" (*DH* 1483).

[55] Louis Billot, *Tractatus de ecclesia Christi: sive continuatio theologiae de verbo incarnato* (Rome: Universitatis Gregorianae, 1927), 642-44; Edmond Dublanchy, "Infaillibilité du pape," in *Dictionnaire de théologie catholique*, 7:1638-1717; Joseph Fessler, *The True and the False Infallibility of the Popes: A Controversial Reply to Dr. Schulte* (London: Burns and Oates, 1875), 107; J.-B. Franzelin, *Tractaus de divina traditione et scriptura* (Rome: Propaganda Fide, 1870), 112-13; S. Gonzalez, "Immo dubitari potest. Num bulla Leonis X contineat veram definitionem ex cathedra," *Sacrae Theologiae Summa* (Madrid: Biblioteca de autores cristianos, 1962), 517; Charles Journet, *The Church of the Word Incarnate: An Essay in Speculative Theology* (London: Sheed and Ward, 1955), 446. A number of more recent theologians do not think this document contains infallible definitions: Sullivan, *Creative Fidelity*, 84-86; Klaus Schatz, *Vaticanum I, 1869–1870*, vol. 3, *Unfehlbarkeitsdiskussion und Rezeption* (Paderborn: Ferdinand Schöningh, 1994), 331-39; Klaus Schatz, "Welche bisherigen päpstlichen Lehrentscheidungen sind 'ex cathedra'? Historische und theologische Überlegungen," in

is that the censured propositions were only globally condemned as "heretical, or scandalous, or false, or offensive to pious ears, or seductive to simple minds, and standing in the way of the catholic faith."[56] It is impossible to conclude which of those specific theological censures should attach to proposition 33.

Popes have also approved of the death penalty in the practical order, and these approbations are often accompanied by magisterial teaching. In 1231 Pope Gregory IX issued the decretal *Excommunicamus*, in which he ordered that "those condemned [as heretics] by the church may be relinquished to the secular judgment, to be punished with the deserved punishment [*animadversio debita*]."[57] After Gregory IX the phrase "deserved punishment" included the death penalty.[58] In 1245 Innocent IV, in the bull *Cum adversus haereticam pravitatem*, reaffirmed Gregory IX's decretal.[59] This was repeated by Gregory's successors for the next three centuries.

In the sixteenth century, several popes decreed the death penalty for a number of offenses. Pope Paul III's constitution *Licet ab initio* (July 21, 1542) established the Supreme Sacred Congregation of the Roman and Universal Inquisition, the predecessor to the Congregation for the Doctrine of the Faith (CDF). This congregation was established in order "to

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Dogmengeschichte und katholische Theologie, ed. Werner Löser, Karl Lehmann, and Matthias Lutz-Bachmann (Würzburg, 1985), 404–22; Paul C. Empie, T. Austin Murphy, and Joseph A. Burgess, eds., *Teaching Authority and Infallibility in the Church,* The National Catholic Lutheran Dialogue (Minneapolis: Augsburg Publishing House, 1980), 50.

[56] "Praefatos omnes et singulos articulos seu errores tamquam, ut praemittitur, respective haereticos, aut scandalosos, aut falsos, aut piarum aurium offensivos, vel simplicium mentium seductivos, et veritati catholicae obviantes, damnamus, reprobamus, atque omnino reicimus" (*DH* 1492).

[57] Gregory IX, *Excommunicamus* (Mansi 23: col. 73-74).

[58] Christine Caldwell Ames, *Righteous Persecution: Inquisition, Dominicans, and Christianity in the Middle Ages*, Middle Ages Series (Philadelphia: University of Pennsylvania Press, 2009), 184; idem, *Medieval Heresies: Christianity, Judaism, and Islam* (Cambridge: Cambridge University Press, 2015), 217.

[59] Innocent IV, *Cum adversus haereticam pravitatem* (Mansi 23: col. 586-87).

investigate all and each who wander away from the Lord and the Catholic faith, as well as those suspected of heresy, together with their supporters and defenders, public and private, direct and indirect."[60] The bull specified the punishments that could be meted out to heretics, including imprisonment, confiscation of goods, and execution.[61] In the *Roman Catechism*, Pope St. Pius V (r. 1566-72) asserted that punishing malefactors with death is not only consistent with the divine law, but is part of the divine law.[62] He also issued a bull enacting the death penalty for those who harbored murderers and bandits.[63] In two separate bulls, *Cum primum* (April 1, 1566) and *Horrendum illud scelus* (August 30, 1568), St. Pius V ordered that sodomitic clergy be handed over to the secular authorities to be executed.[64] These two bulls contain magisterial teaching on the immorality of sodomy by recalling the punishments that God inflicted on the sodomites at Sodom and Gomorrah. Pope Sixtus V (r. 1585-90) issued three bulls decreeing the death penalty for incest, public adultery, and abortion.[65] These bulls cannot be viewed as acts merely of the political head of the Papal States without also being papal magisterial acts, for two reasons. First, these bulls contain both juridical acts and magisterial teaching. Second, they would be self-contradictory: it is difficult to understand how Pope Paul III could set up in a papal act the very body to guarantee orthodoxy and simul-

[60] Paul III, *Licet ab initio* (Luigi Tomassetti, Charles Cocquelines, Francesco Gaude, and Luigi Bilio, *Bullarum, diplomatum et privilegiorum sanctorum romanorum pontificum taurinensis* [Augustae Taurinorum: Seb. Franco et Henrico Dalmazzo editoribus, 1857], 6:344 [hereafter *Bullarium Romanum*]).

[61] Ibid. (*Bullarium Romanum* 6:335).

[62] *Catechismus Romanus seu Catechismus ex decreto Concilii Tridentini ad Parochos Pii Quinti Pont. Max. iussu editus*, ed. Petrus Rodríguez et al. (Vatican City: Libreria Editrice Vaticana/Ediciones Univ. de Navarra, 1989), 465-66.

[63] Pius V, *Indefessa pasloralis* (*Bullarium Romanum,* 7:452f., 7:456f.).

[64] Pius V, *Cum primum* (*Bullarium Romanum*, 7:437); Pius V, *Horrendum illud scelus* (*Bullarium Romanum*, 7:702-3).

[65] On incest: Sixtus V, *De incestis* (April 5, 1587) (*Bullarium Romanum*, 8:830-33); on adultery: Sixtus V, *Christiana pietas* (November. 3, 1586) (*Bullarium Romanum*, 8:789-94); on abortion: Sixtus V, *Contra abortum* (October 29, 1588) (*Bullarium Romanum*, 9:39-42).

taneously decree that it should act in a way contrary to the divine law. It is equally difficult to understand how Pope Sixtus could issue a bull decrying abortion as murder and then in the same decree order another form of murder.

In the nineteenth century, Pope Leo XIII affirmed that "clearly, divine law, both that which is known by the light of reason and that which is revealed in Sacred Scripture, strictly forbids anyone, outside of public cause, to kill or wound a man unless compelled to do so in self-defense."[66] One will note again that the pope clearly recognized that this teaching is part of "divine law." In a recent book on capital punishment, Edward Feser and Joseph Bessette repeatedly emphasize the fact that the Papal States had its own executioner for hundreds of years.[67]

In the early twentieth century, Pope St. Pius X authorized the publication of his catechism, which contained approbation of the state's right to kill.[68] In *Casti connubii* (1930) Pope Pius XI, while decrying abortion, approved of the states' right to kill malefactors.[69] Pope Ven. Pius XII clearly affirmed both the doctrine and its grounding in divine revelation in a series of addresses.[70]

Pope St. John Paul II, in his encyclical *Evangelium vitae* (1995), approved of the permissibility of the death penalty but added the following qualification:

[66] Leo XIII, *Pastoralis Officii* (1891), 2.

[67] Edward Feser and Joseph M. Bessette, *By Man Shall His Blood Be Shed: A Catholic Defense of Capital Punishment* (San Francisco: Ignatius Press, 2017), 9-10, 128.

[68] St. Pius X, *Compendio della dottrina cristiana prescritto da sua santita papa Pio X alle diocesi della provincia di Roma* (Rome: Tipografia Vaticana, 1905), 164.

[69] Pius XI, *Casti connubii*, 64.

[70] Pius XII, *Address to the First International Congress of Histopathology of the Nervous System*, September 14, 1952 (*AAS* 44 [1952]: 787); idem, "Discorso di sua di Sua Santità Pio XII ai partecipanti al VI convegno nazionale di studio della unione dei giuristi cattolici Italiani," AAS 47 (1955), 81-82; idem, "Ai Parroci ed ai Quaresimalisti Di Roma, Sulla Osservanza dei Commandamenti di Dio, (23 Feb. 1944)," in *Discorsi e radiomessaggi di sua santità Pio XII* (Vatican: Tipografia Poligotta Vaticana, 1959), 5:197.

It is clear that, for these purposes to be achieved, the nature and extent of the punishment must be carefully evaluated and decided upon, and ought not go to the extreme of executing the offender except in cases of absolute necessity: in other words, when it would not be possible otherwise to defend society. Today however, as a result of steady improvements in the organization of the penal system, such cases are very rare, if not practically non-existent.[71]

There are three things to note about this paragraph. First, the pope does not argue that capital punishment is intrinsically evil. He instead argues that "as a consequence of the possibilities which the State has for effectively preventing crime," occasions for using capital punishment "are very rare, if not practically non-existent." His argument is dependent on those circumstances actually existing in the modern world. John Paul's intervention is what the CDF calls an "intervention in the prudential order."[72]

In 1997, Pope John Paul II had the *Catechism of the Catholic Church* amended so that it reflected his teaching in *Evangelium vitae*. The one paragraph dedicated to capital punishment in the 1992 edition was expanded to three paragraphs. The new paragraphs begin by reaffirming the traditional doctrine, stating that "the traditional teaching of the Church does not exclude recourse to the death penalty."[73] The text noted that if non-lethal means are sufficient to defend and protect people's safety from the aggressor, authority will limit itself to such means, since these are more "in keeping with the concrete conditions of

[71] John Paul II, *Evangelium vitae*, 56.

[72] *Donum veritatis*, 24: "Finally, in order to serve the People of God as well as possible, in particular, by warning them of dangerous opinions which could lead to error, the Magisterium can intervene in questions under discussion which involve, in addition to solid principles, certain contingent and conjectural elements. . . . When it comes to the question of interventions in the prudential order, it could happen that some Magisterial documents might not be free from all deficiencies. Bishops and their advisors have not always taken into immediate consideration every aspect or the entire complexity of a question."

With respect to the pope's argument, one could wonder about its accuracy as it pertains to current civilizational and technological circumstances, and about its relevance in the future as these circumstances change for the better or worse.

[73] *Catechism of the Catholic Church*, 2267. For the earlier version of this paragraph, see *Catéchisme de l'eglise catholique* (Paris: Mame/Plon, 1992), 464.

the common good and more in conformity with the dignity of the human person." The text concludes:

> Today, in fact, as a consequence of the possibilities which the state has for effectively preventing crime, by rendering one who has committed an offense incapable of doing harm—without definitively taking away from him the possibility of redeeming himself—the cases in which the execution of the offender is an absolute necessity "are very rare, if not practically non-existent."[74]

One should immediately note that the text is introduced by the adverb "today," emphasizing that this teaching is a magisterial intervention in the prudential order.[75] John Paul II then goes on to give a practical reason why capital punishment is not an absolute necessity today: the state's ability to render the male-factor incapable of doing harm. This teaching was reaffirmed by Pope Benedict XVI in the *Compendium of the Catechism of the Catholic Church*.[76]

Pope Francis has taught on the subject of capital punishment on at least five occasions, but three stand out.[77] The first

[74] "Revera nostris diebus, consequenter ad possibilitates quae Statui praesto sunt ut crimen efficaciter reprimatur, illum qui hoc commisit, innoxium efficiendo, quin illi definitive possibilitas substrahatur ut sese redimat, casus in quibus absolute necessarium sit ut reus supprimatur, 'admodum raro . . . intercidunt . . ., si qui omnino iam reapse accidunt'" (*CCC* 2267).

[75] CDF, *Donum veritatis*, 24.

[76] "469. What kind of punishment may be imposed? The punishment imposed must be proportionate to the gravity of the offense. Given the possibilities which the State now has for effectively preventing crime by rendering one who has committed an offense incapable of doing harm, the cases in which the execution of the offender is an absolute necessity "are very rare, if not practically non-existent" (*Evangelium Vitae*). When non-lethal means are sufficient, authority should limit itself to such means because they better correspond to the concrete conditions of the common good, are more in conformity with the dignity of the human person, and do not remove definitively from the guilty party the possibility of reforming himself" (*Compendium of the Catechism of the Catholic Church* [Washington, D.C.: United States Conference of Catholic Bishops, 2006], 137).

[77] Pope Francis, "Pope Francis' letter to two organizations dedicated to criminal law and criminology," *L'osservatore romano*, Eng. ed., June 13, 2014, 11. Pope Francis, "To

occasion occurred on March 20, 2015, when he called for the abolition of capital punishment in a letter to the International Commission against the Death Penalty. In this letter Pope Francis states:

> Today the death penalty is inadmissible, no matter how serious the crime committed. It is an offense against the inviolability of life and the dignity of the human person, one which contradicts God's plan for man and society and his merciful justice, and impedes the penalty from fulfilling any just objective. It does not render justice to the victims, but rather fosters vengeance.[78]

Pope Francis begins with the term "today," thereby emphasizing, like St. John Paul II, that this teaching is a magisterial intervention in the prudential order. The term "inadmissible" (in Italian, "inammissibile"; in Latin, "non posse admitti") simply means that a thing is not permitted, a far cry from being intrinsically evil. One might argue that, in stating that "it is an offense against the inviolability of life and the dignity of the human person," the pope is arguing that the death penalty is intrinsically evil, but the pronoun "it" has as its antecedent the death penalty today and not the death penalty *simpliciter*.

The second occasion occurred on October 11, 2017, when the pope delivered an allocution to mark the twenty-fifth anniversary of the apostolic constitution *Fidei Depositum*, which promulgated the *Catechism of the Catholic Church*. In this allocution Pope Francis states that "the death penalty is an inhumane measure that, regardless of how it is carried out, abases human dignity. It is per se contrary to the Gospel."[79] The

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the International Association of Criminal Law the Pope underlines the primacy of human dignity," *L'osservatore romano*, Eng. ed., October 31, 2014, 12. Pope Francis, "The Pontiff to the International Commission against the Death Penalty: A failure of the constitutional state," *L'osservatore romano*, Eng. ed., March 27, 2015, 6. Pope Francis, "On the 25th Anniversary of the Promulgation of the Catechism of the Catholic Church," *L'osservatore romano*, Eng. ed., October 13, 2017, 7. CDF, "Rescriptum ex audientia SS.MI: On the Death Penalty," *L'osservatore romano*, Eng. ed., August 3, 2018, 7.

[78] Pope Francis, "The Pontiff to the International Commission against the Death Penalty: A failure of the constitutional state," 6.

[79] Pope Francis, "On the 25th Anniversary of the Promulgation of the Catechism of the Catholic Church," 7.

pope then calls for a modification of the *Catechism*. Later in his allocution, however, the pope asserts that he is "not in any way contradicting past teaching."[80] It is not immediately obvious how these claims are reconcilable. This confusion is compounded by the fact that Francis's claim that the death penalty is "per se contrary to the Gospel" could be read in three very different ways.

First, "per se contrary to the Gospel" could mean that the death penalty is contrary to revelation and is intrinsically evil, and indeed this is how it is read by many commentators. If it is taken in this sense, then one must admit either that the magisterium is now proposing a doctrine contrary to the explicit teaching of revelation (which, as shown above, clearly sanctions and even prescribes capital punishment) or, if one wishes to avoid that conclusion, that the Scriptures simply contain error on this point. In either case, this interpretation is tantamount to ascribing heresy to the papal teaching. Pope Francis asserted, however, that he is "not in any way contradicting past teaching."[81] Taking him at his word renders this first interpretation impossible, since past popes, such as Innocent I and St. Pius V, have taught that the death penalty is not intrinsically evil and that this is part of revelation.

Second, "per se contrary to the Gospel" could mean that the death penalty is contrary only to the New Law and not to the Old Law. One might be inclined to read the pope this way, since he appeals to the gospel and not to revelation *simpliciter*. Even if it is the case that the death penalty is "per se contrary to the Gospel," this would not render the death penalty intrinsically evil. There are many things that are "per se contrary to the Gospel" but are not intrinsically evil. Moreover, if the pope is teaching that the death penalty is intrinsically evil, one ends up right back at the consequences of the first reading, namely, either that the magisterium is now teaching contrary to the

[80] Ibid., 11.
[81] Ibid.

explicit teaching of revelation, or that the Scriptures contain error on this point. To escape these consequences, one could argue that while the death penalty is not intrinsically evil, it was abolished with the advent of the New Law, similar to circumcision.[82] Again, Pope Francis asserts that he is "not in any way contradicting past teaching."[83] Taking him at his word, then, the death penalty cannot be inconsistent with the New Law, since some popes, such as Innocent I, have taught not only that the death penalty is not intrinsically evil, but that it is either part of the New Law (Rom 13) or at least consistent with it.

Third, "per se contrary to the Gospel" could also be read as meaning that "today" the death penalty is no longer permissible on prudential grounds. This reading is supported by several elements in the text. Pope Francis claims that he is not contradicting previous Church teaching and that his teaching is part of "the harmonious development of doctrine."[84] He would then mean something like: the death penalty, as it is used in the world today, is an offense against the dignity of the human person as more fully revealed by Jesus Christ.

The pope goes on to say that "the harmonious development of doctrine demands that we cease to defend arguments that now appear clearly contrary to the new understanding of Christian truth."[85] To interpret this as saying that Catholics must reject the death penalty would ignore the fact that the Church's teaching that the death penalty is not intrinsically evil is not an argument but rather part of the doctrinal content of revelation. The text is probably better understood as claiming that there are certain arguments once used in favor of the death

[82] "Omnes ergo post illud tempus circumcisionis et sabbati reliquorumque legalium observatores alienos a Christi fide denuntiat et salutis aeternae minime posse esse participes, nisi aliquando ab iis erroribus resipiscant. Omnibus igitur, qui christiano nomine gloriantur, praecipit omnino, quocumque tempore, vel ante vel post baptismum, a circumcisione cessandum; quoniam sive quis in ea spem ponat, sive non, sine interitu salutis aeternae observari omnino non potest" (*DH* 1348).

[83] Pope Francis, "On the 25th Anniversary of the Promulgation of the Catechism of the Catholic Church," 11.

[84] Ibid.

[85] Ibid.

penalty that should no longer be used. The text, however, does not identify which arguments can no longer be used to defend capital punishment; it is apparently left to theologians to discern which these might be.

The third occasion on which Pope Francis gave a teaching on the death penalty occurred on August 1, 2018, when he approved a revision of number 2267 of the *Catechism of the Catholic Church*. The pope ordered that the following three paragraphs be inserted:

> 2267. Recourse to the death penalty on the part of legitimate authority, following a fair trial, was long considered an appropriate response to the gravity of certain crimes and an acceptable, albeit extreme, means of safeguarding the common good.
>
> Today, however, there is an increasing awareness that the dignity of the person is not lost even after the commission of very serious crimes. In addition, a new understanding has emerged of the significance of penal sanctions imposed by the state. Lastly, more effective systems of detention have been developed, which ensure the due protection of citizens but, at the same time, do not definitively deprive the guilty of the possibility of redemption.
>
> Consequently, the Church teaches, in the light of the Gospel, that "the death penalty is inadmissible because it is an attack on the inviolability and dignity of the person," and she works with determination for its abolition worldwide.[86]

There are several things to note about this passage. First, although the text cites Pope Francis's October 11 allocution, it does not contain the expression that the death penalty is "*per se* contrary to the Gospel." Instead, the new paragraphs return to the term "inadmissible." Second, the new paragraphs are not proposed as contradicting the previous teaching of the magisterium. The first paragraph briefly restates the traditional doctrine, and the second paragraph does not even offer a criticism of the traditional teaching as explained in the first paragraph. Cardinal Ladaria, in the accompanying commentary, states bluntly that "the new formulation of number 2267 of the

[86] CDF, "Rescriptum ex Audientia SS.MI: On the Death Penalty," 7.

Catechism expresses an authentic development of doctrine that is not in contradiction with the prior teachings of the Magisterium."[87] If this is the case, we must conclude that the new teaching does not contradict the previous two thousand years of magisterial teaching on the death penalty. Third, and most significant, this doctrine is not proposed as either the teaching of revelation or as a dogmatic truth; rather, it is proposed as a magisterial intervention in the prudential order.[88] This is made clear in the second paragraph, which begins "today," as in John Paul II's and Francis's own previous statements, and it is reinforced by the "consequently" of the third paragraph, ostensibly predicated on the judgment expressed in the second. Therefore, this new teaching should be considered as an authentic development of Pope St. John Paul II's doctrine which extends his prudential judgment concerning contemporary circumstances.

B) Catechisms

Catechisms are an important source for the faithful to know those things taught by the ordinary magisterium.[89] Catechisms can reveal the teaching of the ordinary and universal magisterium in two ways. First, a few catechisms were either recommended, approved, or written by various popes. This is perhaps most evident in a universal catechism such as the *Roman Catechism* (1566) or the *Catechism of the Catholic*

[87] Ibid.

[88] CDF, *Doctrinal Commentary on the Concluding Formula of the Professio Fidei*, 10. "When it comes to the question of interventions in the prudential order, it could happen that some Magisterial documents might not be free from all deficiencies. Bishops and their advisors have not always taken into immediate consideration every aspect or the entire complexity of a question. But it would be contrary to the truth, if, proceeding from some particular cases, one were to conclude that the Church's Magisterium can be habitually mistaken in its prudential judgments, or that it does not enjoy divine assistance in the integral exercise of its mission. In fact, the theologian, who cannot pursue his discipline well without a certain competence in history, is aware of the filtering which occurs with the passage of time. This is not to be understood in the sense of a relativization of the tenets of the faith" (CDF, *Donum veritatis*, 24).

[89] Pesch, *Praelectiones dogmaticae*, 1:326.

Church (1992), but it is also true of other catechisms. Pope Clement VIII, for example, ordered the use of Cardinal Bellarmine's catechisms in Rome and the surrounding area. In 1633, Pope Urban VIII recommended the use of the same catechism in mission territory throughout the world. Pope Benedict XIV recommended Bellarmine's catechisms to be used in every diocese of the world,[90] and they were eventually translated into at least sixty languages.[91] Second, catechisms were sometimes written by bishops in order to convey the faith of the Church and as such can be considered authentic acts of the magisterium. Third, most catechisms received approbation, such as a foreword, recommendation, or an imprimatur, from members of the magisterium.

Perhaps the most important catechism on the issue of capital punishment is the *Roman Catechism*. The *Roman Catechism* of 1566, authorized by the Council of Trent and prepared under Pope St. Pius V, treats of capital punishment when it discusses the fifth commandment. It lists five exceptions to the commandment, including the following one on capital punishment:

> The power of life and death is permitted to certain civil magistrates because theirs is the responsibility under law to punish the guilty and protect the innocent. Far from being guilty of breaking this commandment [Thou shall not kill], such an execution of justice is precisely an act of obedience to it. For the purpose of the law is to protect and foster human life. This purpose is fulfilled when the legitimate authority of the State is exercised by taking the guilty lives of those who have taken innocent lives. In the Psalms we find a vindication of this right: "Morning by morning I will destroy all the wicked in the land, cutting off all evildoers from the city of the Lord" (Ps. 101:8).[92]

[90] James Brodrick, *The Life and Work of Blessed Robert Francis Cardinal Bellarmine, S. J.: 1542-1621* (London: Burns, Oates and Washbourne, Ltd., 1928), 1:396.

[91] Carlos Sommervogel, *Bibliothèque de la Compagnie de Jésus* (Brussels: Schepens; Paris: Picard, 1890), 2:1182-1204.

[92] "Alterum permissum caedis genus est quod ad eos magistratus pertinet quibus data est necis potestas, qua ex legum praescripto iudicioque in facinorosos homines animadvertunt, et innocentes defendunt. Quo in munere dum iuste versantur, non modo ii caedis non sunt rei, sed huic divinae legi qua caedes vetatur maxime oboediunt. Cum enim legi huic finis is propositus sit, ut hominum vitae, salutique consulatur,

The *Roman Catechism* is clear that the Church's teaching on capital punishment is not contradictory to the fifth commandment, and, more important, it sees this right to punish the guilty by death as part of the content of sacred Scripture. The successors of Pope St. Pius V repeatedly either recommended this text or praised it in the highest possible terms down to the twentieth century.[93] Pope Clement XIII, for example, said that in this catechism was "compiled the teaching which is common to the *whole Church* and which is far removed from *every* danger of error."[94] Thus, Clement XIII did not think that this teaching was one that was merely tolerated or could in some way be incorrect.

After the *Roman Catechism*, a large number of catechisms were produced, and these were entirely consistent with it on this point. Bellarmine's catechism taught that princes and magistrates act as "ministers of God" when they kill evildoers, citing Romans 13:4. Moreover, killing the evildoer is presented as "an act of justice."[95] Other widely used catechisms were those of St. Peter Canisius. These were so widely adopted in German-speaking lands that even into the twentieth century the catechisms were called "the Canisius."[96] In his *Summa doctrinae christianae*, Canisius taught that the "legitimate authority" can use capital punishment, citing Genesis 9:6 and Matthew

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magistratuum item, qui legitimi sunt scelerum vindices, animadversiones eodem spectant, ut, audacia et iniuria suppliciis repressa, tuta sit hominum vita. Quare David: *In matutino*, inquit, *interficiebam omnes peccatores terrae, ut disperderem de civitate Domini omnes operantes iniquitatem*" (*Catechismus Romanus seu Catechismus ex decreto Concilii Tridentini ad Parochos Pii Quinti Pont. Max. iussu editus*, ed. Petrus Rodríguez et al. [Vatican City: Libreria Editrice Vaticana/Ediciones Univ. de Navarra, 1989], 465-66).

[93] See Pope Benedict XIV, *Etsi minime* (February 7, 1742); Pope Leo XIII, *Depuis le jour* (September 8, 1899), 23; Pope St. Pius X, *Acerbo Nimis* (April 15, 1905).

[94] Clement XIII, *In Dominico agro* (June 14, 1761), in *The Papal Encyclicals, 1939-58,* ed. Claudia Carlen (Ann Arbor, Mich.: Pierian Press, 1990), 1:130 (emphasis added).

[95] Robert Bellarmine, *Dichiarazione più copiosa della dottrina Cristiana composta per ordine della santa memoria di Papa Clemente VIII* (Rome: A spese di Pietro Aureli Librajo, 1824), 133-34.

[96] Benedict XVI, *Doctors of the Church* (Huntington, Ind.: Our Sunday Visitor, 2011), 229.

26:52.[97] In France, Émond Auger's *Catechismus, id est Catholica Christianae iuventutis institutio* (1569) and Cardinal Richelieu's *Instruction du chrestien* (1635) proposed the same teaching.[98] In England a number of catechisms were used to convey the faith to the persecuted faithful. Laurence Vaux (1605) and William Warford (1616) taught this as revealed doctrine.[99] The *Douay Catechism* (1648), which served as the standard catechism in England until it was replaced by *The Penny Catechism*, also taught it as a revealed truth.[100] In 1912 Pope Pius X published his *Catechism of Christian Doctrine*, in which he reaffirmed the Church's teaching on capital punishment.[101] One finds the same doctrine taught in various explanations of catechisms.[102]

[97] Petrus Canisius, *S. Petri Canisii doctoris ecclesiae catechismi Latini et Germanici*, ed. Friedrich Streicher (Romae: Pontificia Universitas Gregoriana, 1933), 164.

[98] Émond Auger, *Catechismus, id est Catholica Christianae iuventutis institutio* (Paris: Apud Sebastianum Nivellium, 1569), 101-2. Armand-Jean Duplessis Richelieu, *Instruction du chrestien* (Rouen: Chez Jean Berthelin, 1635), 201.

[99] Laurence Vaux, *A catechisme or Christian doctrine, necessary for children and ignorant people. With an other addition of instruction of the laudable ceremonies used in the Catholike Church. Whereunto is adjoyned a briefe forme of confession (necessary for all good Christians) according to the use of the Catholike Church* (London: English Secret Press, 1605), 60. William Warford, *A Briefe Instruction by Way of a Dialogue, Concerning the Principall Poynts of Christian Religion: Gathered Out of the Holy Scriptures, Ancient Fathers, & Councells. By George Douley Priest* (Saint-Omer: Printed at the English College Press, Permissu superiorum, 1616), 116-17.

[100] Henry Turberville, *An Abridgment of Christian Doctrine: With Proofs of Scripture for Points Controverted: Catechistically Explained by Way of Question and Answer* (Douay: n.p. 1648), 148.

[101] St. Pius X, *Compendio della dottrina cristiana prescritto da sua santita papa Pio X alle diocesi della provincia di Roma* (Rome: Tipografia Vaticana, 1905), 164.

[102] Francis Spirago and Richard F. Clarke, *The Catechism Explained; An Exhaustive Exposition of the Christian Religion, with Special Reference to the Present State of Society and the Spirit of the Age. A Practical Manual for the Use of the Preacher, the Catechist, the Teacher, and the Family* (New York: Benziger Bros., 1921), 388; Thomas L. Kinkead, *A Catechism of Christian Doctrine, No. 3* (New York: Benziger Bros., 1885), 306; Louis La Ravoire Morrow, *My Catholic Faith: A Catechism in Pictures* (Kenosha, Wis.: My Mission House, 1954), 215; Gilmore Henry Guyot, *Scriptural References for the Baltimore Catechism: The Biblical Basis for Catholic Beliefs* (New

More recent catechisms have reaffirmed the teaching of the Church but do not mention the scriptural basis for the teaching. Thus, the 1992 and 1997 editions of the *Catechism of the Catholic Church,* [103] the *Compendium of the Catechism of the Catholic Church*, and the *United States Catholic Catechism for Adults*, issued by the United States Conference of Catholic Bishops, reaffirm the traditional teaching although without asserting that it is the teaching of Scripture.[104]

C) Canon Law

Canon law is another important source for discovering the ordinary and universal magisterium. As Ford and Grisez have rightly pointed out, canon law "functioned in moral formation analogously to the way in which creeds function in the handing on of the essentials of doctrine: as creeds summarize saving truth, canon law from the Middle Ages until 1917 codified moral formation."[105] Early treatments of the law recognized that God had decreed the death of certain individuals. Both the *Lex Dei sive mosaicarum et romanarum legum collatio* (ca. 392-95) and medieval compilations, such as Burchard's (ca. 1021), taught that God in the Old Law required the death of individuals for certain offenses or that he decreed its justness in the New Law for certain offenses.[106]

York: J. F. Wagner, 1946), 72; Br. John Chrysostom, *Manual of Christian Doctrine: Comprising Dogma, Moral, and Worship* (Philadelphia: J. J. McVey, 1926), 282; Br. John Chrysostom, *Exposition of Christian Doctrine: Intermediate Course,* Part II (Philadelphia: J. J. McVey, 1929), 418; R. P. Thomas Pegues, *Catechism of the "Summa Theologica" of Saint Thomas Aquinas; For the Use of the Faithful* (Westminster, Md.: Newman Press, 1950), 149.

[103] *CCC* 2267.

[104] *United States Catholic Catechism for Adults*, 394-95.

[105] Ford and Grisez, "Contraception and the Infallibility of the Ordinary Magisterium," 279.

[106] *Lex Dei siue mosaicarum et romanarum legum collatio*, in Theodor Mommsen, *Fragmenta Vaticana mosaicarum et romanorum legum collatio, Collectio librorum iuris anteiustiniani 3* (Berolini: apud Weidmanos 1890), 154. On the dating of this work, see Robert M. Frakes, *Compiling the Collatio legum Mosaicarum et Romanarum in Late*

In the *Concordia discordantium canonum* (ca. 1140), Gratian references Jerome's commentary on the Book of Jeremiah, expressly acknowledging the state's right to inflict capital punishment, clearly stating that "to punish murderers [with death], those who violate the divine law, and poisoners is not the effusion of blood, but is the ministry of law."[107] The text goes on to read:

> Therefore if those holy men and public powers while waging war were not transgressors of that commandment, "Thou shalt not kill," although they killed some criminals who deserved to die; if a soldier obeying his superior is not accused of murder when at the superior's command he kills a criminal; if it is not the pouring out of blood to punish murderers and poisoners, but the ministry of the laws; if the peace of the Church is the consolation over the sadness of the lost; if those who, inflamed with the zeal of their Catholic Mother, kill excommunicates are not judged murderers; it is evidence that it is permissible not only to scourge malefactors, but also to kill them.[108]

For centuries, from 1234 until 1917, the *Corpus iuris canonici* constituted the body of the canon law of the Church. The *Liber extra* of Pope Gregory IX (1234), the *Liber sextus* of Pope Boniface VIII (1298), and the *Clementinae* of Pope Clement V (1314) and John XXII (1317) all received explicit

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Antiquity (Oxford: Oxford University Press, 2011). Burchard of Worms, *Decretorum libri viginti* (*PL* 140:775).

[107] "Homicidas, et sacrilegos, et venenarios punire non est effusio sanguinis, sed legum ministerium" (C. 23, q. 5, c. 31 [in Amilius Friedberg, *Corpus iuris canonici* (Graz: Akademische Druck- u. Verlagsanstalt, 1955), 1:939]). See also "*Ex offitio non est peccatum hominem occidere*" (C. 23, q. 5, c. 8 [Friedberg, *Corpus iuris canonici*, 1:932]).

[108] "Si ergo uiri sancti et publicae potestates bella gerentes non fuerunt transgressores illius mandati: 'Non occides,' quamuis quosque flagitiosos digna morte perimerent; si miles suae potestati obediens non est reus homicidii, si eius inperio quemlibet flagitiosum interfecerit; si homicidas, et uenenarios punire non est effusio sanguinis, sed legum ministerium; si pax ecclesiae mesticiam consolatur perditorum; si illi, qui zelo catholicae matris accensi excommunicatos interficiunt, homicidae non iudicantur: patet, quod malos non solum flagellari, sed etiam interfici licet" (Gratian, *Decretum* or *Concordia discordantium canonum*, C. 23, q. 5 [dict. post], c. 48 [Friedberg, *Corpus iuris canonici*, 1:945]).

papal approbation and promulgation and should therefore be considered part of the ordinary papal magisterium.

Moreover, canon law also acknowledged the state's right to inflict capital punishment for the crime of heresy. The *Liber Sextus*, for example, officially sanctioned the observance of the most severe ancient penal laws against heretics, laws that were revived by the Holy Roman Emperors and made obligatory during the 13th century by an entire succession of popes, including Boniface VIII.[109]

D) The Consensus of the Fathers of the Church

The binding character of the Fathers' teaching on both doctrine and scriptural interpretation has a long history and has been repeatedly affirmed by the magisterium. Thus, the Council of Trent and the First Vatican Council are clear that "no one . . . shall dare to interpret the . . . Sacred Scripture . . . contrary to the unanimous consent of the Fathers."[110] The Fathers' interpretation is a theological locus when certain conditions are

[109] Boniface VIII, *Sexti Decretal*. Lib. V. Tit. II. *De Haereticis*, cap. 18; *Ut inquisitionis negotium* (Friedberg, *Corpus iuris canonici*, 2:1076-77).

[110] Both the Council of Trent (1545-63) and the First Vatican Council are clear concerning the dogmatic content of the Fathers. Trent says: "Furthermore, in order to curb impudent clever persons, the synod decrees that no one who relies on his own judgment in matters of faith and morals, which pertain to the building up of Christian doctrine, and that no one who distorts the Sacred Scripture according to his own opinions, shall dare to interpret the said Sacred Scripture contrary to that sense which is held by holy mother Church, whose duty it is to judge regarding the true sense and interpretation of holy Scriptures, or even contrary to the unanimous consent of the Fathers, even though interpretations of this kind were never intended to be brought to light" (*DS* 786/1507). Vatican I likewise decreed: "But, since the rules which the holy Synod of Trent salutarily decreed concerning the interpretation of Divine Scripture in order to restrain impetuous minds, are wrongly explained by certain men, We, renewing the same decree, declare this to be its intention: that, in matters of faith and morals pertaining to the instruction of Christian Doctrine, that must be considered as the true sense of Sacred Scripture which Holy Mother Church has held and holds, whose office it is to judge concerning the true understanding and interpretation of the Sacred Scriptures; and, for that reason, no one is permitted to interpret Sacred Scripture itself contrary to this sense, or even contrary to the unanimous agreement of the Fathers" (*DS* 1788/3007). See Bellarmine, *De Controversiis*, 1.4.7 (Paris ed., 1:178).

met.[111] Thus, the Fathers' agreement on a biblical interpretation must be morally (not numerically) unanimous, the interpretation must concern a matter of faith or morals, and the Fathers must consider the doctrine as divinely revealed.[112] The Fathers of the Church were not simply early Christian witnesses, but were for the most part also members of the magisterium, and as such their teaching has important dogmatic implications for the theologian.[113]

There are two types of patristic texts concerning the death penalty. First, the Fathers commented on the death penalty in

[111] As to such conditions, Pope Leo XIII writes: "Because the defense of Holy Scripture must be carried on vigorously, all the opinions which the individual Fathers or the recent interpreters have set forth in explaining it need not be maintained equally. For they, in interpreting passages where physical matters are concerned, have made judgments according to the opinions of the age, and thus not always according to truth, so that they have made statements which today are not approved. Therefore, we must carefully discern what they hand down which really pertains to faith or is intimately connected with it, and what they hand down with unanimous consent; for 'in those matters which are not under the obligation of faith, the saints were free to have different opinions, just as we are,' according to the opinion of St. Thomas" (*DS* 1948).

[112] Franc. X. De Abarzuza, O.F.M.Cap., *Manuale theologiae dogmaticae,* 2d ed. (Madrid: Ediciones Studium, 1956), 1:481-88; R. P. Hermann, *Theologia generalis*, vol. 1 of *Institutiones theologiae dogmaticae*, 7th ed. (Paris and Lyons: Emmanuelem Vitte, 1937), 539-40; J. M. Hervé, *Manuale theologiae dogmaticae*, 16th ed. (Westminster, Md.: The Newman Bookshop, 1943), 1:565-75; H. Hurter, S.J., *Theologiae dogmaticae compendium*, 12th ed. (Innsbruck: Libraria Academica Wagneriana, 1908), 1:155-57; Ioachim Salaverri, *Sacrae theologiae summa*, 4th ed. (Madrid: Biblioteca De Autores Cristianos, 1967), 1:765; Adolphe Tanquery, *Manual of Dogmatic Theology*, trans. John J. Byrnes (New York: Desclée Co., 1959), 1:179 n. 1; Adolphe Tanquery, *Synopsis theologicae dogmaticae* (Paris: Desclée et Socii, 1953), 1:739-48; G. Van Noort, *The Sources of Revelation and Divine Faith*, vol. 3 of *Dogmatic Theology*, trans. John Castelot and William Murphy (Westminster, Md.: The Newman Press, 1961), 174.

[113] One needs to distinguish between the theological use of the term "Fathers" and the merely historical use of the term. Theologically, Fathers are those who: (1) lived between the first and sixth centuries, (2) lived holy lives, (3) were theologically orthodox, and (4) meet ecclesiastical approval. Theologians such as Origen, Tertullian, Lactantius, and Eusebius are considered merely ecclesiastical writers. A few Fathers, of course, were not ordained bishops, and therefore are not part of the magisterium. See Joseph Clifford Fenton, *The Concept of Sacred Theology* (Milwaukee: Bruce Publishing Co., 1941), 134; Salaverri, *Sacrae theologiae summa*, 4th ed., 1:768.

the New Law. In response to accusations against Christians, both Justin Martyr and Athenagorus demanded that Christians be investigated, and, if found guilty, punished as any guilty person should be, even with death.[114] This is hardly an acceptable demand if the death penalty is intrinsically evil. Irenaeus and Tertullian argued that God instituted political power, including its power to wield the sword, and that such punishments can be "just."[115] Origen added to this that God, in demanding the death penalty in the Old Testament, "was acting out of mercy."[116] Origen saw the imposition of the death penalty as a purgation for the sins of the malefactor. Clement of Alexandria held that when God in the Old Testament demanded death for certain sins, he was acting justly.[117] For Clement, the state executed malefactors for the "health of all" by cutting out a cancer and by inspiring fear of the Lord. Moreover, by killing him and stopping him from future sin, the state is a "benefit" of the malefactor.[118] Lactantius also recognized the right of the state to execute criminals for a just reason.[119] In the fourth century, Eusebius of Caesarea and John Chrysostom recognized the emperor's right to execute malefactors "justly."[120] Ambrose, in a letter to a Christian judge who had asked advice about the death penalty, explicitly recognized that Romans 13:4 sanctions the death penalty.[121] In the fifth century, Innocent I, Gregory the Great, and Augustine also saw the death penalty as divinely sanctioned. A number of these Fathers, of course, counseled mercy, or did not think that Christians should generally be involved in such activities for

[114] Justin Martyr, *First Apology,* c. 3 (FOTC 6:34-35); Athenagoras, *A Plea for the Christians,* c. 3 (ANF 2:130).

[115] Tertullian, *De anima*, c. 56 (FOTC 10:302); Tertullian, *De spectaculis*, c. 19 (FOTC 40:90); Irenaeus of Lyons, *Against Heresies*, 5.24.2 (ANF 1:552).

[116] Origen, *In Leviticum Homilia* XI (*PG* 12, col. 533a-b).

[117] Clement of Alexandria, *Paidagogos* 1.8 (FOTC 23:62).

[118] Clement of Alexandria, *Stromateis,* 1.27.171 (FOTC 85:149); *Stromateis* 1.27.173 (FOTC 85:150).

[119] Lactantius, *De Ira,* lib. 17 (*CSEL* 27:110-11, nos. 6-8; ANF 7:273).

[120] Eusebius of Caesarea, *Life of Constantine* 2.18 (NPNF second series, 1:504); John Chrysostom, *Homily VI*, 6 (NPNF first series, 9:383).

[121] Ambrose, *Epistola L* (XXV) (*CSEL* 82.2:56).

pastoral or prudential reasons, but not a single Father argued that the death penalty is intrinsically evil.

Second, the Fathers clearly assert that divine revelation taught that God killed individuals[122] and that he also used or ordered his ministers to kill others. Some contemporary treatments of the opinions of the Fathers of the Church on capital punishment ignore this second class of Patristic texts.[123] Origen, Ambrose, Ephrem the Syrian all acknowledge that God ordered Abraham to kill Isaac.[124] Tertullian, Athanasius, Ambrose, and John Chrysostom taught that God sent an angel to kill 185,000 men in an Assyrian camp (2 Kgs 19:35).[125] Chrysostom's comment clearly reveals his attitude to God's activity. In commenting on Jesus' command to Peter to put his sword away, Chrysostom does not understand this passage as Christ commanding a pacifistic response (Matt 26:52). Instead, Chrysostom sees the scene as an affirmation of Christ's power, explaining that Christ invokes his power to deal with the situation by calling forth more than twelve legions of angels (Matt 26:53). In this assertion, Chrysostom interprets Christ as saying, "Do you think that I cannot destroy them all?" Chrysostom goes on to assert that Christ's intention was to inspire fear in those around him: he who had sent one angel to destroy 185,000 Assyrians could now call forth more than twelve legions who could do far more damage.[126]

[122] Cyril of Alexandria, *Critical Comments on Genesis* 6 (*PG* 69:309).

[123] Brugger, *Capital Punishment*, 74-95; Megivern, *The Death Penalty*, 9-50.

[124] Origen, *Homilia in Genesin* 8.1 (*SC* 7:216.46-48); Ambrose, *De Abraham* 1.8.71 (*CSEL* 32.1:548-49); Ephrem the Syrian, *On Genesis* (*FC* 91:168).

[125] Tertullian, *De ieiunio adversus psychicos* 7 (*CCSL* 2.2:1263); Athanasius, *Vita Antonii* 28.10 (*SC* 400:214.46); Ambrose, *Explanatio super psalmos XII*, § 31 (*CSEL* 64:284.30).

[126] John Chrysostom, *Homiliae 1-90 in Matthaeum* (*PG* 58: cols. 753-54).

E) The Consensus of Theologians

The consensus of theologians can be a sign that something has been proposed infallibly by the ordinary and universal magisterium.[127] This is made clear in Pius X's *Tuas libenter,* which teaches that the universal and constant consensus of Catholic theologians holding a point as pertaining to faith is evidence that the matter is one handed on by the ordinary magisterium of the Church dispersed throughout the world.[128] Of course, most theologians are not members of the magisterium, since they lack episcopal consecration, which confers the office of teaching and of governing on the *ordinandi*.[129] The reason why the consensus of theologians can

[127] Sullivan, *Creative Fidelity*, 104; Salaverri, *Sacrae theologiae summa*, 4th ed., 1:775.

[128] Ford and Grisez, "Contraception and the Infallibility of the Ordinary Magisterium," 272.

[129] *Lumen Gentium*, 21 and *Nota explicativa praevia*. For some years after the Second Vatican Council, some authors argued that theologians were members of a sort of parallel magisterium based on the distinction (found for example in St. Thomas) between the *magisterium cathedrae pastoralis* of the bishop and the *magisterium cathedrae magistralis* of the university theologian. As the CDF's instruction *Donum veritatis* notes, "These texts do not give any support to this position, for St. Thomas was absolutely certain that the right to judge in matters of doctrine was the sole responsibility of the '*officium praelationis*'" (*Donum veritatis,* note 27). See also Bellarmine, *De Controversiis*, I.III.X (Paris ed., 1:158). While theologians perform an important function for the life of the Church and are often called upon to assist the magisterium, they are not hierarchically authoritative teachers of the faith. Their authority lies simply in the authority of their arguments. Bellarmine, *De Controversiis*, IV.I.XVI (Paris ed., 2:33); St. Thomas Aquinas, *Quodl*. III, q. 4, a. l (Marietti ed., repr. [1986], 46-47); Glenn W. Olsen, "The Theologian and the Magisterium: The Ancient and Medieval Background of a Contemporary Controversy," *Communio* 7 (1980): 292-319; Richard John Neuhaus, "In Response to Glenn W. Olsen and J. Brian Benestad," *Communio* 16 (1989): 552-57; Avery Dulles, "The Two Magisteria: An Interim Reflection," *CTSA Proceedings* 35 (1980): 155-69; Yves Congar, "A Semantic History of the Term 'Magisterium'," in *The Magisterium and Morality*, Readings in Moral Theology 3, ed. Charles E. Curran and Richard A. McCormick (New York: Paulist, 1982), 297-313; Yves Congar, "A Brief History of the Forms of the Magisterium and Its Relations with Scholars," Curran and McCormick, eds., *Magisterium and Morality*, 315; Avery Dulles, *Magisterium: Teacher and Guardian of the Faith* (Naples, Fla.: Sapientia Press of Ave Maria University, 2007), 36.

be a sign that something has been proposed infallibly by the ordinary and universal magisterium is because some theologians are in effect "authorized instruments of the hierarchy."[130] This is clear from the following considerations. First, the texts of these theologians up through the middle of the twentieth century received magisterial approbation through the granting of some type of official recognition such as the *nihil obstat* or *imprimatur*. Second, the appointment to a theological faculty or seminary historically received local episcopal sanction. This is in contrast to today when professors may be appointed to theological faculties without episcopal sanction, and when many theology professors actually refuse to obtain such sanction through acquiring the *mandatum*, which is "an acknowledgment by church authority that a Catholic professor of a theological discipline is teaching within the full communion of the Catholic Church."[131]

Sullivan argues that if at some point theologians no longer have consensus, then "it would seem necessary to conclude that this was not the kind of constant consensus that points to infallible teaching."[132] Sullivan's theory, if true, would essentially mean that one could never determine whether something has been taught by the ordinary and universal

[130] Fenton, *Concept of Sacred Theology*, 139; Pesch, *Praelectiones Dogmaticae*, 417-21; Ioachim Salaverri, *Sacrae theologiae summa*, 5th ed. (Madrid: Biblioteca De Autores Cristianos, 1962), 1:775-84. This is still the case today. Pope Francis in *Veritatis gaudium* repeated what Pope John Paul II had written in *Sapientia christiana*, namely, that "those who teach disciplines concerning faith or morals must receive, after making their profession of faith, a canonical mission from the Chancellor or his delegate, for they do not teach on their own authority but by virtue of the mission they have received from the Church. The other teachers must receive permission to teach from the Chancellor or his delegate" (*Veritatis gaudium*, general norms, article 27, n. 1; *Sapientia christiana*, general norms, article 27, n. 1).

[131] United States Conference of Catholic Bishops, "Guidelines concerning the Academic Mandatum," 1.a (http://www.usccb.org/beliefs-and-teachings/how-we-teach/catholic-education/higher-education/guidelines-concerning-the-academic-mandatum.cfm).

[132] Sullivan, *Creative Fidelity*, 104.

magisterium. It is always possible that what was previously taught could be questioned by a significant number of theologians sometime in the future. This is precisely what has happened in almost every doctrinal controversy in the history of the Church: a doctrine accepted by a consensus of theologians was no longer accepted by a consensus of theologians.[133] Moreover, Lawrence Welch is almost certainly correct that Pius IX did not mean to say that the absence of such a consensus entailed that the ordinary and universal magisterium had not taught a particular doctrine definitively;[134] rather, its presence is a sign that a doctrine has been taught definitively.

This study has examined some forty theologians, writing from the eighteenth through the mid-twentieth centuries to determine whether there has been a consensus on the Church's doctrine on capital punishment. Twenty-nine of these authors explicitly assert that the teaching is scriptural, while most of the remaining appeal to natural law.[135] These theologians often

[133] Lawrence J. Welch, "The Infallibility of the Ordinary Universal Magisterium: A Critique of Some Recent Observations," *Heythrop Journal* 39 (1998): 18-36; idem, "Quaestio disputata: Reply to Richard Gaillardetz on the Ordinary Universal Magisterium and to Francis Sullivan," *Theological Studies* 64 (2003): 598-609.

[134] Welch, "Infallibility of the Ordinary Universal Magisterium," 27.

[135] In the following list, I preface each entry with the source cited by the author on the topic ("NL" if the author argues on the basis of natural law). (Gen 9:6; Num 35) J. Aertnys, C.Ss.R, and C. A. Damen, C.Ss.R, *Theologia moralis*, 18th ed. (Turin: Marietti, 1968), 2:141-42; (NL) A. M. Arregui, S.J., *Summarium theologiae moralis,* 13th ed. (Bilbao: Mesajero del Corazón de Jesus, 1952), 144; (Exod 22; Rom 13) Antonio Ballerini, Hermann Busembaum, and Domenico Palmieri, *Opus theologicum morale in Busembaum Medullam* (Prati: Giachetti, 1892); (Exod 22) Aemilio Berardi, *Theologia moralis: theorico – practica* (Faenza: Typ. Novelli & Castellani, 1904), 2:312-13; (NL, Aquinas) Victor Cathrein, S.J., *Philosophia moralis in usum scholarum,* 5th ed. (Freiburg: Herder, 1905), 467-72; (Revelation) Charles Coppens, S.J., *A Brief Textbook of Moral Philosophy* (New York: Schwarz, 1920), 152; (NL) Francis L. B. Cunningham, *The Christian Life, a Basic Synthesis for the College* (Dubuque, Iowa: The Priory Press, 1959), 508-9; (NL) H. Davis, S.J., *Moral and Pastoral Theology, A Summary* (New York: Sheed and Ward, 1952), 56; (Exod 22; Rom 13) H. Davis, S.J., *Moral and Pastoral Theology,* ed. L. W. Geddes, S.J., 7th ed. (London: Sheed & Ward, 1958), 2:151; (NL) Austin Fagothey, *Right and Reason; Ethics in Theory and Practice* (St. Louis: Mosby, 1959), 299-300; (NL) Juan B. Ferreres, *Compendium theologiae moralis ad normam codicis canonici: dispositionibus iuris hispani, ac lusitani decretis concilii plenarii Americae latinae necnon I conc. prov. manilani earundemque regionum legibus*

peculiaribus etiam civilibus accommodatum (Barcelona: Eugenius Subirana, 1925), 1:350; (Exod 22; Rom 13) E. Génicot and J. Salsmans, eds., *Institutiones theologiae moralis quas in collegio Lovaniensi Societatis Jesu,* 2d ed. (Louvain: Typis et Suptibus Polleunis et Ceuterick, 1898), 1:296; (Roman Catechism) Thomas Marie Joseph Gousset, *Théologie morale a l'usage des curés et des confesseurs,* 5th ed. (Paris: J. Lecoffre, 1848), 1:272; (Scripture) Joanne Petro Gury, S.J., *Compendium theologiae moralis*, 5th ed. (Barcelona: Apud Jacobum Subirana, 1866), 1:167; (Aquinas, Alex. VII) A. J. J. F. Haine, *Theologiae moralis elementa ex S. Thoma aliisque probatis doctoribus collegit ordineque disposuit A.J.J.F. Haine* (Louvain: C. Fonteyn, 1900), 1:453; (NL) Antonin Marcel Henry, *The Virtues and States of Life* (Chicago: Fides, 1957), 359-60; (Gen 9; Exod 22; NL) Thomas J. Higgins, *Man As Man; The Science and Art of Ethics* (Milwaukee: Bruce Pub. Co., 1949), 511; (Scripture) Tommaso Angelo Iorio and Jean Pierre Gury, *Theologia moralis* (Naples: M. d'Auria, 1946), 1:321; (NL) H. Jone, O.F.M.Cap., *Moral Theology* (Westminster, Md.: Newman, 1945), 140-41; (Waldensians; Rom 13) F. P. Kenrick, *Theologia moralis* (Mechlin: Dessain, 1861), 1:76-78; (Gen 9; John 19; Rom. 13) A. Koch, *A Handbook of Moral Theology*, ed. A. Preuss (St. Louis: Herder, 1918-24), 2:88, 5:146-51; (Scripture, Universal consent) A. Konings, C.Ss.R., *Theologia moralis s. Alphonsi in compendium redacta,* 4th ed. (London: Benziger, 1834), 1:206; (Exod 22) Claude Lacroix, *Theologia moralis: seu ejusdem in H. Busembaum Medullam commentaria a Zacharia, S.J. elucidata atque vindicata* (Paris: Ludovicum Vivès, 1866), 2:51; (Rom 13) Aug. Lehmkuhl, *Theologia moralis* (Friburgi Brisgoviae: Sumptibus Herder, 1902), 1:497; (Gen. 9; John 19; Rom 13) John Ambrose McHugh, O.P., and Charles Callan, O.P., *Moral Theology: A Complete Course* (New York: Joseph F. Wagner, Inc., 1958), 2:100-102; (Gen 9; Rom 13) Benedict Merkelbach, O.P., *Summa theologiae moralis* (Paris: Desclée, 1932), 2:353-56; (Rom 13; Rev 13, Innocent III) Ernesto Müller, *Theologia moralis* (Vienna: Mayer et soc., 1873), 370; (Scripture) H. Noldin, S.J., *Summa theologiae moralis*, ed. A. Schmitt, S.J., and G. Heinzel, S.J., 35th ed. (Innsbruck: F. Rauch, 1956), 2:301-3; (Exod 22; Rom. 13) D. M. Prümmer, O.P., *Manuale theologiae moralis*, ed. E. M. Münch, O.P., 10th ed. (Barielem: Herder, 1945-46) 2:111; (NL) D. M. Prümmer, *Handbook of Moral Theology* (New York: P. J. Kenedy, 1957), 126; (Old Testament) P. Constantino Roncaglia, *Universa moralis theologia: Ad Usum Confessariorum* (Lucca: Ex officina Josephi Justi, 1834), 4:231; (Rom 13; Innocent I) James W. Regan, John A. Henry, and Thomas C. Donlan, *A Primer of Theology* (Dubuque, Iowa: Priory Press, 1954), 105-6; (Gen 9; Rom 13; Waldensians, Anabaptists, Quakers) Francesco Roberti, Pietro Palazzini, and Henry J. Yannone, *Dictionary of Moral Theology* (Westminster, Md.: Newman Press, 1962), 1009-10; (God) A. Sabetti, S.J., *Compendium theologiae moralis*, ed. T. Barrett, S.J., 31st ed. of Gury (New York: Pustet, 1926), 250-51; (Exod 22; Rev 13) Pietro Scavini, *Theologia moralis universa*, 4th ed. (Novara: Excudebat Miglio typog. Episcopalis ac Bibl., 1851), 2:404; (Rom 13) T. Slater, S.J., *A Manual of Moral Theology,* 5th ed. (New York: Benziger, 1925), 1:196-97; (Gen 9; Rom 13) Joseph Ambrosius Stapf, *Theologia moralis in compendium redacta,* 5th ed. (Innsbruck:

appeal to Exodus 22 and Romans 13, but also to Genesis 9:6, Numbers 35, John 19, Leviticus 24, or Revelation 13. Others simply appeal to the "Old Testament" or "Scripture." Moreover, not a single one of these theologians suggests in any way that capital punishment is or was intrinsically evil. A number of them identify the belief that capital punishment is *per se* evil as an error associated with heretical groups such as Waldensians, Anabaptists, or Quakers. Those who argue for the correctness of capital punishment on the basis of natural law regard it, precisely on that basis, as part of God's law.

This unanimous consensus among theologians remained until the mid-twentieth century, when a few theologians began to question the morality of capital punishment.[136] It was not until the 1980s, however, that there arose any serious opposition to

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Wagner, 1842), 3:98-99; (NL) Joseph Frederick Sullivan, *Special Ethics: Embracing Individual Ethics, Industrial Ethics, Ethics of the Family, Ethics of Civil Society, International Ethics: A Digest of Lectures* (Worcester, Mass.: Holy Cross College Press, 1945), 219; (NL) Adolphe Tanquerey, *Brevior synopsis theologiæ moralis et pastoralis* (Paris: typis Societatis s. Joannis Evangel., Desclée & socii, 1933), 200; (Waldensians; Gen 9; Exod 22; Lev 24) Adolphe Tanquerey, *Synopsis theologiae moralis et pastoralis*, 8th ed. (Rome: Desclée, 1927), 2:721-22, 3:135-37; (Exod 22; Rom 13; Innocent III) Alphonso Van Kol, *Theologia moralis* (Freiburg im Breisgau: Herder, 1968), 1:682; (Gen 9:6; Rom 13:4) Bernhard Häring, *The Law of Christ; Moral Theology for Priests and Laity*, trans. Edwin G. Kaiser (Westminster, Md.: Newman Press, 1961), 3:123-25; (Waldensians; Exod 22) Giovanni Vincenzo Patuzzi, O.P., *Ethica christiana, sive, theologia moralis: Ex purioribus sacrae scripturae divinaequae traditionis fontibus derivata, et s. Thomae Aquinatis doctrina continenter illustrata* (Bassani; Prostant Venetiis: Apud Remondini, 1770), 4:128-29; (Waldensians; Exod 22) Pietro Scavini, *Theologia moralis universa Pio IX pontifici* (Paris: Apud Jacobum Lecoffre et Socios, 1855), 3:79-80; (Exod 22; Rom 13); Benjamin Elbel, *Theologia moralis decalogalis, per modum conferentiarum casibus practicis applicatae, et illustratae ad usum tum curatorum, tum praesertim pro cura animarum examinandorum* (Augustæ Vindelicorum: Wolff, 1744), 4:35; (no authority cited) Arthur Vermeersch, S.J., *Theologiae moralis*, 3d ed. (Rome: Pontificia Universitas Gregoriana, 1937), 2:552; (no authority cited) Jose Ubach, *Compendium theologiae moralis: Codici iuris canonici et decretis concilii plenarii Americae Latinae necnon iuribus civilibus Galliae, Hispaniae, Lusitaniae et in plerisque nationibus Americae Latinae vigentibus accommodatum* (Fribourg: Herder, 1926), 1:144-45; (Exod 22; Lev 24; Rom 13) M. Zalba, S.J., *Theologiae moralis summa* (Madrid: B.A.C., 1958), 2:72.

[136] See for example, Jean-Marie Aubert, *Chrétiens et peine de mort* (Paris: Desclée, 1978), 90-92.

it. This opposition initially came from Germain Grisez and his school of New Natural Law Theorists.[137] These theologians and philosophers opposed capital punishment not on the basis of either Scripture or tradition, but on the basis of their new natural law theory.[138] These theorists have also argued that the magisterium should declare capital punishment intrinsically evil and that such a declaration would simply be a development of the Church's traditional doctrine on capital punishment. Other theologians have also begun to question the morality of capital punishment, while still others have regarded the movement to declare capital punishment to be intrinsically evil as impermissible, since such a teaching would contradict two thousand years of consistent magisterial teaching.[139]

[137] See Christian D. Washburn, "The New Natural Lawyers, Contraception, Capital Punishment, and the Infallibility of the Ordinary Magisterium," *Logos: A Journal of Catholic Thought and Culture* 22 (2019): 17-49.

[138] E. Christian Brugger, "To Kill or Not to Kill: The Catholic Church and the Problem of the Death Penalty," in Charles E. Curran, ed., *Change in Official Catholic Moral Teachings* (New York: Paulist Press, 2003), 145-70, idem, "Catholic Moral Teaching and the Problem of Capital Punishment," *The Thomist* 68 (2004): 41-67; idem, *Capital Punishment*; John Finnis, *Moral Absolutes: Tradition, Revision, and Truth,* Michael J. McGivney Lectures of the John Paul II Institute for Studies on Marriage and Family (Washington, D.C.: The Catholic University of America Press, 1991), 56; idem, *Aquinas: Moral, Political, and Legal Theory* (Oxford: Oxford University Press, 1998), 293. Grisez, *The Way of the Lord Jesus*, 1:218-20; idem, *The Way of the Lord Jesus*, 2:474-75, 891-94; Megivern, *Death Penalty*; James J. Megivern, "Capital Punishment: The Curious History of Its Privileged Place in Christendom," *Proceedings of the American Philosophical Society* 147 (2003): 3-12.

[139] Avery Cardinal Dulles, S.J., "Catholicism & Capital Punishment," *First Things* 112 (April 2001): 30-35 (reprinted as Avery Cardinal Dulles, S.J., "Catholicism & Capital Punishment," in Curran, ed., *Change in Official Catholic Moral Teachings*, 132-44); Feser and Bessette, *By Man Shall His Blood Be Shed*, 9-10, 128; Steven A. Long, "'*Evangelium vitae*' and the Death Penalty," in *The Catholic Citizen: Debating the Issues of Justice: Proceedings from the 26th Annual Conference of the Fellowship of Catholic Scholars* (South Bend, Ind.: St. Augustine's Press, 2004), 105-22; idem, "*Evangelium vitae*, St. Thomas Aquinas, and the Death Penalty," *The Thomist* 63 (1999): 511-52.

F) The Consensus of the Doctors of the Church

The consensus of Doctors of the Church is a special category of the consensus of theologians.[140] The term "doctor" in Latin is not primarily intended to convey that a person has either an academic degree or a professional position in academy (i.e., Ph.D., S.T.D, D.Phil.) but here retains its simple Latin meaning of "teacher," from the Latin verb *docere*, "to teach." The title "Doctor of the Church" is conferred by the Church. When the pope solemnly confers this title, he is indicating that the Doctor is eminent in theological learning and orthodox in doctrine. The title "Doctor" is incompatible with any presence of "substantial error" concerning faith and morals.[141] There are currently thirty-six Doctors. The question for this article is not principally whether they have approved of capital punishment, but what they have taught concerning its doctrinal authority.

The majority of Doctors have explicitly taught that it is morally licit for the state to use the death penalty in certain circumstances. At least eighteen have explicitly affirmed that capital punishment is approved. Not only do these authors hold this view; nearly all teach that it is the express teaching of Scripture. Moreover, none of the Doctors has rejected capital punishment as intrinsically evil.

Thus Ambrose, who recommended mercy for those condemned, was clear that the authority to execute was sanctioned by Paul in Romans 13:4. Moreover, Ambrose stated that he would not deny communion to a magistrate who had justly put a man to death. In doing so he contrasted himself with those outside the Church who would deny communion.[142] In the *City of God*, Augustine, in referring to the fifth commandment, noted that there "are some exceptions made by the

[140] There are four conditions for being a Doctor of the Church: (1) heroic holiness, (2) orthodoxy of doctrine, (3) eminence of knowledge, (4) solemn conferral of the title. See A. C. Cotter, *Theologia fundamentalis* (Weston, Mass.: Weston College, 1940), 518-19; Salaverri, *Sacrae theologiae summa*, 5th ed., 1:768

[141] Fenton, *Concept of Sacred Theology*, 143-44.

[142] Ambrose, *Epistola L* (XXV) (*CSEL* 82.2:56-59; *PL* 16: cols. 1039-42).

divine authority to its own law."[143] John Chrysostom, Jerome, and Ephrem the Syrian all upheld the death penalty's use, basing their teaching on Scripture.[144] Isidore of Seville spoke of it as a matter of fact.[145]

The great medieval Doctors also accepted the teaching of Scripture and the Fathers on the moral goodness of the death penalty in some circumstances. In his commentary on Genesis, the Venerable Bede affirmed that in Genesis 9:6 God requires the death penalty.[146] Peter Damian, in two letters to Duke Godfrey of Tuscany, rebuked him for his leniency in dealing with criminals. This leniency, the saint argued, caused innocent people to suffer at the criminals' hands when they were released. Peter also argued that not all members of the Church have the same function. Leniency is proper to the priest. Godfrey, however, is a ruler, whose function is to restrain the wicked in order to protect the innocent. Peter plainly states that "you do not buckle on your sword to stroke or caress the evil deeds of violent men, but to prepare to cut them down with your weapon's flashing blow." On this account, Godfrey is "God's minister" to administer the sword. Peter cites Romans 13:4 as support.[147] In his next letter to the duke, he addressed the issue of capital punishment, insisting that its use is sanctioned by both sacred Scripture and the Fathers of the Church.[148] Moreover, Peter held that the Old Law required the

[143] Augustine, *De civitate Dei* 1.21.

[144] John Chrysostom, *Homily 6* (NPNF first series, 9:381); Jerome, *Commentariorum in Jeremiam*, 4.22 (*PL* 24:811); Ephrem the Syrian, *Selected Prose Works: Commentary on Genesis, Commentary on Exodus, Homily on Our Lord, Letter to Publius*, The Fathers of the Church 91 (Washington, D.C.: The Catholic University of America Press, 2010), 143.

[145] Isidore of Seville, *Isidori Hispalensis Episcopi Etymologiarvm sive originvm libri XX*, ed. W. M. Lindsay (Oxford: E Typographeo Clarendoniano, 1911), 5.19.

[146] Bede the Venerable, *In Genesim* II, 9.5-6 (*CCSL* 118A:133).

[147] Peter Damian, *Letter 67*, in *The Letters of Peter Damian, 61-90*, trans. Owen J. Blum, Fathers of the Church Mediaeval Continuation (Washington, D.C.: The Catholic University of America Press, 1989), 72.

[148] Peter Damian, *Letter 68*.7 (Blum, trans., 82).

death penalty for those engaged in homosexual acts.[149] Bernard of Clairvaux also referenced Romans 13:4 in support of the death of criminals.[150]

Bonaventure began his discussion of capital punishment with a repudiation of the error of the Manicheans, who had rejected the Old Testament on account of its contradiction between Exodus 20 and Exodus 23.[151] Bonaventure went on to ground the ability to kill malefactors in Romans 13. Thomas Aquinas, in the *Summa contra Gentiles*, squarely challenged the "error" of those who say that Exodus 20:13 prohibits all killing, since the very same book clearly teaches in Exodus 22:18 "that some killing was possible."[152] Therefore, "thou shalt not kill" can only mean that some types of killing are prohibited. In both the *Summa Theologiae* and the *Collationes in decem praeceptis,* Aquinas considered the death penalty to be part of a "mandate of God" based on the divine law.[153] He also saw it as part of the natural law. Albert the Great (1200-1280), Aquinas' teacher and fellow Dominican, thought that capital punishment could be applied justly.[154]

The sixteenth- and seventeenth-century Doctors of the Church were no less clear in their approbation of capital punishment. Thus Robert Bellarmine (1542-1621) called the teaching a "decree and precept" of sacred Scripture. He

[149] Peter Damian, *Liber Gomorrhianus* 3 (*PL* 145:162-63).

[150] Bernard of Clairvaux, *In Praise of the New Knighthood: A Treatise on the Knights Templar and the Holy Places of Jerusalem*, trans. M. Conrad Greenia (Kalamazoo, Mich.: Cistercian Publications, 2000), 39.

[151] Bonaventure, *Collationes de decem praeceptis* 6.6-7 (*Doctoris seraphici S. Bonaventurae ... Opera omnia* [Ad Claras Aquas (Quaracchi): Ex Typographia Collegii S. Bonaventurae, 1882-1902], 5:526-27). See also Bonaventure, *Commentaria in quator libros Sententiarum Magistri Petri Lombardi* IV, d. 44, p. 2, a. 1, q. 1 (Quaracchi ed., 4:922); Bonaventure, *Commentarius in evangelium s. Lucae* 3.34 (Quaracchi ed., 7:78).

[152] *ScG* III. c. 146.

[153] *STh* II-II, q. 64, a. 2; q. 64, a. 3. "Est ergo licitum illis qui mandato Dei occidunt, quia tunc Deus facit. Omnis enim lex mandatum Dei est" (*Collationes in decem praeceptis*, a. 7).

[154] Albert the Great, *Super Ethica commentum et quaestiones* II, lect. 7, ad 1 (Albertus Magnus, *Opera omnia ad fidem codicum manuscriptorum edenda*, ed. Bernhard Geyer, Marc-Aeilko Aris, and Hannes Möhle [Monasterii Westfalorum: In aedibus Aschendorff, 1951], 14.1:125).

expressly referred to the rejection of capital punishment as heretical.[155] He found that in the natural law, the Law of Moses, and the gospels we have both "precepts and examples" of capital punishment. He also thought that it was the teaching of the Fathers of the Church.[156] In his catechism, he stated that princes and magistrates are provided as "ministers of God" and that God "willed and commended evildoers to be punished. Princes and Magistrates since they are public authorities have the authority to execute God's justice." As his source, he cites Romans 13:4.[157] Peter Canisius also accepted that capital punishment is not a violation of the fifth commandment.[158] The Capuchin Doctor, Lawrence of Brindisi, held that capital punishment was scriptural.[159] His testimony is also noteworthy, for it was based in part on Genesis 9:6 which he used as a *locus classicus* for both capital punishment and the dignity of man.[160]

Perhaps most notable is Alphonsus Liguori's testimony, because Pope St. Pius IX made him a Doctor of the Church in part because of his moral theology.[161] In answer to the question, "Whether it is lawful for proper authority to kill a criminal?" Liguori plainly stated, "Other than the case of necessary defense, of which more below, no one except public authority

[155] Bellarmine, *De Controversiis* (Paris ed., 2:505).

[156] Ibid. (Paris ed., 2:524).

[157] Bellarmine, *Dichiarazione più copiosa della dottrina Cristiana composta per ordine della santa memoria di Papa Clemente VIII*, 133-34.

[158] Petrus Canisius, *S. Petri Canisii doctoris ecclesiae catechismi Latini et Germanici*, ed. Friedrich Streicher (Rome: Pontificia Universitas Gregoriana, 1933), 164.

[159] Lawrence of Brindisi, *Lutheranismi Hypotyposis* (*S. Laurentii a Brundusio opera omnia* [Padua: Ex Officina typographica Seminarii, 1928], 2.2:368); idem, *Alia Homilía in feria quinta post Dominicam secundam Quadragesimae* (*Opera Omnia,* 6:297-98); idem, *Explanatio in Genesim* (*Opera Omnia* 6:392, 541-42).

[160] Lawrence of Brindisi, *Opera Omnia*, 3:186, 228, 368, 392, 400, 429, 537-42; 4:23, 47, 145, 301, 314, 406, 472.

[161] See Gregory XVI, *Santitas et doctrina* (*Acta Gregorii Papae XVI: scilicet constitutiones, bullae, litterae apostolicae, epistolae* [Rome: S.C. de Propaganda Fide, 1901], 2:306); Pius IX, *Inter eos* (*Pii IX Pontificis Maximi acta* [Rome: Ex Typographia Bonarum Artium, 1871], 296).

may lawfully do so, and then only if the order of the law has been observed, as is made clear in Exodus 22 and Romans 13."[162] Moreover, in a letter to the archbishop of Besançon (July 5, 1831), the Sacred Penitentiary stated that one can hold any of Liguori's views safely. Such counsel would be difficult to understand if capital punishment were intrinsically evil.[163]

IV. Capital Punishment and the Development of Doctrine

Some contemporary theologians argue that if the magisterium were now to teach that capital punishment is intrinsically evil, it would be an instance of an authentic development of doctrine.[164] There are essentially three problems with this argument. First, revelation is fundamentally binding on the Church: whatever is taught by the magisterium must be in conformity with the Word of God.[165] According to the Second Vatican Council, this authentic "Magisterium is not superior to the Word of God, but is its servant. It teaches *only* what has been handed on to it. At the divine command and with the help of the Holy Spirit, it listens to this devotedly, guards it with dedication, and expounds it faithfully."[166] Scripture plainly teaches that God both killed individuals and ordered others to do so as his ministers. If the magisterium were to declare that

[162] "Resp. Extra causum necessariae defensionis, de quo infra, nulli id licet, nisi auctoritate publica et juris ordine servato, ut patet Exod. 22 et Rom. 13" (Alphonsus Liguori, *Theologia moralis*, Editio nova cum antiquis editionibus diligenter collata in singulis auctorum allegationibus recognita notisque critics et commentariis illustrata; cura et studio P. Leonardi Gaude [Graz: Akademische Druck- und Verlagsanstalt, 1954], 1:629).

[163] *DH* 2727.

[164] Brugger, *Capital Punishment*, 161; Fischella, "The Death Penalty Is Inadmissible," 6.

[165] Pius XII admonished bishops that they "ought time and again to meditate on what the Apostle Paul said of his preaching of the Gospel: 'For I give you to understand, brethren, that the gospel which was preached by me is not of man. For I did not receive it from man, nor was I taught it; but I received it by a revelation of Jesus Christ' (Gal. 1. 11-12)" (*Ad sinarum gentem*, 19).

[166] *Dei Verbum*, 5.

capital punishment is intrinsically evil, it would necessarily entail either that God had ordered that which is intrinsically evil or that the sacred Scriptures contain errors about the actions of God himself. Even if one were to argue that with the coming of Christ and the new dispensation capital punishment was abrogated, it still could not be intrinsically evil, given the data of the Old Testament.

Second, if the thesis of this article—that the Church's doctrine on capital punishment has been proposed infallibly by the ordinary and universal magisterium—is correct, then this teaching is "irreformable."[167] When speaking of definitions as "irreformable," both the First Vatican Council and the Second Vatican Council simply mean that a doctrine cannot be transformed or metamorphosed into a new doctrine with some other meaning at some later point.[168] Thus, the First Vatican Council was clear that the "understanding of its sacred dogmas must be perpetually retained, which Holy Mother Church has once declared; and there must never be recession from that meaning under the specious name of a deeper understanding."[169] The council then quoted Vincent of Lerins, who taught that a dogma must always retain "the same sense and the

[167] In the past, theologians tended to use the term "immutable" or "definitive" as frequently as "irreformable" for infallible decisions. Bellarmine, *De Controversiis*, 4.2.13 (Paris ed., 2:90). Louis Billot, *De immutabilitate traditionis contra modernam haeresim evolutionismi* (Rome: Universitatis Gregorianae, 1929), 38. Giuseppe Agostino Orsi, *De irreformabili Romani Pontificis: In definiendis fidei controversiis judicio* (Rome: Typis Sacrae Congregationis de Propaganda Fide, 1739). Cardinal Manning stated that irreformability means that "no future acts will retouch them. This is the meaning of irreformable" (*Petri Priviligium: Three Pastoral Letters*, 40).

[168] *DH* 3074; *Lumen Gentium*, 25. *Proclaiming the Truth of Jesus Christ: Papers from the Vallombrosa Meeting* (Washington, D.C.: United States Catholic Conference, 2000), 61.

[169] *DH* 3020. See also *Dei Filius*, canon 4.3: "If anyone says that, as science progresses, at times a sense is to be given to dogmas proposed by the Church different from the one that the Church has understood and understands, let him be anathema" (*DH* 3043).

same understanding,"[170] even when there is doctrinal development.[171] Some contemporary theologians prefer the terms "definitive" or "irreversible,"[172] since "irreformable" seems to suggest that no change is possible. But the use of terms such as "irreformable" was never intended to suggest that no development could take place.[173] Since irreformability is confined to the doctrine's meaning and not the terms in which it is presented, it does not exclude reformulation.[174] Some reformulation of a

[170] *DH* 3020. Subsequent magisterial interventions were equally clear that the meaning of an infallible doctrine is irreformable. In the midst of the Modernist crisis, St. Pius X required an oath to be taken by all clergy, pastors, confessors, preachers, religious superiors, and professors in philosophical-theological seminaries, which included: "I entirely reject the heretical misrepresentation that dogmas evolve and change from one meaning to another different from the one which the Church held previously" (*DH* 3541). The CDF's instruction *Mysterium fidei* asserts that "there is no doubt that, according to these texts of the Council, the *meaning* of dogmas which is declared by the Church is determinate and unalterable" (CDF, *Mysterium ecclesiae*, 5).

[171] One contemporary theologian argues that "Dogmatic statements are teachings judged by the church to be faithful and trustworthy mediations of God's offer of salvation revealed to us in Christ by the power of the Spirit. Consequently, dogmatic continuity may not reside in some eternal and immutable core of transient meaning but in the saving praxis to which a dogma calls us. In this view, the central insight in the Church's claim regarding the irreversible and definitive nature of dogma would appear to be that no dogma could so change or develop as to lead us away from the path to salvation" (Richard R. Gaillardetz, *Teaching with Authority: A Theology of the Magisterium in the Church* [Collegeville, Minn.: The Liturgical Press, 1997], 108). The language here is somewhat obscure: "eternal and immutable core of transient meaning." One is not quite sure how immutable and transient can be used simultaneously. Clearly, both the First Vatican Council and *Mysterium ecclesiae* assert that dogmas of the Church are immutable in meaning. It is Modernists who attempt to shift the significance of dogmas from their intellectual meaning to being guides to action. Hence Pius X condemned the following Modernist proposition: "The dogmas of the Faith are to be held only according to their practical sense; that is to say, as perceptive norms of conduct and not as norms of believing" (*Lamentabili,* 26 [*DH* 3426]).

[172] Sullivan, *Magisterium*, 81; Francis Schüssler Fiorenza and John P. Galvin, *Systematic Theology: Roman Catholic Perspectives* (Minneapolis: Fortress Press, 2011), 104.

[173] In the sixteenth century, for example, Bellarmine commonly used the term "immutable," though he clearly recognized that in some cases the wording of an infallible decree could have been better. Bellarmine, *De Controversiis*, 4.2.12 (Paris ed., 2:87).

[174] John XXIII, *Opening Speech to the Vatican II Council*, *AAS* 54 (1962): 791. See also CDF, *Mysterium Ecclesiae*, 5.

doctrine may be necessary precisely to preserve the meaning of the doctrine. Reformulation, however, only pertains to the mode of expression and not to the content or meaning of the statements.[175] Thus, any new reformulation of the Church's doctrine could not alter its essential content. If, therefore, something was taught definitively, it remains irreformable today and forever with respect to its meaning.

Third, a declaration of the intrinsically evil nature of capital punishment cannot be said to be an authentic development of catholic doctrine. The theories of development most cited and approved by the magisterium are those of Vincent of Lerins and John Henry Newman. On either theory, we see that it is impossible to conclude that the Church's teaching on capital punishment could undergo a legitimate development from being permissible to being intrinsically evil. The Vincentian position is clear that there can be authentic developments, but Vincent understood that these developments must be organic. He used the analogy of a child growing into adulthood: while there is growth in the stature and a change in outward form, nevertheless the youth retains the same number of joints and limbs.[176] Vincent warned that in a development "the Church of Christ, the careful and watchful guardian of the doctrines deposited in her charge, never changes anything in them, never diminishes, never adds."[177] For Vincent, then, one simply could not have a development in one doctrine (e.g., the dignity of man) that entailed the loss of another doctrine (e.g., permissibility of the

[175] Avery Dulles, "Infallibility the Terminology," in Paul C. Empie, T. Austin Murphy, and Joseph A. Burgess, *Teaching Authority and Infallibility in the Church* (Minneapolis: Augsburg Publishing House, 1980), 75.

[176] Vincent of Lerins, *Commonitorium* 23.55 (ed. Roland Demeulenaere, *Corpus Christianorum: Series Latina* 64 [Turnhout: Brepols, 1985]).

[177] "Christi uero ecclesia, sedula et cauta depositorum apud se dogmatum custos, nihil in his umquam permutat, nihil minuit, nihil addit; non amputat necessaria, non adponit superflua; non amittit sua, non usurpat aliena" (Vincent of Lerins, *Commonitorium* 23.59 [*CCSL* 64:179-80; NPNF second series, 11:148-49]).

death penalty); to do so would in effect make the whole body into a "monster."[178]

Newman also understood development of doctrine in an organic fashion, likening it to a body which will either grow in perfection or be corrupted to the point of losing its identity. Newman proposed seven "notes" or tests by which one can distinguish an authentic development of doctrine from a corruption or heresy.[179] The first test is preservation of type, which Newman likened to physical growth, an analogy he drew explicitly from Vincent of Lerins. Thus, an authentic development will "imitate the law of the body, which, as years go on, develops indeed and opens out its due proportions, and yet remains identically what it was. Small are a baby's limbs, a youth's are larger, yet they are the same."[180] This body of doctrine, like the human body, must be taken integrally, whole and entire. As an example, Newman noted that Henry Hart Milman (1791-1868) in his eight-volume *History of Christianity,* had argued that Constantine corrupted Catholicism when "the meek and peaceful Jesus became a God of battle, and the Cross, the holy sign of Christian redemption, a banner of bloody strife."[181] Newman's answer to Milman's charge is striking: "Our Lord Himself is represented in the prophets as a combatant inflicting wounds while He received them, as coming from Bozrah with dyed garments, sprinkled and red in His apparel with the blood of His enemies."[182] The rejection of the biblical teaching of a warrior Jesus as foretold by the prophets would not merely be a rejection of that particular attribute of

[178] Vincent of Lerins, *Commonitorium* 23.55 (*CCSL* 64:178; NPNF second series, 11:148).

[179] It is important to note that Newman thought that these notes are of "varying cogency, independence, and applicability" (John Henry Newman, *An Essay on the Development of Christian Doctrine* [London: Basil Montagu Pickering, 1878], 171).

[180] Newman, *An Essay on the Development of Christian Doctrine*, 172. By "type," Newman really meant the "idea" of Christianity—"not any particular idea but rather that body of ideas that goes to make up the body of doctrines of Christianity" (Newman, *An Essay on the Development of Christian Doctrine*, 322).

[181] Ibid., 173. Citing Henry Hart Milman, *History of Christianity to the Abolition of Paganism in the Roman Empire* (London: John Murray, 1840), 2:354.

[182] Newman, *An Essay on the Development of Christian Doctrine*, 422.

Jesus, but would be an alteration of the whole so that it was no longer the same type. Contemporary proponents of the thesis that capital punishment is intrinsically evil argue in much the same way as Milman, seeing capital punishment as contrary to the gospel. Yet the very Scriptures reveal a Christ who says, "it will be more tolerable on the day of judgment for the land of Sodom and Gomorrah than for that town [that rejects the disciples]" (Matt 10:15). Since every ad extra action of one person of the Trinity is an action of all three persons, it is the Logos who destroyed the original Sodom and Gomorrah.

Newman's second test is the continuity of principles: "doctrines are developed by operation of principles, and develop variously according to those principles."[183] For "a development to be faithful, it must retain both the doctrine and the principle with which it started."[184] One of these governing principles is the objective content of revelation: this cannot and does not change. Furthermore, for Newman "one aspect of Revelation must not be allowed to exclude or to obscure another."[185]

[183] Ibid., 180.

[184] Ibid., 181.

[185] Ibid., 36. It must be remembered that for Newman, one of the principal tasks of his life as a Christian was opposition to theological liberalism or what in Catholic circles would later be called Modernism. Newman provided a clear definition of theological liberalism: "by liberalism I meant the anti-dogmatic principle and its developments" (John Henry Newman and Charles Kingsley, *Newman's Apologia Pro Vita Sua, The Two Versions of 1864 & 1865; Preceded by Newman's and Kingsley's Pamphlets* [London: H. Frowde, 1913], 150). "Now by Liberalism I mean false liberty of thought, or the exercise of thought upon matters, in which, from the constitution of the human mind, thought cannot be brought to any successful issue, and therefore is out of place. Among such matters are first principles of whatever kind; and of these the most sacred and momentous are especially to be reckoned the truths of Revelation. Liberalism then is the mistake of subjecting to human judgment those revealed doctrines which are in their nature beyond and independent of it, and of claiming to determine on intrinsic grounds the truth and value of propositions which rest for their reception simply on the external authority of the Divine Word" (Newman, *Apologia pro vita sua*, Note A, 493). Newman was clear that he never repented of his opposition to Liberalism: "But here I have the satisfaction of feeling that I have nothing to retract, and nothing to repent of. The main principle of the Movement is as dear to me now, as it ever was. I have changed in many

Consequently, Newman would reject any notion of development that allowed the biblical doctrine of the mercy of God to obscure or overturn the equally biblical doctrine of capital punishment. One simply cannot appeal to one biblical doctrine over another.

The application of Newman's remaining tests yields similar results. Thus, Newman's fourth test of "logical sequence," whereby the rules of logic "must not be transgressed" does not allow for a contradiction of doctrine.[186] His fifth test is "early anticipation of the future development," which means that we would find instances of the later development in "the first centuries."[187] As evidenced above, there exists no early hint of the idea that capital punishment is intrinsically evil. In fact, the Fathers and Pope Innocent I explicitly affirm it is part of the content of revelation. The sixth test is "conservative action upon the past." Newman noted that those teachings which "do but contradict and reverse the course of doctrine . . . are certainly corrupt."[188] The seventh test for an authentic development is "chronic vigor." Corruptions and heresies are shortlived while true developments have a chronic vigor.[189] The Church's doctrine on capital punishment has lasted over two thousand years, surviving challenges from the Waldensians, Anabaptists, and Quakers.

Therefore, whether one uses Vincent's or Newman's theory of development, one cannot conclude that the assertion that capital punishment is intrinsically evil is an authentic development of doctrine. It is a corruption and a contradiction of divine revelation. One might object that, from this perspective, development of the teaching on capital punishment does not even seem possible, an implication which flies in the very face of Newman's own principles: "the refusal to follow the course

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things: in this I have not. From the age of fifteen, dogma has been the fundamental principle of my religion" (ibid., 150).

[186] Newman, *An Essay on the Development of Christian Doctrine*, 382, 189.

[187] Ibid., 400.

[188] Ibid., 199.

[189] Ibid., 203.

of doctrine as it moves on" is itself a cause of corruption.[190] In fact, development of the doctrine of capital punishment is certainly possible and has in fact been occurring for some time in two distinct ways. First, the magisterium has developed a fuller moral doctrine concerning the relationship of capital punishment to other moral considerations in its use. Thus, Innocent I simply recognized that capital punishment is scriptural. Innocent III's profession of faith for the Waldensians, however, goes beyond this by adding certain conditions to the exercise of capital punishment, requiring that it be carried out "not out of hatred, but judiciously, not in a precipitous manner, but with caution."[191] With this development, the magisterium was making it clear that Christians could not simply engage in capital punishment as it was used in non-Christian contexts and that it could not proceed from hatred.

Second, the magisterium can, while not changing the doctrine, issue what *Donum veritatis* calls "interventions in the prudential order" since, particularly in what constitutes *mores*, there are "certain contingent and conjectural elements" that come into play.[192] Some of the Fathers, for example, while accepting the legitimacy of capital punishment as part of the objective content of revelation, have a sense that some cases might require that it not be employed. We see this type of intervention in St. John Paul II's *Evangelium vitae*, where he noted that as a "consequence of the possibilities which the State has for effectively preventing crime" through incarceration, instances of having to execute a criminal "are very rare, if not practically nonexistent." By contrast, when Pope Sixtus V inherited the Papal States, they were overrun with brigands terrorizing the population, and he initially was quite popular, partly because of the peace he brought through the execution of

[190] Ibid., 177.
[191] *DH* 795.
[192] CDF, *Donum veritatis*, 24.

these brigands.[193] There are likely to be all sorts of new situations in the future in which the Church will need to reflect more deeply upon this doctrine. The introduction of new technologies for executions, for example, will require new reflection.

CONCLUSION

It is the constant and unbroken teaching of two thousand years of the Church's magisterium that the state has the right to use capital punishment in a just manner. This teaching has consistently been presented by the papal magisterium, the Fathers of the Church, catechisms both universal and local, a consensus of theologians, and Doctors of the Church as constituting part of the teaching of revelation. It is a solid conclusion, therefore, that this teaching has been proposed definitively by the ordinary and universal magisterium. Pope Francis's recent modification to the catechism is best seen in both language and content as an authentic development of St. John Paul II's intervention in the prudential order. Given Francis's own statement that his teaching is "not *in any way* [emphasis added] contradicting past teaching," it is difficult to see how his teaching could be interpreted as an affirmation that capital punishment is intrinsically evil. Moreover, the assertion that capital punishment is an intrinsically evil act cannot be a true development of doctrine. In any true development, the Church's doctrine must be held in "the same sense, the same understanding," as Vatican I teaches. One simply cannot develop the doctrine of the dignity of man at the expense of the Church's understanding of the doctrine of capital punishment. Lastly, one must avoid asserting any proposition that necessarily entails that either both the Old and New Testaments contain numerous errors concerning God's "deeds and words" or that God intentionally and repeatedly commanded intrinsically evil acts. Neither of these heretical conclusions is a happy one.

[193] Ludwig von Pastor, *The History of the Popes from the Close of the Middle Ages* (London: Kegan Paul, Ltd., 1932), 21:72-127.

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WHY THE THOMISTIC DEFENSE OF "BRAIN DEATH" IS NOT THOMISTIC: AN ANALYSIS FROM THE PERSPECTIVES OF CLASSICAL PHILOSOPHY AND CONTEMPORARY BIOPHILOSOPHY

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THE ONGOING DEBATE on "brain death" (BD)—also known as the neurological standard for the determination of death—reached its half-century mark in 2018. In August 1968, the Ad Hoc Harvard Committee introduced "irreversible coma as a new criterion for death."[1] Despite intense controversy, and the lack of both a conceptual rationale and scientific validation, the Harvard BD criterion gained widespread medical and legal acceptance, especially the endorsement by the 1981 President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.[2] The

[1] Ad Hoc Committee of the Harvard Medical School, "A Definition of Irreversible Coma," *Journal of the American Medical Association* 205, no. 6 (1968): 337. The opening paragraph of the Harvard report mentions two main reasons for introducing the BD criterion: (1) to alleviate the burden which patients in irreversible coma pose to themselves, their families, and hospital resources, and (2) to free up hospital beds occupied by these patients. The manuscript drafts of the Harvard report, however, reveal a close link between the need for transplantable organs and the introduction of BD. For instance, in the manuscript draft of June 3, 1968, it is written: "With increased experience and knowledge and development in the field of transplantation, there is great need for the tissues and organs of the hopelessly comatose in order to restore to health those who are still salvageable" (cited in Mita Giacomini, "A Change of Heart and a Change of Mind? Technology and the Redefinition of Death in 1968," *Social Science & Medicine* 44, no. 10 [1997]: 1475).

[2] President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, *Defining Death: A Report on the Medical, Legal and Ethical Issues in the Determination of Death* (Washington, D.C.: U.S. Government Printing Office, 1981).

Commission also gave BD its first conceptual justification, which was essentially the thesis of James Bernat and his colleagues,[3] according to which: (1) the brain is the central somatic integrator "necessary for the functioning of the organism as a whole," and (2) consequently, a brain-dead (BD) patient on life support is merely a collection of artificially maintained, unintegrated organs and subsystems.[4] Bernat's emphasis on the centrality of the brain, especially with respect to the vegetative functions of a human person, is explicitly stated in the following passage:

> It is primarily the brain that is responsible for the function of the organism as a whole: the integration of organ and tissue subsystems by neural and neuroendocrine control of temperature, fluids and electrolytes, nutrition, breathing, circulation, appropriate responses to danger, among others.[5]

The intervention of the President's Commission did not suppress the BD controversy, however. Instead, the controversy has expanded to involve the Catholic Church and cause divisions among Catholics, especially following John Paul II's 2000 Address to the 18th International Congress of the Transplantation Society.[6] Since the mid-1980s, medical evidence has repeatedly falsified the above thesis of Bernat and the President's Commission.[7] As a result, in 2008, the

[3] James L. Bernat, Charles M. Culver, and Bernard Gert, "On the Definition and Criterion of Death," *Annals of Internal Medicine* 94, no. 3 (1981): 389-94. Bernat has remained one of the staunchest BD defenders ever since. Even when, under the weight of irrefutable medical evidence, he has had to admit the many serious flaws of the BD paradigm, he nevertheless continues to insist that BD remains a sound concept and optimal public policy. See James L. Bernat, "The Whole-Brain Concept of Death Remains Optimum Public Policy," *Journal of Law, Medicine & Ethics* 34, no. 1 (2006): 35-43; idem, "Whither Brain Death?," *American Journal of Bioethics* 14, no. 8 (2014): 3-8.

[4] Bernat, Culver, and Gert, "On the Definition and Criterion of Death," 391.

[5] James L. Bernat, "The Definition, Criterion, and Statute of Death," *Seminars in Neurology* 4, no. 1 (1984): 48.

[6] John Paul II, "Address to the 18th International Congress of the Transplantation Society (29 August 2000)," http://www.vatican.va/holy_father/john_paul_ii/speeches/2000/jul-sep/documents/hf_jpii_spe_20000829_transplants_en.html; Doyen Nguyen, "Pope John Paul II and the Neurological Standard for the Determination of Death: A Critical Analysis of His Address to the Transplantation Society," *Linacre Quarterly* 84, no. 2 (2017): 155-56.

[7] The best work in this regard is that of D. Alan Shewmon, showing the untenability of BD, at both the empirical and conceptual levels. Shewmon collected

President's Council on Bioethics formally rejected "the false assumption [of] the brain [as] the 'integrator' of vital functions."[8] Nevertheless, the council sought to rescue BD with another conceptual justification—the "fundamental vital work" rationale,[9] according to which a living human organism is defined by its "self-preserving commerce with the world,"[10] that is, by the presence of spontaneous breathing and/or consciousness.[11]

Because of its overt deficiencies, the "fundamental vital work" rationale has not elicited much interest among BD supporters.[12] Moreover, from the Catholic perspective, to accept the council's rationale would also amount to saying that embryos and fetuses *in utero* are not living human beings since they lack both spontaneous breathing and

175 well-documented cases of brain-dead (BD) patients who, because they were not taken for organ harvesting within 24-48 hours of admission, continued to survive for weeks and months, or even years—a survival well beyond the maximum possible "few days" claimed by BD proponents. The record survivor was declared BD at age four but continued to live on with evidence of normal physical growth for 19½ more years, despite a flat electroencephalogram, and no evidence of intracranial blood flow by magnetic resonance angiography. See D. Alan Shewmon, "'Brainstem Death,' 'Brain Death' and Death: A Critical Re-Evaluation of the Purported Equivalence," *Issues in Law & Medicine* 14, no. 2 (1998): 125-45; D. Alan Shewmon, "The Brain and Somatic Integration: Insights into the Standard Biological Rationale for Equating 'Brain Death' with Death," *Journal of Medicine and Philosophy* 26, no. 5 (2001): 457-78.

[8] President's Council on Bioethics, ed., *Controversies in the Determination of Death* (Washington, D.C.: U.S. Government Printing Office, 2008), 60.

[9] Ibid., 60-65.

[10] Ibid., 62.

[11] As acknowledged by the council itself, there is a very close similarity between the "fundamental vital work" rationale for the defense of whole BD and the rationale of Christopher Pallis for the justification of the "brainstem death" standard practiced in the United Kingdom and former British colonies. According to Pallis, the "irreversible loss of the capacity for consciousness and irreversible loss of the capacity to breathe [constitute] a valid definition of death." See Christopher Pallis, "On the Brainstem Criterion of Death," in *The Definition of Death: Contemporary Controversies*, ed. Stuart J. Youngner, Robert M. Arnold, and Renie Schapiro (Baltimore: Johns Hopkins University Press, 1999), 96; President's Council on Bioethics, ed., *Controversies in the Determination of Death*, 65-67.

[12] For details on the deficiencies of the "fundamental vital work" rationale, see D. Alan Shewmon, "Brain Death: Can It Be Resuscitated?," *Hastings Center Report* 39, no. 2 (2009): 20-22.

consciousness.[13] For this reason, pro-life, pro-BD Catholic scholars have endeavored to develop new arguments to justify the BD paradigm. The most recent rationales—the only two currently in use within the Catholic tradition in defense of BD—are (1) Patrick Lee and Germain Grisez's "substantial change" rationale, according to which BD patients are no longer humans (and therefore dead) because they have lost the radical capacity for sentience even though they remain somatically integrated;[14] and (2) the rationale advocated by Melissa Moschella and Maureen Condic, according to which BD patients are dead because they have lost the root capacity for self-integration, as evidenced by the loss of the capacity for spontaneous breathing and the loss of the capacity for sentience.[15]

The point of this article is to determine whether these rationales cohere with the Catholic Church's understanding of human nature based on Aristotelian-Thomistic hylomorphism. My argument is that they do not, and that they also contradict the contemporary holistic biophilosophical understanding about life and organisms.

I. Critical analysis of Lee and Grisez's rationale

In a way similar to the 2008 President's Council, Patrick Lee and Germain Grisez also acknowledge that the medical evidence presented by Shewmon has disproved the thesis of the brain as central somatic integrator, and that BD patients are living beings with somatic integration. Nevertheless, Lee and Grisez argue that the BD standard remains valid because "what is alive after total brain death is neither the individual whose brain died nor a whole member of the human

[13] In utero, the embryo/fetus is totally dependent on the placenta for its survival. Among its many functions, the placenta plays a role analogous to the ventilator and feeding tube.

[14] Patrick Lee and Germain Grisez, "Total Brain Death: A Reply to Alan Shewmon," *Bioethics* 26, no. 5 (2012): 275-84; Patrick Lee, "Total Brain Death and the Integration of the Body Required of a Human Being," *Journal of Medicine and Philosophy* 41, no. 3 (2016): 300-314.

[15] Maureen L. Condic, "Determination of Death: A Scientific Perspective on Biological Integration," *Journal of Medicine and Philosophy* 41, no. 3 (2016): 257-78; Melissa Moschella, "Deconstructing the Brain Disconnection–Brain Death Analogy and Clarifying the Rationale for the Neurological Criterion of Death," *Journal of Medicine and Philosophy* 41, no. 3 (2016): 279-99.

species."[16] Lee reaffirms the same assertion, stating: "even if some brain-dead bodies are organisms, or complex entities of some sort, they are not human organisms."[17] Philosophically speaking, Lee and Grisez's rationale takes its starting point from the classical Aristotelian-Thomistic concept of man as a rational animal. The core of their argument reads as follows:

> A human being is a rational animal. . . . To be a rational animal, an organism must be an animal; [this means that] it must have either the capacity for sentience, or the capacity to develop the capacity for sentience . . . [since] rational functions presuppose sensory functioning. . . . A mammal's sentience requires either a brain capable of functioning or the capacity to develop a brain. But a totally brain-dead individual neither has a brain capable of functioning nor the capacity to develop a brain. It follows that any mammalian individual that undergoes brain death is no longer a sentient being, and thus not an animal, and thus not a rational animal. . . . [In other words,] a substantial change has occurred: the human being has passed away, and although the remains include a large living entity, that entity is not a human organism, and so it is not the individual who suffered total brain death.[18]

Although Lee and Grisez's insistence on sentience coheres with the classical Aristotelian-Thomistic understanding that sensible images are the necessary starting point for human abstract thinking and acquisition of knowledge,[19] their assertion that "the loss of the capacity for consciousness is death"[20] is problematic at both the empirical and conceptual levels. Such emphasis on consciousness comes to the fore when Lee refines the above argument by specifying that

[16] Lee and Grisez, "Total Brain Death: A Reply to Alan Shewmon," 277.

[17] Lee, "Total Brain Death and the Integration of the Body," 301.

[18] Lee and Grisez, "Total Brain Death: A Reply to Alan Shewmon," 278-79. The same argument is reiterated by Lee, who says: "A human being is essentially a rational animal, and so must have a radical capacity for rational operations. For rational animals, conscious sensation is a pre-requisite for rational operation. But total brain death results in the loss of the radical capacity for conscious sensation, and so also for rational operations. Hence, total brain death constitutes a substantial change—the ceasing to be of the human being" (Lee, "Total Brain Death and the Integration of the Body," 301).

[19] See Aristotle, *Metaphysics*, 1.980a-982b (trans. Hugh Tredennick [Cambridge, Mass.: Harvard University Press, 1933]); *De Verit*., q. 2, a. 3, arg. 19 (trans. Robert W. Mulligan [Chicago: Henry Regnery Company, 1952]).

[20] Lee and Grisez, "Total Brain Death: A Reply to Alan Shewmon," 283.

sentience refers strictly to "conscious sensory awareness,"[21] and that the "higher animal (rational) . . . [is] an animal that has the capacity for conscious sensation."[22]

Conscious "awareness is a deeply private matter, inaccessible to observation by third parties," however.[23] If this is true about consciousness itself, how much truer would it be about the capacity for consciousness? "The fact that a patient has lost the capacity for consciousness is extremely difficult to establish beyond reasonable doubt."[24] Having admitted this fact, Lee and Grisez nevertheless uphold their thesis of substantial change: the BD patient has changed into a nonhuman large living entity; such an entity may have a soul, but "it is a vegetative soul, not a rational soul or animal soul," that is, not a soul that can be identified with the soul of that patient prior to the BD diagnosis.[25] Re-affirming their thesis, they state: "Evidence of sentient functioning after a mammalian organism underwent total brain death would falsify our thesis."[26]

The well-publicized case of Jahi McMath challenges this.[27] This complex case—the object of a protracted legal

[21] Lee, "Total Brain Death and the Integration of the Body," 304. In Lee and Grisez's earlier article, the adjective "conscious" occurs six times, but never paired with the term "sentience," which occurs twenty-two times; the expression "conscious sensation" is absent. In contrast, in Lee's article, "conscious sensation" occurs forty-two times (in the abstract and text), and "conscious sentience" (or "conscious sentient") appears eight times.

[22] Ibid., 302.

[23] Adam Zeman, "What Do We Mean by 'Conscious' and 'Aware'?," *Neuropsychological Rehabilitation* 16, no. 4 (2006): 371. That a comatose patient does not respond to stimuli does not necessarily means that he or she lacks consciousness; the patient may have perceptual awareness but is unable to produce a motor response to the stimuli. For additional detailed critiques of Lee and Grisez's overarching emphasis on sentience, see Nicanor Pier Giorgio Austriaco, "The Brain Dead Patient Is Still Sentient: A Further Reply to Patrick Lee and Germain Grisez," *Journal of Medicine and Philosophy* 41, no. 3 (2016): 315-28; Doyen Nguyen, *The New Definitions of Death for Organ Donation: A Multidisciplinary Analysis from the Perspective of Christian Ethics* (Bern, Switzerland: Peter Lang, 2018), 163-74.

[24] Lee and Grisez, "Total Brain Death: A Reply to Alan Shewmon," 283. See also Lee, "Total Brain Death and the Integration of the Body," 311.

[25] Lee and Grisez, "Total Brain Death: A Reply to Alan Shewmon," 282.

[26] Ibid., 282-83.

[27] The following synopsis is derived from the sworn declarations of the four neurologists (Drs. Alan Shewmon, Calixto Machado, Charles Prestigiacomo, and Ivan Mikolaenko) who reviewed Jahi McMath's clinical and laboratory data

battle—can be summarized succinctly as follows: Jahi, who in December 2013 fulfilled all the criteria of BD diagnosis and, as a result, was declared dead on the basis of the neurological standard, had from Spring 2014 until June 22 2018 demonstrated intermittent periods of responsiveness during which, as stated by Shewmon in his 2017 declaration, she was "*capable of understanding a verbal command and barely capable of executing a simple motor response*."[28] This was not a case of misdiagnosis of BD, since at the time of the

around September 2014. Jahi was a teenage girl who, in December 2013 when she was thirteen years old, met all the criteria for the determination of BD (according to the widely accepted pediatric and adult guidelines for BD), including the absence of brain electrical activity documented on four different encephalograms (EEGs) and the absence of cerebral blood flow documented on a radionuclide scan and a SPECT scan. She was declared dead in California according to the BD criteria by three different neurologists, including the pediatric neurologist Paul Fisher from Stanford University. From 2014, however, it had been documented that Jahi (who was relocated to New Jersey where she was legally alive) could move (with great effort) her hands and feet in response to her mother's verbal requests, and that her heart rate changed in response to the mother's voice. Jahi had also undergone sexual maturation, a physiological phenomenon which indicates a functioning hypothalamus. In September 2014, laboratory tests demonstrated the following: (1) low voltage true EEG activity, (2) intracranial blood flow on magnetic resonance angiography, and (3) magnetic resonance imaging showing structurally preserved cerebral cortex, cerebellum and basal ganglia, but major damage to the corpus callosum and the brainstem. All four neurologists affirmed that Jahi did indeed fulfill all the criteria for BD in December 2013, but that subsequently she no longer fulfilled the criteria for BD, as proven by the above-mentioned clinical and laboratory evidence in 2014. The sworn declarations are available at Thaddeus Mason Pope, "Jahi McMath—A Dispute over Brain Death," http://thaddeuspope.com/jahimcmath.html. See also John M. Luce, "The Uncommon Case of Jahi McMath," *Chest* 147, no. 4 (2015): 1144-51; Celeste McGovern, "Top Neurologist: Jahi McMath Is 'No Longer' Dead," National Catholic Register, http://www.ncregister.com/daily-news/top-neurologist-jahi-mcmath-is-no-longer-dead; Phillip Matier and Andrew Ross, "Videos Show Mom Coaxing, Jahi McMath Moving," http://www.sfgate.com/bayarea/article/Videos-show-Mom-coaxing-Jahi-McMath-moving-5797622.php; Rachel Aviv, "What Does It Mean to Die," *The New Yorker*, https://www.newyorker.com/magazine/2018/02/05/what-does-it-mean-to-die; Wesley J. Smith, "Justice for Jahi," *First Things*, https:// www.firstthings.com/web-exclusives/2017/09/justice-for-jahi; Thaddeus Mason Pope, "Brain Death Forsake: Growing Conflicts and New Legal Challenges," *Journal of Legal Medicine* 37 (2017): 265-324, at 302-7. Jahi McMath died on June 22 due to excessive hemorrhage following an abdominal surgery. See http://www.foxnews.com/health/2018/06/28/jahi-mcmath-girl-at-center-brain-death-debate-has-died-after-surgery-family-says.html.

[28] Declaration of D. Alan Shewmon 2017, http://www.thaddeuspope.com/images/Shewmon_Decl._12-2017.pdf.

original diagnosis the patient objectively met all the criteria of BD.[29] That *post hoc* philosophical rationales have been put forth to defend BD, insisting that BD is death (in the full sense of the term), necessarily rests on the assumption that the BD paradigm provides adequate moral certainty in determining that the patient has indeed truly died. The case of Jahi challenges the validity of the BD paradigm,[30] as well as its associated *post hoc* philosophical rationales.

From the medical perspective, a major difficulty with Lee and Grisez's thesis that the BD individual is a nonhuman large living entity and no longer a human organism is the following: How is it possible "that the so-called non-human organisms harbor organs composed of matter perfectly well-disposed for transplantation into humans,"[31] or that these nonhuman large living entities continue to perform vegetative activities in a human way, including pubertal development or the gestation of a human baby to the stage

[29] See note 27. According to the guidelines of the American Academy of Neurology (AAN), the criteria for the determination of BD are: (1) unresponsiveness to noxious stimuli, (2) absence of brainstem reflexes and, (3) absence of a breathing drive proven by the apnea test. In the United States, laboratory tests for brain electrical activity (EEG) and cerebral blood flow are considered ancillary and therefore optional. See Eelco F. M. Wijdicks et al., "Evidence-Based Guideline Update: Determining Brain Death in Adults: Report of the Quality Standards Subcommittee of the American Academy of Neurology," *Neurology* 74, no. 23 (2010): 1915-16. Note, however, that according to the AAN guidelines the presence of reflexes and spontaneous movements (including the complex movements of the Lazarus sign) do not invalidate the diagnosis of BD. See Eelco F. M. Wijdicks, "Determining Brain Death in Adults," *Neurology* 45, no. 5 (1995): 1007. This particular guideline is problematic for Christian believers since it contradicts the Christian understanding of death, in which it is impossible for an inanimate lifeless corpse to produce movements or reflexes, since the presence of any movement would indicate that the soul is still present in the body, and therefore that the patient is still alive, however close to death he or she might be.

[30] It is not within the scope of this article to discuss the adequacy of the "brain death" paradigm as a criterion for the determination of death. For a treatment of this topic, see, e.g., Nguyen, "Pope John Paul II and the Neurological Standard for the Determination of Death," 164-65; Mike Nair-Collins, "Death, Brain Death, and the Limits of Science: Why the Whole-Brain Concept of Death Is a Flawed Public Policy," *The Journal of Law, Medicine & Ethics* 38, no. 3 (2010): 667-83; Baruch A. Brody, "How Much of the Brain Must Be Dead?," in *The Definition of Death: Contemporary Controversies*, ed. Stuart J. Youngner, Robert M. Arnold, and Renie Schapiro (Baltimore: Johns Hopkins University Press, 1999), 71-82.

[31] Michel Accad, "Of Wholes and Parts: A Thomistic Refutation of 'Brain Death'," *Linacre Quarterly* 82, no. 3 (2015): 228.

when it can be delivered and survive after birth?[32] This lack of concordance between the factual biological reality and Lee and Grisez's "substantial change" rationale raises the further question: is this thesis in accord with a substance view of human nature taught by the Catholic Church, founded on Aristotelian-Thomistic philosophy?

A) Analysis in Light of the Notion of the Soul as Substantial Form

In Lee and Grisez's own words, BD brings about a substantial change in which "the remains [of the once living patient] include a *large living entity*, [but] that entity is *not a human organism*."[33] In other words, the post-BD entity is a "large living non-human organism." The arguments that will be presented below are directed at this thesis. [34]

The notion of substantial change invoked by Lee and Grisez necessarily entails a discussion of the soul. The

[32] For a nonexhaustive list of the human operations performed by BD patients, see Shewmon, "The Brain and Somatic Integration," 467-69.

[33] Lee and Grisez, "Total Brain Death: A Reply to Alan Shewmon," 279 (emphasis added).

[34] An anonymous reviewer of an earlier draft of this article suggested that these arguments do not accurately reflect Lee and Grisez's position, because Lee has stated verbally to him that "in BD, you have . . . a non-rational human organism . . . [informed by] a human non-rational soul," i.e., an entity similar to that which Aquinas posited in his (now archaic) theory of delayed hominization. If Lee indeed currently holds this viewpoint, then either he has changed his mind or he is contradicting his own writing, since a large living entity that is not a human organism is certainly not the same as a "non-rational human organism." (In schools of thought in which the definition of personhood rests on consciousness and rational or cognitive functions, a "non-rational human organism" is also known as a "non-person human organism," or "non-person human being." Such beings are not bearers of moral rights and their lives are considered dispensable.) If Lee has in fact changed his mind he would have no need to appeal to the concept of substantial change for his argument, since the post-BD entity (in this latter view) is still of human nature. Moreover, his argument would fit squarely with the "higher BD" view which holds that BD individuals are "non-person human organisms" and which "accepts the irreversible loss of consciousness and every other mental function as the criterion for determining our death" (John P. Lizza, "Defining Death: Beyond Biology," *Diametros* 55 [2018]: 3). Neither the Catholic Church nor any state legislation has accepted the "higher BD" position, however. Since Lee has not publicly confirmed in writing the thesis of a "non-rational human organism," the discussion presented below is about Lee and Grisez's thesis of "large living non-human organism" as formally recorded in their writing.

classical hylomorphic account of the body-soul union rests on the distinction between potency and act, and the distinction between matter and form. As John Wippel points out, Aquinas distinguishes two kinds of matter, which he correlates to two kinds of existence and two kinds of change.[35] The first kind of matter (prime matter) is that which "is in potency to substantial existence [*esse simpliciter*]"; it is the matter from which something comes into being *simpliciter* when a substantial form is introduced.[36] A substantial change occurs in two instances: (1) introduction of the substantial form, or (2) loss of the substantial form. The second kind of matter is that which "is in potency to accidental existence [i.e.,] the matter in which something inheres."[37] As such, it is not matter properly speaking, but the substantial subject (*subiectum*, a substance already composed of matter and substantial form) which, during the course of its existence, undergoes accidental changes with the acquisition or loss of accidental forms. Thus, in terms of actuality, the substantial form is prior to the *subiectum*, and the latter is prior to accidental forms.[38] The corollary to Aquinas's distinction is twofold: (1) the union of the soul and body corresponds to that of the substantial form and prime matter,[39] and (2) "there cannot be more than one substantial form in any one thing. . . . It is one and the same substantial form that makes a man a particular thing or substance, and a bodily thing, and a living thing, and so

[35] The discussion which follows is derived from John F. Wippel, "Thomas Aquinas and the Unity of Substantial Form," in *Philosophy and Theology in the Long Middle Ages: A Tribute to Stephen F. Brown*, ed. Kent Emery, Russell L. Friedman, and Andreas Speer (Leiden: Brill, 2011), 117-20; John F. Wippel, *The Metaphysical Thought of Thomas Aquinas: From Finite Being to Uncreated Being* (Washington, D.C.: The Catholic University of America Press, 2000), 296-320; *De Princip.*, http://dhspriory.org/thomas/DePrincNaturae.htm.

[36] Wippel, "Thomas Aquinas and the Unity of Substantial Form," 118. An example is the substantial change from a nonhuman being (i.e., sperm and ovum) into a human being (a zygote).

[37] Ibid.

[38] See *STh* I, q. 77, a. 6 (trans. Fathers of the English Dominican Province [New York: Benziger Bros, 1947]). The substantial form actualizes prime matter, thereby giving existence to the subject, which in turn gives existence to accidents.

[39] See Wippel, "Thomas Aquinas and the Unity of Substantial Form," 117. Because prime matter is pure potency, it can never exist by itself without a substantial form. It can only exist in reality in a matter-form composite.

on."[40] A living thing manifests a diversity of life activities which Aristotle groups into three broad categories—vegetative, sensitive, and intellective—each corresponding to the respective generic category of "soul."[41] This does not mean that in humans there are three souls, however. The human soul is numerically one, the one substantial form by which "we live, perceive and think."[42] Because the human soul is named after its highest "part," it is also referred to as the "rational soul" or "intellectual soul." Just as the vegetative soul is subsumed into the sensitive soul of animals, in man both the vegetative and sensitive souls are subsumed into the human rational soul.[43] This explains why the vegetative and sensitive functions are performed in a human way, and not in the way they are implemented in animals or plants.[44] Put differently, the one human soul encompasses three fundamental powers—vegetative, sensitive, and intellective—which are hierarchically related to one another in strict ontological order, in which the lower powers are prerequisites for the existence of the higher powers. Both the intellective and the sensitive need the vegetative as a prerequisite, but not vice versa.

While hylomorphism has remained the most coherent account for explaining stability and changes in living things, one aspect of the Aristotelian-Thomistic philosophy of nature which has become obsolete, when we correctly apply Aquinas's philosophical principles to modern embryology, is the theory of delayed hominization. According to this theory, the embryo is first animated only by the vegetative soul, then by the sensitive soul until the body possesses the required material structure to be disposed to receiving the

[40] II *De Anima*, lect. 1 (trans. Kenelm Foster and Sylvester Humphries [New Haven, Conn.: Yale University Press, 1951]).

[41] See Aristotle, *De anima* 2.413a20-414a13 (*De Anima: Books II and III [with Passages from Book I]*, trans. David W. Hamlyn [Oxford: Clarendon Press, 2002]).

[42] Aristotle, *De anima* 2.414a13. See also *STh* I, q. 76, a. 1.

[43] See Aristotle, *De anima* 2.414b28-32. See also *STh* I, q. 76, a. 3. Here, Aquinas writes: "the intellectual soul contains virtually whatever belongs to the sensitive soul of brute animals, and to the nutritive souls of plants."

[44] In other words, the vegetative and sensitive souls—which are more properly called the vegetative and sensitive powers, respectively—are specific to the human species. Thus, the human sensitive "soul" is different from the sensitive soul of a dog or cat.

rational soul infused by God.[45] Delayed hominization thus necessarily presupposes that the vegetative and sensitive souls are of the human species. As Daniel Ols has pointed out, if we adopt this archaic position, it is plausible to think that in BD a symmetrical process takes place, whereby the rational soul departs and is replaced by the sensitive soul which, when it departs, is replaced by the vegetative soul—and the departure of the rational soul is made manifest by the cessation of the functioning of the brain, the material basis for consciousness and cognitive functions.[46] Such a scenario is known as "early dehominization." Could this scenario, which is just as implausible as delayed hominization,[47] correspond to Lee and Grisez's thesis? There are two reasons why this is unlikely. First, Lee and Grisez advocate immediate hominization and not delayed hominization, since according to the latter the embryo is a nonrational human being, and therefore early abortion, even though a grave sin, is not considered a homicide. Thus, in order not to be self-contradicting, Lee and Grisez cannot hold "early dehominization." Second, the vegetative and sensitive souls in early dehominization must be of the human species just as they are in delayed hominization. This would indicate that no change in human nature (no substantial change) has taken place in the individual who has suffered BD.

[45] See *STh* I, q. 118, a. 2, ad 2; *ScG* II, cc. 86-89 (trans. James F. Anderson [Notre Dame, Ind.: University of Notre Dame Press, 1975]). It does not lie within the scope of this paper to discuss the untenability of the theory of delayed hominization. For details on the issues of delayed hominization versus immediate hominization, see, for instance, Benedict Ashley, A Critique of the Theory of Delayed Hominization, in *An Ethical Evaluation of Fetal Experimentation*, ed. Donald G. McCarthy and Albert S. Moraczewski, O.P. (St. Louis: Pope John XXIII Center, 1976), 113-33; Nicanor Austriaco, "Immediate Hominization from the Systems Perspective," *National Catholic Bioethics Quarterly* 4, no. 4 (2004): 719-38.

[46] Daniel Ols, "Assertions dogmatiques que doit prendre en compte la réflexion sur la transplantation d'organes," in *Working Group on the Determination of Brain Death and Its Relationship to Human Death, 10-14 December 1989*, ed. Robert J. White, Heinz Angstwurm, and Ignacio Carrasco de Paula (Vatican City: Pontificia Academia Scientiarum, 1992), 150.

[47] For further detailed discussion see Nguyen, *New Definitions of Death*, 292-301.

According to classical Aristotelian-Thomistic philosophy, a substantial change occurs at death when the substantial form (the human soul) is no longer united to the body. Lee and Grisez's application of the concept of substantial change to BD individuals necessarily implies that the human soul is no longer in the BD body, but has been replaced by some unknown type of substantial form, which transforms the former human patient into a nonhuman large living entity of an unknown species. What is puzzling, however, is that although the human patient no longer exists, the very same corporeal features which are characteristic of the human species and specific to that particular patient perdure in the new nonhuman entity, both structurally and functionally (e.g., the identical organization of bodily organs working together in an integrated human way). In Scholastic language, this is a situation in which the original *subiectum* has disappeared, yet its proper accidents still persist in existence. In other words, in defense of their thesis of substantial change, Lee and Grisez must provide a coherent metaphysical account to explain how "certain accidents might be kept in existence . . . even when their original and proper subject no longer exists."[48] According to the Aristotelian-Thomistic tradition, such a phenomenon in the natural order is metaphysically impossible. The one and unique instance in which a substantial change occurs and yet the original accidents remain belongs to the supernatural order: the case of Eucharistic transubstantiation. In order to explain transubstantiation without doing violence to the nature of accidents, Aquinas had to appeal to divine intervention.[49]

B) Analysis in Light of the Distinction between the Soul and Its Capacities

Lee and Grisez's terminology of "radical capacity" corresponds to what Aristotle refers to as active potentiality.

[48] Wippel, *Metaphysical Thought of Thomas Aquinas*, 229.

[49] See IV *Sent*., d. 12, q. 1, a. 1, http://www.corpusthomisticum.org/snp2016.html; and *STh* III, q. 77, a. 1. Aquinas's explanation comes down to the fact that because God is the First Cause of all that exists, whereas the *subiectum* is only the secondary cause of its proper accidents, God can maintain accidents in existence without their proper *subiectum*.

Active potencies include not only capacities that can be readily exercised, but also those natural capacities that require further development before becoming fully actualized.[50] The principle for such actualization is intrinsic to the living being itself; it is none other than the soul. In *De anima*, Aristotle speaks of the soul as the first *entelechia* (actuality) of the body,[51] that is, the principle that actualizes matter to become the body of a living being of a particular species, and the principle from which "flow" the capacities for the different functions of that being. In other words, in man, radical capacities (active potencies) are ontologically grounded in human nature. Nature is thus distinct from capacity (including radical capacity). Therefore, human nature remains unchanged regardless of whether the capacity for certain functions (such as perception and/or consciousness) is not or cannot be actualized.[52]

The same issue can be looked at from a different angle. That the soul is the substantial form of the body means that the soul-body union is not mediated by any intermediary element, be it power, function, disposition, or corporeal organ.[53] As Aquinas explains, this is because the soul, as substantial form, "give[s prime] matter its act of existing pure and simple [*esse simpliciter*]."[54] This *esse* is "that which most immediately and intimately belongs to [living] things,"[55] whereas "the powers of the soul are the qualities by which it operates," that is, intermediaries by which the soul moves the body.[56] In other words, the soul *per se* (the soul's essence as it were) is distinct from its powers (capacities) because,

[50] See Aristotle, *Metaphys.* 9.1049a. A paradigmatic example is the human zygote that possesses already in itself the active potential of human personhood (including sentience and rationality). In the absence of external hindrance, this potentiality will progress to its fullness.

[51] Aristotle, *De anima* 2.412a27. In classical language, the term "body" signifies an ensouled (hence, living) body. A corpse is a body in the homonymous sense only.

[52] See Massimo Reichlin, "The Argument from Potential: A Reappraisal," *Bioethics* 11, no. 1 (1997): 14.

[53] *ScG* II, c. 71; *Q. D. De Anima* a. 9 (trans. John Patrick Rowan [St. Louis: B. Herder Book Company, 1949]); *STh* I, q. 76, aa. 6-7.

[54] *Q. D. De Anima*, a. 9.

[55] Ibid.

[56] Ibid., ad 1.

just as the act of being (existence) itself is a kind of actuality of an essence, so operating/acting is the actuality of an operative capacity/power. Accordingly, each of these is an actuality: essence in terms of existence, and capacity in terms of operation. Hence, since in no creature is its own activity identified with its own existence, for this pertains to God alone, it follows that *in no creature is its capacity for operation identified with its essence*. To God alone is it proper that his essence is his power.[57]

In corporeal beings, essence (nature) consists of matter and substantial form. As capacities are distinct from essence, they are necessarily distinct from the soul. Put simply, capacities, functions, and dispositions all belong to the category of accidents, which can only come into existence (in the *subiectum*) once matter has received its *esse simpliciter* from the soul. In this regard, Aquinas specifically states the following: (1) "all the powers of the soul . . . flow from the essence of the soul,"[58] and (2) "it must be recognized that the powers of the soul are its proper accidents and do not exist without the soul."[59] It is self-evident that this statement of Aquinas regarding the powers of the soul also applies to what Lee and Grisez refer to as radical capacities. Of the three powers of the soul, the most fundamental is the vegetative power, since it is "the first and most commonly possessed potentiality [capacity] of the soul in virtue of which they [living things] all have life."[60] Similarly, the presence of the sensitive and intellective powers can be inferred from the manifestations of their corresponding activities. But the loss of these, however permanent or irreversible it might appear to be, does not imply the absence or loss of their respective powers.[61]

[57] *De Spir. Creat.*, a. 11 (my translation).

[58] *STh* I, q. 77, a. 6.

[59] *Q. D. De Anima* a. 9, ad 5. See also *STh* I, q. 77, a. 1, ad 5. Here Aquinas writes: "as the power of the soul is not its essence, it must be an accident; and it belongs to the second species of accident, that of quality." Here, human knowledge about the relationship between the soul and its power reaches its limits; it is not possible to speculate regarding the particularities of this causal relationship because the soul is immaterial. In other words, it is not possible for the human mind to determine the intricacies of the interface between the immaterial soul and the material body.

[60] Aristotle, *De anima* 2.415a24-25.

[61] A very common logical fallacy which has often entered in bioethical debates is the inverse fallacy in which the argument has the form of "if P then Q; not P

From the above classical Aristotelian-Thomistic account flow the following conclusions: (1) the manifestation of activities of at least one of the powers of the human soul indicates that the same soul is still united to the body; and (2) the loss of one power of the human soul, unless it is the most foundational power (that which is common to all living things, i.e., the vegetative), does not indicate that the soul has left the body. This is precisely the case in BD patients. In other words, the absence of any detectable activities indicative of conscious sentience cannot be taken as an indicator that the human soul has left the BD patient. Moreover, the presence of ongoing vegetative activities, carried out in a human way, is a further confirmatory indicator that the patient's human soul is still present and, therefore, no substantial change has occurred.

II. Critical analysis of Moschella's arguments

In 2016, Melissa Moschella presented two different, albeit interrelated philosophical arguments in defense of BD.[62]

A) Analysis of Moschella's First Rationale

In Moschella's own words, her first rationale "rel[ies] primarily on Hoffmann and Rosenkrantz's account of organismal unity" which she "consider[s] as one of the most rigorous and plausible accounts available."[63] Without scrutinizing this account in great detail, suffice it to note that, as Hoffmann and Rosenkrantz themselves state, it is a "reductionistic" account.[64] Such an account, of its nature, omits

therefore not Q." Moreover, it should be noted that irreversibility is not an empirical concept.

[62] Melissa Moschella, "Integrated but Not Whole? Applying an Ontological Account of Human Organismal Unity to the Brain Death Debate," *Bioethics* 30, no. 8 (2016): 550-56; Moschella, "Deconstructing the Brain Disconnection–Brain Death Analogy." For the purposes of this article, Moschella's rationale in the article published in *Bioethics* is considered to be the first rationale.

[63] Moschella, "Integrated but Not Whole?," 551.

[64] Joshua Hoffman and Gary S. Rosenkrantz, *Substance: Its Nature and Existence* (Boston: Taylor & Francis, 1996), 98. On the same page, the authors further stress this point by stating, "We do not accept the anti-reductionist and anti-naturalistic theories about natural function listed above." The phrase "natural

both final and formal causes, and relies solely on efficient and material causes as explanatory principles. The central thesis made by Hoffmann and Rosenkrantz which is relevant to the BD issue is the following: (1) every living "organism, O," must have a "master-part, i.e., a vital part which regulates O's life processes, including the life-processes or functional activities of O's parts."[65] The causal relation between the master-part and the other parts of the organism is one of regulation and functional subordination.[66] In brief, the master part is responsible for the organismic unity of the living being, such that without its master-part the organism will die. According to Hoffmann and Rosenkrantz, in man, the "central nervous system is [the] master-part . . . one which is self-regulating [i.e.,] functionally subordinate to itself."[67] Building on Hoffman and Rosenkrantz's account, Moschella argues as follows:

(1) After BD, "the body entirely lacks a master-part and is therefore no longer an organism as a whole."[68] It has become a dead body, that is, a corpse. Moschella thus concludes that the BD body has undergone a substantial change.[69] This part of her argument more or less reiterates Bernat's thesis.[70]

(2) The fact that organs, tissues, and cells of the BD body can continue to manifest their natural functions, and therefore produce some sort of functional unity, is simply because "they continue to receive oxygenated blood."[71] For

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function listed above" refers to "the natural function of the parts of organic life forms."

[65] Ibid, 135; see also 126.

[66] See ibid., 126-49. The discussion in these pages is devoted to the notion of the "master-part" and the causal relationship of regulation and functional subordination between the master part and all the other parts of the organism.

[67] Ibid., 128. Hoffman and Rosenkrantz provide no medical/scientific reference to support their claim about the centrality of the central nervous system. Nevertheless, this could be traced to the work of Bernat in the 1980s (see above, nn. 3-5) as well as that of Julius Korein who asserts that "in the human organisms, the brain is the critical component." See Julius Korein, "The Problem of Brain Death: Development and History," *Annals of the New York Academy of Sciences* 315, no. 1 (1978): 19.

[68] Moschella, "Integrated but Not Whole?," 553.

[69] Ibid., 550, 553, 554, 556.

[70] See above, nn. 3-5.

[71] Moschella, "Integrated but Not Whole?," 552.

Moschella, such a unity is not a "unity proper to a human organism (or to any natural type),"[72] but rather either a new "unified organism [which is] a new entity [that] could perhaps best be described as a kind of organic artifact [analogous to] cells and tissues in culture."[73] This signifies that a substantial change has occurred, transforming the BD patient into some sort of new organism of an unknown type. Here, Moschella's rationale converges with that of Lee and Grisez.

There are two interrelated difficulties with the thesis of the master-part, however. The first difficulty is that such a thesis necessarily reduces a complex whole to its vital parts and even all the way to one single critical part. It is then postulated that the activity of the critical part is the causal mechanism that accounts (directly and/or indirectly) for all the activities manifested by the complex whole. This type of strategy, ubiquitously applied in modern sciences, is paradigmatic of Cartesian mechanistic thinking.[74] Since the last century, however, contemporary biophilosophy has gradually moved away from a reductionistic-mechanistic view of organisms to a more holistic approach, in which the focus is

[72] Ibid., 556.

[73] Ibid., 554. The assertion that the BD body is analogous to a cell culture is often brought up by BD defenders; see for instance Condic, "Determination of Death," 258-59, 265. Such a claim does not square with scientific reality, however. Cells in a culture only produce more cells to form an aggregate without any organized structure or functionality. To maintain a steady-state environment necessary for long term cell-culture also requires the use of technologically sophisticated bioreactors. See John W. Haycock, "3D Cell Culture: A Review of Current Approaches and Techniques," in *3D Cell Culture: Methods and Protocols*, ed. John W. Haycock (New York: Humana Press, 2011), 4-10. In contrast, the BD body is capable of maintaining its own internal steady state. This in itself is an indicator that all the body parts, from the microscopic level to the macroscopic, are still working together in unison for the maintenance of the body, which in turn explains the phenomenon of long term "chronic BD" survivors (see above, n. 7). In brief, cell cultures demonstrate no *telos*, but BD bodies do.

[74] The second of the four rules in Descartes's method is to reduce a complex whole to its components. See René Descartes, *Discours de la méthode* (1637), 14, http://classiques.uqac.ca/classiques/Descartes/discours_methode/Discours_method.pdf. Each component is then analyzed individually. Based on the results obtained regarding the activities of the parts, it is postulated that the structure of the whole is such and such, or that such and such a mechanism accounts for an observed behavior (e.g., a life process) of the complex whole. See Ernan McMullin, "Structural Explanation," *American Philosophical Quarterly* 15 (1978): 139.

not so much about "*how* organisms are put together (reductionism) . . . [but rather] to understand *why* they are put together in the way they are (systems; holism)."[75] Along with the rediscovery that nature has a final end is the recognition that living organisms are complex, dynamic, hierarchically organized,[76] closed network-systems, in which one of the key properties is "the *reticular* or *circular character of their organization.*"[77] In this reticular scheme of organization, the parts are connected in a complex network of functional co-dependencies such that, while some processes or parts are more important than others, no process or part can be considered as the causal control center to account for the organism's life and its integration.[78] Thus, in the holistic approach from the systems view perspective,

> the human organism [is seen] as a dynamic, complex, and seamlessly integrated network not [only] of organs or cells but [also] of molecules, including DNA, RNA, lipids, metabolites, and proteins, connected by reaction pathways which generate shape, mass, energy, and information

[75] Anthony Trewavas, "A Brief History of Systems Biology," *The Plant Cell* 18, no. 10 (2006): 21 (emphasis added). See also James A. Marcum, *The Conceptual Foundations of Systems Biology: An Introduction* (New York: Nova Science Publishers, 2009), 1-12. For a detailed discussion on the holistic vision of life, death and organism, see Nguyen, *New Definitions of Death,* 359-425.

[76] In very simple terms, hierarchical organization refers to the organization of cells into tissues, of tissues into organs, of organs into organ systems, and of organ systems into the organism as a whole. The term "hierarchical" does not imply a control center determining the activities of the whole, however; see Leonardo Bich and Luisa Damiano, "Life, Autonomy and Cognition: An Organizational Approach to the Definition of the Universal Properties of Life," *Origins of Life and Evolution of Biospheres* 42, no. 5 (2012): 393.

[77] Ibid., 392. The interdependencies between the organs (or organ systems) are self-evident in the following simplified sketch: (1) every part in the body depends on blood circulation to receive its required nutrients and oxygen and eliminate its waste and carbon dioxide; (2) but the blood itself must be pumped, hence its dependence on the heart; (3) the blood must also be properly oxygenated and cleared of excess carbon dioxide, hence its dependence on the alveolar lining of the lungs; (iv) the inflation of the lungs, in turn, needs the activity of the diaphragm (and intercostal muscles); (v) the activity of the diaphragm requires the neural input from the midbrain respiratory center; and (vi) the latter, in turn, needs to be triggered by some increase of carbon dioxide in the blood. The functional co-dependencies between the parts thus follow a pattern of organizational circularity.

[78] See ibid., 391-93; Luisa Damiano, "Co-Emergences in Life and Science: A Double Proposal for Biological Emergentism," *Synthese* 185, no. 2 (2012): 279-83; Marcum, *Conceptual Foundations of Systems Biology*, 6.

transfer over the course of a human lifetime. In contrast to the . . . prevailing reductionistic and mechanistic views, the organism is seen here as a single, unified whole, a complex and dynamic network of interacting molecules that appear and then disappear in time. It is an embodied process that has both spatial and temporal manifestations.[79]

The second difficulty raised by Moschella's rationale, as well as Hoffman and Rosenkrantz's thesis, is about "whole and parts." The question is: in an organic whole, can a part—be it the central nervous system, the brain, or any other organ—account for its own unity (i.e., to be "functionally subordinate to itself"), and moreover, account for the unity (integration) of the complex whole? According to both Aristotelian-Thomistic hylomorphic philosophy and contemporary holistic biophilosophy, the answer to this question is no. Both recognize that the organic whole is ontologically prior to its parts. In Scholastic terminology, the living whole, that is, an "organism as a whole," is a substance. A substance "derives its unity from its own internal essence that serves as a principle of unity from within."[80] "This principle is what accounts for the internal relations among organs and body parts, and that between the parts and the whole, such that all the organs and parts are ordered to the whole and function together for the good of the whole."[81] Likewise, holistically oriented scientists recognize that "an organism is an organism from the start . . . whereas a house is not a house until it is finished,"[82] and that "*the activity of the whole cannot be fully explained in terms of the activities of the parts isolated by analysis.*"[83] Furthermore, on the basis of efficient causality alone, a part cannot be the cause of unity of the organic whole because

the material part causing the integration would have to be directly controlling all other parts of the body to prevent them from being subject to forces of nature pulling them away from the body. A question would

[79] Austriaco, "Immediate Hominization from the Systems Perspective," 722-23.

[80] James Porter Moreland and Scott B. Rae, *Body & Soul: Human Nature & the Crisis in Ethics* (Downers Grove, Ill.: InterVarsity Press, 2000), 79.

[81] Nguyen, *New Definitions of Death,* 283.

[82] Joseph H. Woodger, *Biological Principles: A Critical Study* (London: K. Paul Trench Trubner, 1929), 294.

[83] Edward S. Russell, "From Mechanistic to Organismal Biology," *In Context Newsletter*, no. 30 (2013): 17, http://natureinstitute.org/pub/ic/ic30/russell-on-holism.pdf.

then arise: how does the integrator itself remain integrated? It cannot be its own cause of integration, since an external agent is necessary for efficient causality. Another part would have to integrate the integrator, in which case this other part takes precedence as "central integrator," setting up an infinite regress.[84]

B) Analysis of Moschella's Second Rationale

Moschella's second rationale begins with her criterion for differentiating an organism from a nonorganism. The criterion is as follows:

> A putative organism is an organism if it possesses the *root capacity for self-integration*. Possession of the root capacity for self-integration (of which the soul is the principle) is evidenced by (1) possession of the material basis of the capacity for self-integration—i.e., the capacity for control of respiration and circulation—or (2) possession of the material basis of the capacity for sentience.[85]

The emphasis on self-integration is appropriate since it reflects the common knowledge that the principle for organismic unity/integration is intrinsic to the organism.[86] Solid research in contemporary biophilosophy has amply shown that in organisms, ranging from unicellular to complex multicellular organisms, self-integration involves a whole host of interrelated vital vegetative functions, in which no function or part can be considered as the starting point or causal control center.[87] Moschella's argument

[84] Accad, "Of Wholes and Parts," 222.

[85] Moschella, "Deconstructing the Brain Disconnection–Brain Death Analogy," 289. The term "root capacity" is synonymous with the terms "radical capacity" and "active potency."

[86] See above, nn. 79-82.

[87] There is a wealth of literature in this regard in contemporary biophilosophy. See for instance, Joseph H. Woodger, "The 'Concept of Organism' and the Relation between Embryology and Genetics, Part II," *The Quarterly Review of Biology* 5, no. 4 (1930): 459; Matteo Mossio, Maël Montévil, and Giuseppe Longo, "Theoretical Principles for Biology: Organization," *Progress in Biophysics and Molecular Biology* 122, no. 1 (2016): 26; Nicanor Austriaco, "The Hylomorphic Structure of Thomistic Moral Theology from the Perspective of a Systems Biology" (STD diss., University of Fribourg [Switzerland], 2015), 283; Pier L. Luisi, "Autopoiesis: A Review and a Reappraisal," *Naturwissenschaften* 90, no. 2 (2003): 49-59.; Edward S. Russell, "From Mechanistic to Organismal Biology," 15-19; Marcum, *Conceptual Foundations of Systems Biology*, 6; Leonardo Bich and Luisa Damiano, "Life, Autonomy and Cognition," 391-93; Luisa Damiano, "Co-Emergences in Life and Science," 282-83.

stands in direct contradiction to this holistic understanding, however, as it proceeds through a series of reductive steps (summarized below) which ends with the brain as the causal control center:

(1) All the vital vegetative capacities of the soul are reduced to the capacity for control of respiration and circulation; this in turn is reduced to the capacity for spontaneous breathing;[88]
(2) The capacity for self-integration is thus reduced to the capacity to breathe spontaneously and the capacity for sentience;
(3) The brain, besides being "the material basis of the root capacity for sentience,"[89] is also (via the brainstem) "the material basis of the capacity for regulation of circulation and respiration."[90] Therefore, "the brain is the material basis of the root capacity for autonomous organismal integration."[91] By this, Moschella implies that the brain is "the material basis for both vegetative and sentient functioning."[92]

These reductive steps thus lead to the following corollary to Moschella's criterion for differentiating organism from nonorganisms:

In conclusion, total brain death is death because total brain death marks the loss of the material basis of the capacity for self-integration—understood most essentially as the capacity to breathe spontaneously—as well as the material basis of the capacity for sentience—and thus renders the body inadequate for rational ensoulment.[93]

With its insistence on spontaneous breathing and sentience (which implies conscious sentience), Moschella's conclusion strongly echoes the "fundamental work" rationale of the 2008 President's Council on Bioethics.[94] At the same time, however, her insistence that "the brain, as *controller* of circulation and respiration, is . . . the *sine qua non* of *self-*

[88] See Moschella, "Deconstructing the Brain Disconnection–Brain Death Analogy," 291.
[89] Ibid., 290.
[90] Ibid., 292.
[91] Ibid., 283.
[92] Ibid., 291; Mossio et al., "Theoretical Principles for Biology: Organization."
[93] Mossio et al., "Theoretical Principles for Biology: Organization," 293.
[94] See above, n. 11.

integration,"[95] reiterates Bernat's thesis of the brain as central somatic integrator.[96]

There are several difficulties with Moschella's second rationale. While both circulation and respiration are important elements of vegetative life, the assertion that the brain (via the brainstem) is the material basis which "specifically . . . controls these vital functions,"[97] contradicts biological reality. The discussion which follows is derived from standard medical textbooks of anatomy and physiology, which teach that respiration, properly understood, is more than the act of breathing to move air in and out of the lungs, because the more fundamental aspect of respiration is the exchange of oxygen and carbon dioxide in the lungs and throughout the body.[98] Whereas the moving of air in and out of the lungs is a mechanical function (and as such can be grossly replaced by the ventilator), the exchange of oxygen and carbon dioxide is integral to the immanent and systemic metabolic activity present throughout the human organism (and as such it cannot be substituted by any conceivable man-made device). At the core of the systemic metabolic activity is the mitochondrial production of the high energy molecule adenosine triphosphate (ATP) necessary for life-constitutive integration.[99] While the brain (via the respiratory center in the brainstem) has a role to play in the mechanical part of respiration, a role which is further shared with other body parts, including "the phrenic nerves, diaphragm and intercostal muscles," no part of the brain is involved in the most fundamental aspect of respiration, which is the exchange of oxygen and carbon dioxide.[100] Similarly, with regard to circulation, the brainstem is involved only in the regulation of blood pressure, but this regulation is not under the exclusive control of the

[95] Moschella, "Deconstructing the Brain Disconnection–Brain Death Analogy," 292.

[96] See above, nn. 3-5.

[97] Moschella, "Deconstructing the Brain Disconnection–Brain Death Analogy," 292.

[98] This is summarized in Shewmon, "The Brain and Somatic Integration," 464. See also the discussion on organizational circularity in n. 77, above.

[99] See Nguyen, *New Definitions of Death*, 385-86, 415.

[100] Shewmon, "The Brain and Somatic Integration," 464.

brainstem since it also involves the spinal cord.[101] Moreover, circulation entails the activities of other parts, including (1) the heart, which has its own nervous system and can beat independently of the brain; and (2) the blood, which consists of various cellular and noncellular elements. The bone marrow production of the cellular elements of the blood, as well as the complex interactions of these elements among themselves and with other parts of the body—interactions that are necessary for the maintenance of the internal steady state—are not controlled by any part of the brain. In addition, as amply demonstrated by Shewmon in his report on "chronic BD" survivors, the brain is not involved in a whole host of vegetative functions necessary for somatic integration, in particular, such functions as the maintenance of body temperature, homeostasis of the immune system, and assimilation of nutrients and excretion of waste.[102] In other words, the irrefutable medical evidence which constitutes the biological/physiological reality manifested by "chronic BD" survivors" does not confirm Moschella's claim of the brain as the material basis of the root capacity for self-integration.

There are also difficulties with Moschella's rationale from the perspective of Aristotelian-Thomistic philosophical anthropology. On the one hand, Moschella follows Aquinas's doctrine:

[101] Control of blood pressure by the spinal cord accounts for hemodynamic stability in "chronic BD" survivors as well as patients with high spinal cord injury, once they get over the acute period of spinal shock. See D. Alan Shewmon, "Spinal Shock and 'Brain Death': Somatic Pathophysiological Equivalence and Implications for the Integrative-Unity Rationale," *Spinal Cord* 37, no. 5 (1999): 313-24; Nicanor Austriaco, "A Philosophical Assessment of TK's Autopsy Report: Implications for the Debate over the Brain Death Criteria," *Linacre Quarterly* 83, no. 2 (2016): 195-96.

[102] Shewmon gives a nonexhaustive list of vital vegetative functions that are crucial for somatic integration and yet not mediated by the brain. See Shewmon, "The Brain and Somatic Integration," 467-70. The one vegetative function which involves the brain is the neuroendocrine function of the hypothalamus and pituitary. BD proponents such as Bernat argue, however, that the presence of the neuroendocrine function of the brain does not invalidate a diagnosis of BD. See James L. Bernat, "Refinements in the Definition and Criterion of Death," in *The Definition of Death: Contemporary Controversies*, ed. Stuart J. Youngner, Robert M. Arnold, and Renie Schapiro (Baltimore, Md.: Johns Hopkins University Press, 1999), 86.

> The soul is in every part of [the living] being. . . . Each *human* being has one soul, a *rationa*l soul, that makes the body *be* a body . . . and be a *human* body. The rational soul is the formal principle of the unity and essential identity of the human person . . . and the source (as formal principle) of all of the human being's actions, operations, and capacities, ranging from vegetative functions like metabolism and homeostasis to rational activities.[103]

On the other hand, she also insists on the primacy of the brain, namely, that it is "the primary organ through which the soul acts to *integrate the body* in humans beyond a certain stage of development."[104] Such an insistence echoes Condic's assertion that "at postnatal stages of human life, integration is uniquely accomplished by the brain."[105] The idea of the brain as primary organ in the postnatal stage is much stressed by Moschella and Condic; it constitutes the foundation of their accounts. There are two difficulties with this kind of assertion, however. First, the data of modern embryology have confirmed that in the human embryo many vital processes, including the heart and vascular system, appear and become fully functional well before the brain is formed. Indeed, the neural groove, the earliest evidence of the central nervous system, does not appear until the fourth week of gestation. Such vital functions are thus brain-independent. Hence, the thesis of the brain as primary organ in the postnatal stage must be accompanied by confirmatory biological evidence to show how and when exactly the brain becomes the primary organ to control all those vital processes which are functioning well before the brain itself even develops. Neither Moschella nor Condic provides this evidence.

More problematic, however, is Moschella's claim that it is through the brain that the soul acts to integrate the body. That the soul, as the substantial form of the body, gives *esse* to the body and makes that human body what it is[106] necessarily means that the soul is both the principle of life

[103] Moschella, "Deconstructing the Brain Disconnection–Brain Death Analogy," 284. Moschella reiterates this idea more than once in her essay, in addition to emphasizing three times the postnatal primacy of the brain.

[104] Ibid., 288 (emphasis added).

[105] Condic, "Determination of Death," 273. Condic emphasizes this point repeatedly in her paper. The term "postnatal" appears nine times.

[106] See *Q. D. De Anima*, a. 10.

and the principle that integrates the body (a process which begins at the moment of conception), and keeps it integrated as it goes through continuous changes during the lifetime of the human person.[107] Like two sides of the same coin, life and integration are inseparable. That "the whole soul is in each part of the body by totality of perfection and of essence" and with respect to the power corresponding to that part[108] means that it is the soul that gives life to that part, keeping it integrated and functional as a part of the living whole. According to Moschella's assertion, however, it seems that the soul, if it is to integrate the body or achieve anything in any body part, can only do so via the brain. But the brain is an organ of the body, which itself needs to be integrated, and this integration is done by nothing other than the soul. Thus, an astute reader will recognize the incoherence in Moschella's argument that the soul integrates the body through the brain, even though the brain, by virtue of being an organ, is part of the integrated body.

Does the soul, being itself the immanent cause of integration of the body, need the brain as its primary organ for integration? If this were the case, and since life and integration are inseparable, it would mean that the soul also needs the brain as its primary organ to give existence to the body. But this is an impossibility since, in the embryo, the neural groove does not appear till the fourth week of gestation. It is true that, in the context of the limited medical knowledge of his time, Aquinas speaks of a primary organ, but only as an instrument of motion and not as an instrument of integration. Therefore, Aquinas explicitly states:

> The union of soul and body ceases at the cessation of breath, not because this is the means of union, but because of the removal of that disposition by which the body is disposed for such a union. Nevertheless the breath is a means of moving, as the first instrument of motion.[109]

[107] See above, n. 79.

[108] *STh* I, q. 76, a. 8.

[109] *STh* I, q. 76, a. 7, ad 2. Elsewhere, Aquinas speaks of the heart as the first instrument of motion. See *Q. D. De Anima* a. 9, ad 13; Aquinas, *De Motu Cordis* (trans. Gregory Froehlich, http://www4.desales.edu/~philtheo/loughlin/ATP/De_Motu_Cordis/De_Motu_Cordis.html. The obvious question then is: which one, the breath or the heart, is the first instrument of motion? A discussion on this issue can be found in Nguyen, "Pope John Paul II and the Neurological Standard for the Determination of Death," 170-71. Moreover, the notion of the primary organ is

That some organ of the body is the first instrument of motion necessarily presupposes that the body, of which that organ is a part, is a *living* body. In this light, what Aquinas is saying in the above passage is simply this: the cessation of breath indicates that the "body" is no longer disposed to the soul-body union because it is now a dead "body" (a body in the homonymous sense, i.e., a corpse).[110] Furthermore, there cannot be an instrument of integration precisely because the soul, the principle of both integration and life, is united to the body substantially. If there were an instrument of integration, then such an organ would be mediating the soul-body union, in which case the soul would be united to the body merely as its motor (a Platonic dualistic view of human nature) and not as its substantial form.

Difficulties with Moschella's thesis become more apparent in her philosophical account of high spinal cord injury (HSCI), a condition "*functionally equivalent* to whole brain death."[111] Because of this functional equivalence, any argument in defense of BD must also be capable of providing a logical and coherent account of the phenomena observed in HSCI. Moschella's account of HSCI cases, which reflects her criterion for distinguishing organisms from nonorganisms, reads as follows:

> In the case of an SCI patient, the "organism as a whole" could be constituted by the head alone, not the head and brain-disconnected body

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not confirmed by contemporary embryology; the human organism begins at the zygote (one cell-stage), well before the appearance of any organ. For details on the question of the primary organ, see Nguyen, *New Definitions of Death*, 330-46, in particular nn. 1047, 1048, and 1084.

[110] See Michel Accad, "Letter to the Editor: A Rejoinder to Jason Eberl on Brain Death," *Linacre Quarterly* 83, no. 1 (2016): 1-2. Accad's letter shows that Aquinas's teaching can be easily misinterpreted when one confuses or conflates the notion of instrument of motion with that of instrument of integration.

[111] Jason T. Eberl, "Ontological Status of Whole-Brain-Dead Individuals," in *The Ethics of Organ Transplantation*, ed. Steven J. Jensen (Washington, D.C.: The Catholic University of America Press, 2011), 62. There are numerous somatic similarities between patients who suffer BD and those who suffer HSCI (transection of the spinal cord at the level of the second cervical vertebra) because in both cases the spinal cord, and therefore, the body from the neck down, has lost its rostral input from the brain. HSCI patients are ventilator-dependent. Essentially the only difference between BD and HSCI is that BD patients are deeply comatose whereas HSCI patients are not. For details on the close somatic similarities between BD and HSCI, see Shewmon, "Spinal Shock and 'Brain Death,'" 313-24.

together, because the brain is the material basis of the root capacity for autonomous organismal integration, and the brain continues to have control over the rest of the head, while the body below the transection, since it is disconnected from the brain, lacks the material basis of that root capacity. . . . It [the body] is therefore strictly speaking neither a separate independent organism nor a proper part of the patient's overall organism, but rather a collection of organs and tissues that are functionally coordinated with each other and with the brain/head through external agents (mechanical ventilation, pharmacological treatments, etc.). Conversely . . . a living brain, even if largely disconnected from what used to be the rest of the body, *does* retain the material basis of the root capacity for autonomous organismal integration, and is therefore itself an "organism as a whole," though a severely disabled one. . . . The fact that neither BDB [brain-dead body] nor SCI patients can breathe on their own due to the death of the brain (in the case of the BDB) or its disconnection from the body (in the case of the SCI patient) may simply mean that *neither* the BDB *nor* the "body" of the SCI patient below the point of transection are integrated organisms as a whole (in the case of the BDB) or proper parts of integrated organisms as a whole (in the case of the SCI patient).[112]

The above passage contains two notable reductions. First, all the vegetative capacities are reduced to the capacity for spontaneous breathing, such that without it the body (from the neck down, in HSCI patients) is no longer somatically integrated. Here, Moschella's claim echoes Condic's assertion, that the HSCI patient "remains alive . . . but without functioning as an organism" because of the lack of somatic integration below the neck.[113] Second, the human organism as a whole is reduced to the head alone and, according to Moschella, even to the brain alone:

I would argue that the "brain in a vat" is a human organism as a whole both because it retains the material basis for organismal integration and because it retains the material basis for sentience, thus indicating that the soul as formal principle of those capacities is still present.[114]

[112] Melissa Moschella, "Brain Death and Human Organismal Integration: A Symposium on the Definition of Death," *Journal of Medicine and Philosophy* 41, no. 3 (2016): 283.

[113] Condic, "Determination of Death," 269. Condic's statement is incoherent, however, because the notions of life, organismic integration, and "organism as a whole" (i.e., a living organism) go hand in hand.

[114] Moschella, "Deconstructing the Brain Disconnection–Brain Death Analogy," 295 n. 11. Moschella's statement echoes a common idea held in secular philosophy, namely, that the identity of a person coincides with the identity of his or her brain because it is with the brain (or head) that he or she thinks and experiences: "where my brain goes, go I." See Eberl, "Ontological Status of Whole-

The above statement conveys the idea that somehow the soul is strictly tied to the brain such that where the living brain is, there the soul is. It is difficult to reconcile such an idea to the classical Aristotelian-Thomistic doctrine which specifically teaches that the soul is diffusely present in every part of the body. This in turn raises the question: does Moschella's account of HSCI cohere with the classical doctrine?

To claim that in HSCI patients the head or the brain alone is the human organism as a whole amounts to saying that only the head or the brain alone constitutes the substance of which the human soul is the substantial form, which then indicates that the soul is located in the head or the brain alone. Meanwhile, the HSCI body below the neck is nonintegrated, which means that it is a nonorganism, a homonymous body, a thing in which the human soul is not present. Hence, according to Moschella's account, the HSCI patient is a juxtaposition of an organism (the ensouled head or brain) and a nonorganism (the nonensouled body). Such a scenario evokes science fiction, however, especially since the purported nonintegrated HSCI body continues to function (vegetatively) much in the same way as the patient's body before the injury. Moreover, it is recognized that any non-integrated organic entity, such as a corpse or an excised body part, succumbs rapidly to disintegration and putrefaction.[115] Why do HSCI bodies, in which the principle of integration is purportedly absent, not undergo disintegration for decades? Likewise, if indeed "brain death is death,"[116]

Brain-Dead Individuals," 66; Michael B. Green and Daniel Wikler, "Brain Death and Personal Identity," *Philosophy and Public Affairs* 9, no. 2 (1980): 124.

[115] The disintegration process begins within minutes after death. For details on this process see Norman L. Cantor, *After We Die: The Life and Times of the Human Cadaver* (Washington, D.C.: Georgetown University Press, 2010), 76-77. The same is true when an organ is removed from the body. This is why in organ transplantation, cooling is a critical element in preserving *ex vivo* organs. Currently, under the best conditions of preservation, the tolerated *in vitro* duration for to-be-transplanted organs is counted in terms of hours (24 hours for the kidney, much shorter for other organs), not days or weeks. For further details, see Edgardo E. Guibert et al., "Organ Preservation: Current Concepts and New Strategies for the Next Decade," *Transfusion Medicine and Hemotherapy* 38, no. 2 (2011): 125-42.

[116] Moschella, "Deconstructing the Brain Disconnection–Brain Death Analogy," 281, 293.

then why do BD bodies not show the same signs of disintegration as seen in normal corpses, and why do some even remain intact and functional for months and years? Moschella's explanation is that

> an *external cause* [the ventilator] can . . . trigger the internal capacities of a multitude of living entities that used to be parts of a whole in such a way that those entities can continue to exhibit some degree of functional coordination, thus maintaining functional integration and successfully opposing entropy, [but this] does not imply that genuine *self*-integration is present.[117]

This passage reiterates the "masking death" argument made by BD defenders, namely, that "artificial means of support mask [the] loss of integration."[118] It contains two interrelated assertions: (1) the ventilator can "trigger" the unintegrated parts to perform their respective functions to produce an anti-entropic effect, and (2) this is possible because unintegrated parts, despite the fact that they are no longer parts of the whole, retain their internal capacities. Each of these claims deserves to be examined closely.

According to the principle of proportionate causality, whatever is present in an effect must also be in some way in its cause; hence, Moschella's first claim necessarily implies that the ventilator itself is capable of opposing the relentless increase in entropy which sets in immediately upon death. This is an impossibility, however, since the ventilator, by virtue of its design, "does only two things: (1) expand the lungs in lieu of the intercostal muscles and the diaphragm, and (2) pump oxygenated air into the lungs."[119] As Accad points out,

> the ventilator has no power to control homeostasis, circulation, digestion, growth, or any other such function, even for a millisecond. Insufflation of air in and out of the chest—even if supplemented by intravenous infusions of metabolically active drugs—cannot extend in time the myriad motions which must occur to keep the body integrated and working as a unitary whole.[120]

[117] Ibid., 288.

[118] President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, *Defining Death*, 33.

[119] Nguyen, "Pope John Paul II and the Neurological Standard for the Determination of Death," 161.

[120] Accad, "Of Wholes and Parts," 224.

Moschella's first claim also contradicts the second law of thermodynamics. Scholars in contemporary biophilosophy have recognized that a central characteristic of life is anti-entropy, that is, the phenomenon of life goes counter to the second law of thermodynamics, which is the natural tendency of things to move from order to disorder until they reach "the state of thermodynamic equilibrium or maximum entropy."[121] A paradigmatic example of this is a corpse or an excised body part. In contrast, a living body, while it continuously produces entropy, keeps itself in a dynamic steady state by absorbing nutrients from and excreting waste into its environment.[122] This global activity of bilateral exchange with the environment and self-maintenance is designated by the umbrella term "metabolism," which refers to the totality of complex, orderly, and mutually interrelated vital processes at all levels (from microscopic to macroscopic) within the organism.[123] Metabolism (which in warm-blooded animals, is oxygen dependent) is an indispensable, constitutive, and immanent property of every living thing; this fact is recognized not only by scientists but also by contemporary philosophers (e.g., Hans Jonas).[124] A paradigmatic example of this fundamental characteristic of metabolism is the continuous mitochondrial production (throughout the body) of the high-energy molecule ATP which is necessary for every life activity. Upon death or the excision of an organ, the production of ATP ceases in the whole body or the excised part, respectively; this is then

[121] Erwin Schrödinger, *What Is Life? And Other Scientific Essays* (Garden City, N.Y.: Doubleday, 1956), 68.

[122] See Ludwig von Bertalanffy, *General System Theory: Foundations, Development, Applications* (New York: George Braziller, 1969), 43; Pietro Ramellini, *Life and Organisms* (Vatican City: Libreria Editrice Vaticana, 2006), 81. Nutrients include oxygen, and waste includes carbon dioxide. In warm-blooded beings, the maintenance of body temperature is a sign of the organism's dynamic steady state. Note that BD patients are warm and pink, whereas a true corpse is gray, with the same temperature as that of its surroundings.

[123] See Ludwig von Bertalanffy, *Modern Theories of Development: An Introduction to Theoretical Biology*, trans. Joseph Henry Woodger (London: Oxford University Press, 1933), 48-49.

[124] Hans Jonas thus expresses his understanding of the foundational role of metabolism as follows: "metabolism, the basic level of all organic existence . . . is itself the first form of freedom." See Hans Jonas, *The Phenomenon of Life: Toward a Philosophical Biology* (New York: Harper & Row, 1966), 3.

followed by a series of phenomena known as disintegration.[125] In summary, that metabolism is fundamental to life (anti-entropy), and that it is a constitutive and immanent property of living organisms, necessarily mean that no external cause in the created order, be it the ventilator or any other man-made device, can substitute for it. This insight about metabolism strongly echoes Aristotle's understanding that the nutritive soul (the vegetative power) is foundational to life.[126] This is why Shewmon, in his seminal work on the philosophy of organismic integration, emphatically insists that

> [life] constitutive integration is intrinsically and absolutely not substitutable. Nor is it even partially substitutable. Unlike the therapeutic replacement of a health-maintaining integrative function, which can replace the natural function well or poorly, constitutive integration is all or none, just as "unity" is all or none. Some or many cells might cease to participate in an organism's anti-entropic constitutive integration, for example, but if the remaining ones suffice to maintain the organism's antientropy, the constitutive integration remains undiminished; indeed it is undiminishable, only present or absent. No futuristic intensive care technology can prevent the increase in entropy (i.e., biological decay) if it is not endogenously opposed from the very life processes themselves of the living organism.[127]

Put bluntly, life-support measures, as the term itself indicates, only work as long as there still remains some life in the patient, however minimal it might be as the person approaches the moment of death.

In her second claim, Moschella speaks of the unintegrated parts in BD bodies (as well as HSCI bodies) as a "multitude of living entities" which still retain their internal

[125] There is a brief time-window of viability after the cessation of ATP production. The more an organ requires an uninterrupted supply of oxygen and nutrients, the shorter this window is. Efforts in organ preservation for transplant purposes seek to stretch this window of viability, which nevertheless can only last for hours and not days, weeks, or months.

[126] See Aristotle, *De anima* 3.434a22-26. Here, Aristotle reiterates, "everything then that lives and has a soul must have the nutritive soul, from birth until death; for anything that has been born must have growth, maturity, and decline, and these are impossible without nourishment. The potentiality for nutrition [i.e., the vegetative power] must therefore be present in all things which grow and decline."

[127] D. Alan Shewmon, "You Only Die Once: Why Brain Death Is Not the Death of a Human Being; A Reply to Nicholas Tonti-Filippini," *Communio* 39 (2012): 440.

capacities. At the same time, she holds that neither BD bodies nor HSCI bodies can be the material basis for ensoulment by the rational soul. How does one account, philosophically, for the persistence of these two groups of nonensouled bodies, since it is evident that they continue to exhibit a whole host of vegetative functions that were present in the patients prior to their diagnosis of BD or HSCI? One must posit that in these cases, the body is informed by at least one other substantial form, such as the substantial form of corporeity. Moreover, one needs to account for the presence of a "multitude of living entities" in bodies which are not ensouled by the rational soul. According to Eberl, whose argument in defense of BD precedes that of Moschella and is very similar to it, the organs and body parts of the HSCI body are "each informed by a vegetative soul."[128] Thus, according to this thesis, the body of the HSCI patient is made up of different substances (namely, the unintegrated body parts) that are only accidentally working together as a whole. The question arises, is such a thesis in accord with Aquinas's account of the unicity of the human soul?

A careful examination of the arguments of Eberl and Moschella reveals that it is not. Both insist that in the HSCI patient the organism as a whole is reduced to the head, and therefore the rational soul only informs the head.[129] It follows, therefore, as mentioned earlier, that the HSCI patient would be an entity in which an organism as a whole (either the head or the brain alone) is connected to a nonorganism (a body composed of unintegrated parts). In philosophical terms this means that the HSCI patient would

[128] See Eberl, "Ontological Status of Whole-Brain-Dead Individuals," 64. Eberl writes: "the body of a patient with high cervical cord transection is no longer informed by his rational soul below the point of the transection. . . . His soul now informs only his head and those parts of his body which his brain can still control, such as motor control over his facial muscles and other parts of his head. . . . [In the body below the transection], the cells and independent organ systems maintained with artificial assistance are each alive, each informed by a vegetative soul; they just no longer constitute the person's life—that is, their vegetative capacities are no longer those of the patient's rational soul" (ibid., 63-64).

[129] See Moschella, "Deconstructing the Brain Disconnection–Brain Death Analogy," 289. Here we read: "the head of the high cervical SCI patient can itself be understood to be an organism as a whole." See also the block quotation at n. 114, and the quotation in n. 128.

be a juxtaposition of (1) the rational soul (associated with its material basis, the brain) which informs only the head, (2) a substantial form of corporeity to account for the persistence of the HSCI body over decades, and (3) a multitude of substantial forms, each informing its corresponding unintegrated body part. Similarly, the BD body would be the combination of a substantial form of corporeity together with a multitude of substantial forms of unintegrated parts remaining *in situ* in the alleged dead body.

A plurality of substantial forms directly contradicts Aquinas's teaching of the unicity of the substantial form, however. Such a thesis can be traced back to Plato, who "located the rational soul in the brain, the nutritive in the liver, and the appetitive in the heart."[130] The plurality of forms is also a hallmark of Duns Scotus's thought, which radically diverges from Aristotelian-Thomistic philosophy. Most notably, Scotus holds that: (1) prime matter has actuality and persists through substantial change,[131] and (2) animate composites consist of a plurality of substantial forms. For Scotus, a form of corporeity must be posited in order to explain why the body after death is in continuity with the once-living body, and appears to be the "same" as when it was alive.[132] Scotus also maintains that organs and body parts are substances—each informed by its corresponding substantial form—and these multiple disparate substances somehow mysteriously become united and informed by the rational soul during prenatal development.[133] In other words, according to Scotus, the organism as a whole is posterior to the parts, because the form of the organism as a whole is the last to come about, being preceded by prime matter and the substantial forms of the parts.[134]

[130] *ScG* II, c. 58.

[131] See John Duns Scotus, II *Sent.*, d. 12, q. 1, n. 10 (*John Duns Scotus: Opera Omnia, Vol. 12*, ed. Luke Wadding [Paris: Apud Ludovicum Vives, 1893]).

[132] See John Duns Scotus, IV *Sent.*, d. 11, q. 1, n. 7 (*John Duns Scotus: Opera Omnia, Vol. 17*, ed. Luke Wadding [Paris: Apud Ludovicum Vives, 1894]); John Duns Scotus, IV *Reportata*, d. 10, q. 3, n. 26 (*John Duns Scotus: Opera Omnia, Vol. 23*, ed. Luke Wadding [Paris: Apud Ludovicum Vives, 1894]).

[133] See Scotus, IV *Sent.*, d. 11, q. 3, n. 41.

[134] See Scotus, IV *Sent.*, d. 11, q. 3, n. 46.

Scotus's theory raises a whole host of difficulties, however. In particular, it is incoherent that the parts in an organic whole could be prior to the whole itself. Moreover, this theory cannot give a satisfactory account for the unity of body and soul. With the plurality of forms, "the union of the soul to the body is at best an accidental state of affairs,"[135] which is akin to Plato's idea that "the soul is united as a mover and not as a form to the body, [i.e.,] the soul exists in the body as a sailor in a ship."[136] By contrast, Aquinas repeatedly stresses that there cannot be a plurality of substantial forms in any living being. For instance, he writes:

> There cannot be more than one substantial form in any one thing; the first [substantial form] makes the thing an actual being; and if others are added, they confer only accidental modifications, since they presuppose the subject already in act of being. . . . [An individual man does not have] one form that made him a substance, another that gave him a body, another that gave him life, and so on.[137]

The plurality of forms which underlies Moschella's argument to account for the persistence of life activities in HSCI bodies is not an exact replica of Scotus's plurality of forms, however. As noted above, Scotus posits that multiple substances (each informed by its own substantial form which perdures and is not subsumed into the higher level "soul") are somehow brought together (during prenatal development) to be informed by the rational soul. This gives a semblance of the unicity of the soul. According to Moschella's thesis, however, in HSCI patient the rational soul informs only the head. It would therefore have nothing to do with the above-mentioned "multiple living entities," that is, the multiple different substances (organs and parts) present in the HSCI body below the level of the cervical injury. The result would be a side-by-side coexistence of the rational soul and the substantial forms of the multiple living entities in the HSCI body. Even if one posits a substantial form of corporeity which unites in an accidental way the different substances, the result would be a side-by-side

[135] Richard Cross, *Duns Scotus* (New York: Oxford University Press, 1999), 79.
[136] *Q. D. De Anima*, a. 11.
[137] II *De Anima*, lect. 1.

coexistence of the rational soul and the substantial form of corporeity. In sum, neither scenario would produce a semblance of the unicity of the human soul.

Moschella's second claim raises an additional question: can body parts which are unintegrated, that is, no longer part of the whole, be alive? According to Aquinas,

> bodily corruption . . . comes about from the fact that, when the principle which holds the individual contrary parts together is removed, they tend to whatever agrees with them individually according to their own natures, and so the dissolution of the body takes place.[138]

Aquinas also teaches "that the soul, as it virtually contains the sensitive and nutritive souls, [also] virtually contain[s] all inferior forms,"[139] all the way down to elemental forms. The forms of the elements are in mixed bodies not in actuality but virtually by power (*virtute*).[140] It is thus safe to consider that the inferior forms include the forms of individual organs and body parts, and that these forms are present not actually but virtually by their power. It is also conceivable that under certain specific conditions such virtual forms can become actualized—but only as a transient phenomenon—which would be one of the steps during the initial phase of the disintegration process, which sets in at death or at the removal of an organ. Such a transient phenomenon would explain why for a limited time the inert lifeless corpse retains an appearance similar to that of a living body, and that an inert lifeless *ex vivo* organ retains some degree of viability while in transit to the recipient. In other words, life, or to be alive, is radically different from viability or "to remain viable." This important distinction is already clearly encapsulated in the Aristotelian-Thomistic concept of homonymy, according to which unintegrated organs are organs in the homonymous sense only. For instance, a removed eye, while remaining viable, is an eye in name only; it cannot see, no more than the eyes of a statue.[141] Likewise, a removed kidney from a living donor is a homonymous

[138] *De Verit.*, q. 25, a. 6 (trans. Robert W. Schmidt [Chicago: Henry Regnery Company, 1954]).

[139] *STh* I, q. 76, a. 4.

[140] *De Mixt. Elem.*, http://www.corpusthomisticum.org/opx.html.

[141] See Aristotle, *De anima* 2.412b17-24.

kidney, it cannot perform any activity proper to its nature in the absence of that principle (the soul) which integrates it to a living whole. Such unintegrated organs, whether they are excised *ex vivo* or remain *in situ* in a human "body" which is no longer informed by the rational soul, are merely homonymous organs. As Aquinas indicates in the above-quoted passage, without the soul (the principle of integration), such homonymous organs succumb quickly to corruption and dissolution. Thus, it is a self-contradiction to assert that organs and body parts in the BD body or HSCI body are unintegrated and, at the same time and under the same aspect, that they are living entities.

A philosophical question unrelated to BD and HSCI, but which is peripherally related to the notion of homonymy may be posed at this point: what is the status of the transplanted organ (e.g., the kidney) in the recipient?[142] From the perspective of contemporary biophilosophy, it seems that the modern scientific equivalent of the Aristotelian-Thomistic concept of homonymy is the deprivation of the dynamic spatio-temporal organizing relations between the removed kidney and its *in vivo* conditions.[143] This is why the *ex vivo* kidney is inert and nonfunctional—a kidney in name only. Once transplanted into the recipient, the transplanted kidney becomes functional again, which implies the establishment of spatio-temporal organizing relations between the kidney and its new *in vivo* conditions. Strictly speaking, therefore, it is no longer a homonymous organ. The functioning of the transplanted kidney in its new "home" requires an uninterrupted suppression of the recipient's immune system, however. Moreover, despite immune suppression, the recipient's body will eventually reject the

[142] This question was raised by one of the anonymous reviewers for *The Thomist*.

[143] "When a part is removed from a living body, that part becomes deprived from the various relations which it had *in vivo*, including: (1) relations with the upper level(s) of the organismic hierarchy, in particular the relations with the 'local' whole of which it was a part, (2) relations with other homologous and/or heterologous parts belonging to the same hierarchical level, and (3) relations with the non-cellular elements (including nutrients, and supportive matrix) which are part of its natural organic environment" (Nguyen, *New Definitions of Death*, 376). A discussion on dynamic spatio-temporal organizing relations can be found in ibid., 367-78.

grafted kidney even though, thanks to medical advances, this may take many years. On the basis of this biological reality, the most plausible hypothesis is that the grafted kidney is not informed by the recipient's soul.[144] In other words, the substantial form (the "vegetative soul") of the donor's kidney, even though it is of the human species, is not subsumed into the rational soul of the recipient. Since the human soul is created and infused by God at conception, the rational soul of person A necessarily differs from that of person B. It is thus not too far-fetched to hypothesize that the rational soul of A confers certain specific particularities to the sensitive and vegetative "souls" (powers) and, likewise, to all the lower forms which are subsumed to it. Consequently, although human beings all have the same kind of organs and body parts proper to the human species, these organs and body parts bear particularities specific to each human person. One such particularity is the major histocompatibility complex (MHC) which manifests, in biological terms, the uniqueness of each human person. The difference in MHC between the donor and the recipient leads to the eventual rejection of the donor's organ. In other words, the phenomenon of MHC brings into relief the philosophical understanding of qualitative individuality within the human species. To sum up, it would not be far-fetched to say that the grafted organ in the recipient is in a rather unnatural hybrid condition: it is not homonymous but it is also not informed by the rational soul of the recipient. As such, it is an unstable condition which progresses, gradually but inexorably, toward the state of homonymy which occurs when the graft is fully rejected by the recipient's body.

CONCLUSION

Both the "substantial change" rationale of Lee (and Grisez) and the "loss of integration" rationale of Moschella (and Condic) contain serious difficulties, such that they are both incompatible with the Aristotelian-Thomistic doctrine on human nature. Each of the two rationales generates its own distinct set of difficulties. Nevertheless, they share the

[144] See Austriaco, "A Philosophical Assessment of TK's Autopsy Report," 200-201.

same common underlying deficiency. In both arguments, the overarching emphasis is on a functioning brain, hand-in-hand with a similar emphasis on the radical capacity for conscious sentience. Both rationales seem to overlook that the human rational soul is first and foremost the first *entelechia* of the body, that is, that which gives existence to the body (and therefore, to the whole being) in such a way that the organism is an individual of the human species.[145] As a result, both fail to recognize that the human rational soul still remains united to the body even when the patient is unable to manifest observable operations of the rational power (viz., consciousness) and of the sensori-motor power (viz., the lack of response to the apnea test, i.e., lack of spontaneous breathing). As Robert Barry points out in his critique of BD, "the soul is the first or vivifying substantial act of the body and its operations are its second act. It is the first act of the body and is not an operative potency."[146] Hence, when the soul *per se* is confused or conflated with its powers or operations, the inevitable result is the plurality of souls or substantial forms. As demonstrated in this essay, both Lee's and Moschella's rationales would make sense only if we accept some version of the plurality of souls. This would mean rejecting the classical Aristotelian-Thomistic teaching on the unicity of soul, however. If historically this occurred with Duns Scotus, today it has insidiously re-appeared in the pro-BD arguments within Catholic circles.

A common problem in the BD controversy is the advancement of philosophical arguments leading to "conclusions that are counterintuitive from a biological perspective."[147] A better approach would be one that closely follows the realism of an Aristotelian-Thomistic approach,[148]

[145] See *Q. D. De Anima*, a. 1. Here we read in the *sed contra*: "a thing receives its species through its proper form [i.e., its substantial form]."

[146] Robert Barry, "Ethics and Brain Death," *The New Scholasticism* 61, no. 1 (1987): 88.

[147] Eberl, "Ontological Status of Whole-Brain-Dead Individuals," 45. Eberl writes: "I argue that the philosophical concept of 'living human animal' may require accepting conclusions that are counterintuitive from a biological perspective—for example, that a decapitated head which is artificially sustained such that consciousness persists composes a living human animal—if being a living animal is essential to the existence of a human person, as . . . I contend. "

[148] In particular, Aristotle's study of human nature in *De Anima* shows a close connection between biology and the philosophy of nature. Indeed, it was through

in which philosophical arguments are confirmed by biological reality.

deep reflections on the observable objective biological reality (and despite the limited scientific advances of his time) that Aristotle came "to postulate final causes in addition to the material, formal and efficient causes." See Ernst Mayr, "Cause and Effect in Biology: Kinds of Causes, Predictability, and Teleology Are Viewed by a Practicing Biologist," *Science* 134, no. 3489 (1961): 1503. Although the close connection between the philosophical and biological aspects of human nature has fallen by the wayside in modern studies, the philosophical community at large has slowly come to recognize "the persisting conceptual importance . . . of Aristotle's biology and philosophy of life" (David Wiggins, *Sameness and Substance Renewed* [Cambridge: Cambridge University Press, 2001], xi).

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DESIGN ARGUMENTS AND AQUINAS'S FIFTH WAY

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DESIGN ARGUMENTS have traditionally focused on some structured or ordered aspect of the universe and have argued that such order requires the assistance of a supernatural designer. These arguments seek to conclude that order cannot be a product of merely natural processes. The standard instance of this type of argument is William Paley's (in)famous watchmaker argument.[1] The mechanical parts of a watch coalesce to allow the watch to function for its designed purpose, that is, telling the time. This purposeful functioning points to a watchmaker who so organizes the parts of the watch as to give them their purpose. The analogy with the created universe is manifest and the argument is applied to infer a cause of the universe. This cause so organizes things that the universe comes about and functions for the purpose for which it, the maker, ordained it.

The salient features of Paley's argument are threefold: (i) mechanistic functioning pointing to (ii) purposeful action which signifies (iii) a designer. These features in turn form part of a venerable tradition in the history of debate on this subject: (i) is a standard presupposition of a modern scientific worldview, (ii) is a presupposition of teleology in nature, and (iii) conceives of the designer as a demiurgic maker who imposes form on the

[1] William Paley, *Natural Theology or Evidence of the Existence and Attributes of the Deity, Collected from the Appearances of Nature*, ed. M. W. Eddy and D. Knight (Oxford: Oxford University Press, 2006).

constituents of the universe.[2] Hence standard design arguments are those that come under the aegis of Paley's argument and in particular make use of (i) – (iii) as their guiding principles.

In light of developments in the natural sciences, especially in the theory of evolution, design arguments have somewhat shifted their focus. Now they tend to the view that the probability of the conditions for the possibility of there being anything at all is so slim that there must have been supernatural intervention for it to occur. Nevertheless, such arguments still maintain a focus on the mechanistic functioning of the universe and the inference to a designer as the best explanation thereof. Such recasting of design argumentation remains loyal to some or all of (i) – (iii) in modified form.[3]

My contention in this article is that Aquinas's fifth way does not fall within the scope of the design argument so construed. Undoubtedly many have thought that it does, since Aquinas's fundamental concern in that argument is to account for the finality operative in unintelligent things, which ultimately rests with God. It is assumed that Aquinas was making the same sort of inference as Paley, namely, that the goal-directed behavior of complex things is a result of the intricate design imposed on them by some supernatural being. Moreover, Aquinas elsewhere employs argumentation similar to that adduced by Paley. If one assumes that the argument of the fifth way is not significantly dissimilar to these other arguments, it is easy to infer that the fifth way is a design argument of roughly the Paleyite variety.[4]

[2] See Edward Oakes, S.J., "Dominican Darwinism: Evolution in Thomist Thought after Darwin," *The Thomist* 77 (2013): 361: "Paley . . . managed to fuse Plato's Demiurge, Aristotle's teleology, and Newtonian mechanism into an entire natural *theology* through his analogy of a watch discovered on an island, which the explorer takes as an infallible sign of the presence (somewhere) of a watchmaker."

[3] See for instance Richard Swinburne, *The Existence of God* (Oxford: Clarendon Press, 1979), chap. 8; idem, *Is There a God?* (Oxford: Oxford University Press, 1996), chap. 4; and idem, "The Argument from Laws of Nature Reassessed," in *Reason, Faith and History: Philosophical Essays for Paul Helm*, ed. Martin Stone (Aldershot, U.K.: Ashgate, 2008), 69-83, Swinburne notes that this article is based on chapter 8 of the second edition of *The Existence of God* (2004).

[4] I say "roughly" because of course the fifth way will display Aquinas's own characteristic metaphysics and philosophy of science which will justify his premises, and

In question 5, article 2 of the disputed questions *De Veritate*, Aquinas writes:

> We see that harmony and usefulness happen in the works of nature either always or for the most part; hence they cannot occur by chance, and thus must proceed through the intention of an end. But that which is without intellect or knowledge is unable to tend directly to an end unless through another's knowledge of an end given to it and directing it to that end. Hence it must be that since natural things are without knowledge, there pre-exists some intellect that ordains natural things to an end; just as an archer gives a certain motion to the arrow so that it tends to a determinate end.[5]

Similarly, in book 1, chapter 13 of the *Summa contra Gentiles*, he attributes the following argument to John Damascene and Averroës:

> It is impossible for contrary and dissonant things always or almost always to accord [*concordare*] in one order unless out of some government, by which everything and every single thing are made to tend to a certain end. But in the world we see things of diverse natures coming together [*concordare*] in one order, and not rarely or by chance, but always or for the most part. It must be, then, that there is something by whose providence the world is governed; and this we call God.[6]

That which has to be explained in both arguments is the harmony found in natural things. It is argued that this harmony occurs not by chance but through natural things acting for an end ordained by an intelligent agent (*De Verit*.) or through the intervention of some intelligent agent who brings it about (*ScG*). Thus, natural things are subject to the harmonizing activity of an intelligent agent. There is thereby brought to mind an agent who assembles into a certain order or harmony the materials out of which he constructs the universe; this agent's activity is architectural, that of a designer. Given this, it is easy

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the same is true for Paley's watchmaker argument. But this does not preclude a similarity in form sufficient for the two to be classified as the same type of argument.

[5] *Quaestiones Disputatae De Veritate*, q. 5, a. 2 (Turin: Marietti, 1927).

[6] All translations, unless otherwise stated, are my own. When discussing the design argument, Kwame Anthony Appiah (*Thinking It Through* [Oxford: Oxford University Press, 2003], 324-25) classifies this argument (and not the fifth way) as Aquinas's design argument.

to see how these arguments fall squarely into the traditional design argument classification.[7]

It is clear, then, that Aquinas was familiar with design-type arguments and employed them in his writings. But what about the fifth way? Is it of the Paleyite variety? If it is, then *mutatis mutandis* it is subject to the typical weaknesses of standard design arguments, especially those emanating from the philosophical fall-out from the theory of evolution. But if it is not, then it cannot be dismissed along with other design arguments that are mistakenly taken to be similar in kind to it. My goal in what follows is to show that far from being similar in kind to standard design arguments, the fifth way is in fact a causal proof that depends on Aquinas's own characteristic metaphysical thought. Calling it a "teleological argument" is etymologically accurate, but misleading, given the latter's connection with standard design arguments.

My purpose is not to defend Aquinas's fifth way against criticisms emanating from post-Darwinian biology, but to show that it is a causal proof integrated with the metaphysics of causality that Aquinas adopts, and hence is quite distinct from arguments of the Paleyite variety. The question of whether such differentiation absolves the fifth way of the evolutionary objections commonly presented to design arguments remains open. At the very least, such objections will have to be rethought if they are to be applied to the fifth way.

[7] John Wippel disassociates the argument of *De Veritate* from that of the *Summa contra Gentiles* by emphasizing the focus on finality, the acting for an end, evident in *De Veritate*, which is not to be found in the argument from the *Summa contra Gentiles*. Wippel sees the argument of *De Veritate* as anticipating the fifth way; see *The Metaphysical Thought of Thomas Aquinas: From Finite Being to Uncreated Being* (Washington, D.C.: The Catholic University of America Press, 2001), 410-13. However, I think Wippel glosses over the focus on harmony, evident in the opening passage of the argument in *De Veritate*, and the fact that both arguments seek to explain the harmony of natural things, whether by focussing on finality or by focussing on orderly design. The fifth way, by contrast, seeks to explain finality itself, and not to use finality in order to explain harmony. Thus, while I grant that the focus on finality brings the argument in *De Veritate* closer to the fifth way than does the argument in the *Summa contra Gentiles*, the focus on finality in *De Veritate* serves a different purpose than it does in the fifth way.

I am not the first to point out the disconnection between the fifth way and standard design arguments. John Wippel does so in his treatment of the fifth way in *The Metaphysical Thought of Thomas Aquinas*, and more recently Edward Feser has offered a reading of the fifth way based on Aquinas's metaphysics of finality, thereby disassociating it from design-based arguments.[8] By contrast, Marie George has taken issue with Feser's reading of the fifth way; she argues that Aquinas is not therein concerned with causality, and that while finality is a consideration, what Aquinas is seeking to show is the existence of an intelligent agent who orders all things in the universe.[9] It follows that, despite acute differences between Aquinas and Paley in their metaphysical outlooks (differences which George in fact plays down), there is enough similarity in respect of the need for an intelligent designer for Aquinas's fifth way to be classified as an argument of the Paleyite variety. I think, however, that George reads the fifth way too strictly. It is true that Aquinas does not engage there in the fine-grained analyses that Feser offers, or indeed that I offer here, but George seems to conclude that those analyses and clarifications should not play an interpretative role in reading the argument. In particular, George dismisses the distinction between intrinsic and extrinsic teleology as being a key factor in reading the fifth way, nor does she permit a focus on intrinsic teleology in this respect.[10] Yet the notion of finality in things as a result of their natural principles is to be found in Aquinas's wider philosophical thought, and, given that Aquinas is quite a systematic thinker, one must often incorporate what he says elsewhere into the analysis of a given text. Just as we can interpret the earlier *viae* in terms of his wider thinking on act/potency, essence/*esse*,

[8] Edward Feser, "Between Aristotle and William Paley: Aquinas's Fifth Way," *Nova et Vetera* (Eng. ed.) 11 (2013): 707-49.

[9] Marie George, "A Thomistic Rebuttal of Some Common Objections to Paley's Argument from Design," *New Blackfriars* 97, no. 1069 (2016): 266-88. The first section is particularly worth noting for its engagement with Feser's reading of the fifth way and its presentation of George's alternative reading.

[10] Ibid., 268-70.

per se/*per accidens* series, so too are we permitted to approach the fifth way with his wider thinking on teleology in mind.

It is of course the case that some intelligent agent is responsible for the ordering of all created things; that is orthodox Thomism, and indeed the fifth way points us to an agent that intelligently orders such things. But this fact alone is not enough to establish that what we have with the fifth way is an intelligent designer of the Paleyite variety as opposed to an intelligent creator of the Thomistic variety. The former plays an architectural role, whereas the latter brings all things, including their order, into being. By focusing on causality (and indeed the causality of ordered series), we are able to move beyond a Paleyite designer and towards a primary cause of all things.

I agree with those readers of Aquinas who interpret the fifth way as a causal argument, and I think there is a strong case for recognizing intrinsic teleology in Aquinas's thought and reading the fifth way in light of that. What I offer in this article that, to my knowledge, has not been said elsewhere is an interpretation of the fifth way in light of the metaphysics of essentially ordered causal series; this is reasoning which Aquinas employs explicitly in the first two ways and implicitly in the third and fourth. Thus, I am offering an extension of the causal interpretation of the fifth way into the metaphysics of essentially ordered series, a metaphysics commonly thought to be confined to considerations of efficient causality.[11]

I. The Fifth Way

The fifth way reads as follows:

The fifth way is taken from the governance of things. [1] We see that there are things without knowledge, such as natural bodies, that operate for an end; [1.1] and this is clear insofar as they always or more frequently operate in the

[11] In "Essentially Ordered Series Reconsidered Once Again," *American Catholic Philosophical Quarterly* 91 (2017): 155-74, I offer an account of how Aquinas's thinking on essentially ordered series can be interpreted in light of final causality and how we can integrate such series with those that involve efficient causality. That paper does not address the fifth way, though at the end I suggest that what I say there has implications for interpreting the fifth way. This article draws out those implications.

same way so that what is best follows. [2] Hence it is apparent that it is not by chance but by intention that they act for an end. [3] Those things that do not have knowledge, do not tend to an end unless directed by something with knowledge and intelligence, such as the arrow [directed by] the archer. [4] Therefore, all natural things are ordered to an end by something intelligent, and this we call God.[12]

Aquinas begins this argument by adverting to the goal-directed behavior of unintelligent things [1], and adduces evidence for this from the fact that such things often act in the same way so as to produce the best result [1.1]. He claims that it is manifest that in so acting these things are not acting by chance but by intention [2], but those things without knowledge could not do so unless directed by something that has knowledge and intelligence [3], in which case all natural things are ordered to their end by something intelligent, which is what we call God [4].

Premise [1] is an expression of Aquinas's views on finality, and so asserts that natural things without intelligence act for an end. This expression of finality is a springboard for the entire argument: what is ultimately to be explained is the goal-directed behavior, the finality, of naturally unintelligent things. In contrast to some of his earlier argumentation, Aquinas is here concerned with explaining finality itself; he is not making use of finality in order to explain the harmony of things.

Given the fifth way's starting point in finality, I will first consider Aquinas's thought on finality, then consider the integration of that into the metaphysics of essentially ordered series. Having done that I will be in a position to offer a conclusion as to why Aquinas's fifth way is not a design argument.

II. Teleology

The teleology or goal-directed activity to which Aquinas adverts in the fifth way is that found in natural bodies; hence it is a teleology found in nature. This teleology can be considered from two aspects: (i) from the point of view of the goal-directed

[12] *STh* I, q. 2, a. 3 (Turin: Marietti, 1926).

activity of living things and (ii) from the point of view of the goal-directed activity of nonliving things.

In general, the advertence to goal-directed activity amounts to recognition of the fact that natural things function in a certain way, and that a description of their functioning will be a description of their goal-directed activity. The very ratio of finality for Aquinas is the "in order to" or the "for the sake of which" (*cuius causa fit*) of the thing in question. In other words, for Aquinas finality in natural things is signified by that for the sake of which they act.[13]

Bearing this in mind, the idea that living things display goal-directed activity is quite straightforward, and, when freed from misunderstanding, rather uncontroversial. When we think of the functioning of living things, we often think of certain physiological processes involving various bodily organs. Thus, the eye functions for the sake of sight, the ear for hearing, the heart for pumping blood, the lungs for extracting oxygen, and so on. In each of these cases, when one inquires after the sake for which each of these organs function, the response is their end. Furthermore, not only can the individual organs listed above have their own ends, but such ends can be subordinated to some further end. There is thus a hierarchy of ends: the

[13] For affirmations of this see II *Phys.*, lect. 4 (*In octo libros Physicorum Aristotelis expositio* [Turin: Marietti, 1954], n. 173): "De ratione finis est quod sit cuius causa fit" ("the nature of end is that for the sake of which something comes to be"); I *Metaphys.*, lect. 4 (*In Metaphysicam Aristotelis commentaria* [Turin: Marietti, 1935], n. 70): "Nam motus incipit a causa efficiente, et terminatur ad causam finalem. Et hoc est etiam cuius causa fit aliquid, et quae est bonum uniuscuiusque naturae" ("For motion begins with the efficient cause and is terminated in the final cause. And this latter is that for the sake of which something comes to be, and it is the good of some particular nature"); II *Metaphys.*, lect. 4 (Marietti ed., n. 316): "Finis est id quod non est propter alia, sed alia sunt propter ipsum" ("The end is that which is not for the sake of others, but others are for the sake of it"); III *Metaphys.*, lect. 4 (Marietti ed., n. 374): "Finis autem, et cuius causa fit aliquid, videtur esse terminus alicuius actus" ("The end then is that for the sake of which something comes to be, and it is seen to be the terminus of some act"); V *Metaphys.*, lect. 18 (Marietti ed., n. 1039): "Sed finis non solum habet quod sit ultimum, sed etiam quod sit cuius causa fit aliquid" ("But the end is not only such that it is the ultimate, but also that it is that for the sake of which something comes to be").

organs, which themselves act for an end, are subordinated to the end of the body of which they are organs.[14]

Now a living thing can only function insofar as it is in act, and for Aquinas a (nondivine) thing is in act insofar as it is a composite unity of essence and *esse*.[15] The essence itself, if that of a material substance, is in turn a composite unity of matter and form. The form of a material thing is that for the sake of which its matter exists, such that the matter would not exist unless its form is actuated as the matter of some particular substance.[16] Thus, the form of a material thing is its end; hence form and end coincide in material things.[17] A thing acts for an end, that is, displays goal-directed behavior, in virtue of the form that it has; and its specific end is determined by its specific form. It follows from all this that finality or goal-directed behavior is intrinsic to natural substances, something that they exhibit in virtue of what they are.

Already this notion of finality serves to disassociate Aquinas's thinking from that of Paley, since for Paley the finality of the watch is something extrinsic, imposed on the components of the watch, whereas for Aquinas it is an intrinsic feature of the thing signifying the tendencies it has on account of what it is.[18] It follows that, as their accounts of finality are different, their

[14] *STh* I-II, q. 12, a. 2: "In motu autem potest accipi terminus dupliciter, uno modo, ipse terminus ultimus, in quo quiescitur, qui est terminus totius motus; alio modo, aliquod medium, quod est principium unius partis motus, et finis vel terminus alterius. Sicut in motu quo itur de a in c per b, c est terminus ultimus, b autem est terminus, sed non ultimus" ("The end in motion is able to be taken in a twofold manner: in one way as the ultimate end itself, in which the motion rests which is the end of the whole motion; in another way as a medium which is the principle of one part of motion and the end or terminus of another. For instance in a motion whereby one moves from a to c through b, c is the ultimate end and b indeed is an end but is not the ultimate"); for affirmations of the same, see *STh* I-II, q. 21, a. 1, ad 2, II-II, q. 23, a. 7; q. 123, a. 7; II *Phys*., lect. 5 (Marietti ed., n. 181); V *Metaphys*., lect. 2 (Marietti ed., n. 771).

[15] *De ente et essentia*, c. 4 (Rome: Editori di San Tommaso, 1976).

[16] II *Phys*., lect. 15 (Marietti ed., n. 273).

[17] II *Phys*., lect. 11 (Marietti ed., nn. 246 and 242); VII *Metaphys*., lect. 6 (Marietti ed., n. 1392); VIII *Metaphys*., lect. 4 (Marietti ed., n. 1737); *De principiis naturae*, c. 4 ([Rome: Leonine, 1976], 45, ll. 114-16).

[18] Feser emphasises this difference in "Between Aristotle and William Paley," sect. 2; George plays it down (see n. 9 above).

modes of accounting for that finality will be different. Paley's extrinsic finality requires a designer that molds and guides the purposes of the thing it designs; Aquinas's intrinsic finality requires a creative cause which brings into existence some formed substance, and this substance can act in the world in ways that signify what it is.

Thus far I have focused solely on the finality prevalent among living things. This is problematic because it is evident that living things do act with some purpose (at the fundamental level, the preservation of their being), whereas it is not so clear that nonliving things act for any purpose—their being seems to be purposeless. But the fifth way envisages nonliving things as well as living things, and so finality must extend to them.

The teleology of nonliving things can be discerned in what Aquinas says about the finality of natural bodies in the fifth way and the example he uses. He states that the finality of natural bodies is evident insofar as they operate always (or more frequently) in the same way so that what is best follows; later he gives as an example of this an arrow being shot by an archer. What I want to draw out from this is that nonliving beings have a kind of activity that is determined, such that unless the being in question is subject to some divergent causal series, it acts always in the same way. Such determined activity indicates finality insofar as it is determined in view of an end; for if there were no end, there would be no determination, and the activity of a natural thing would not terminate in anything predictable. For instance, a flame acts so as to produce heat; this is the determination of its action. If it had no such determination, it could produce heat on one occasion and then something else on another. But this is not the case. Given the kind of thing that a flame is, its activity is determined so as to produce heat, and the production of heat is the flame's end. Such ordered determination is to be found in all nonliving things and it reveals that such things act for an end. Yet since nonliving things (as well as some living things) are unintelligent, Aquinas

holds that they have this end not willfully but by a natural inclination.[19]

Such determination need not be restricted to one determinate effect for it to have finality. Take the arrow example of the fifth way, or, less grisly, a bride throwing her bouquet. An archer can shoot his arrow, a bride can throw her bouquet, into a crowd of people with no particular person being singled out. Nevertheless, the motion of the arrow/bouquet still displays finality insofar as it has a determinate aim and direction of travel to reach *a* target. Thus, the action of the arrow/bouquet is determined, even though the target is indeterminate.[20] Of course, this raises the question of what establishes the natural inclinations of unintelligent things so that their action is determined, a question that is the driving force behind the fifth

[19] *STh* I-II, q. 1, a. 2: "Haec autem determinatio sicut in rationali natura per rationalem fit appetitum, qui dicitur voluntas; ita in aliis fit per inclinationem naturalem, quae dicitur appetitus naturalis" ("Just as in the rational nature this determination is through the rational appetite which is called the will, so too in other things it is through a natural inclination, which is called the natural appetite"). Paul Hoffman comments on this: "In order to do anything an agent has to do something in particular. But an agent can do something in particular only if it is determined to one particular thing as opposed to some other particular thing. And to be determined to a particular thing is to have that thing as an end" (Paul Hoffman, "Does Efficient Causation Presuppose Final Causation? Aquinas vs Early Modern Mechanism," in *Metaphysics and the Good: Themes from the Philosophy of Robert Merrihew Adams*, ed. Samuel Newlands and Larry M. Jorgensen [New York: Oxford University Press, 2009], 296).

[20] The same goes, *mutatis mutandis*, for the activity of nonliving things not directed by human intervention, e.g., hurricanes, tsunamis, and even when there is no target involved, e.g., planetary motion. Hoffman holds that in cases of indeterministic motions we have to weaken Aquinas's view and hold that a cause can be aimed at a set of incompatible effects, whereas he takes Aquinas to hold that a cause cannot be indeterminate between two or more effects (Hoffman, "Does Efficient Causation Presuppose Final Causation?," 309); see *ScG* III, c. 2. Be that as it may, in the cases I have mentioned, the cause is not indeterminate with respect to several incompatible effects, but to compatible effects, since an arrow can pierce more than one person, a bouquet can be (and often is) caught by more than one person, hurricanes and tsunamis can simultaneously wreak havoc on more than one area. In such cases, conceptually speaking, such things can be determined to all of the effects, and thus have a single determination which is analysable in multiple aspects.

way. But at this stage, at least, the fact of such goal-determined activity is clear, even if the cause is not.

With this explanation of goal-directed activity in mind, we may turn to the presence of such activity in nature, and in particular to how it is to be explained. In accord with Aristotle, Aquinas holds that the nature that the philosopher of nature investigates is mobile being.[21] The natural bodies to which Aquinas refers in the fifth way must therefore be mobile bodies. The finality that is the subject of the fifth way will be the goal-directed behavior of beings that are subject to motion.

The attentive reader of the five ways will have noticed that in the first way Aquinas offers a succinct but profound analysis of motion. In the *prima via* he holds that motion is fundamentally the movement from potency to act, and this motion is governed by a principle of actuality such that the motion cannot occur without that principle actuating some potency. Motion, then, is neither act alone nor potency alone, but actualized potency.[22]

As subject to motion, mobile beings are composites of potency and act. They have a principle of potency that is able to be actuated in some respect, and this actuation is brought about by the principle of actuality that governs the motion. Keeping all this in mind, finality is the *in order to* of the mobile being's motion; it specifies how such a being moves or acts. Thus, finality is coordinate with actuality insofar as it signifies the kind of activity in which the being engages. Any explanation of a thing's finality will have to be an explanation in terms of its actuality; there must be some principle of actuality that

[21] VI *Metaphys.*, lect. 1 (Marietti ed., n. 1155): "Ens enim mobile est subjectum naturalis philosophiae"; XI *Metaphys.*, lect. 7 (Marietti ed., n. 2260).

[22] For an affirmation of this outside of the context of demonstrating God's existence, see III *Phys.*, lect. 2 (Marietti ed., n. 285): "Unde neque est potentia existentis in potentia, neque est actus existentis in actu, sed est actus existentis in potentia: ut per id quod dicitur *actus*, designetur ordo eius ad anteriorem potentiam, et per id quod dicitur *in potentia existentis*, designetur ordo eius ad ulteriorem actum" ("Hence neither is [motion] the potency of the thing existing in potency nor is it the act of the thing existing in act, but it is the act of the thing existing in potency; so by means of the term 'act' its order to an anterior potency is designated, and by means of the phrase 'of the thing existing in potency' its order to an ulterior act is designated").

determines a thing's movement to its end. And this brings us to final causality, since for Aquinas the end plays a causal role in determining the being of mobile things.

Causality for Aquinas is aligned with the *why* of things, that is to say, one offers a causal response when asked why things are the way they are.[23] Causality is a kind of derivation and dependence of the effect on the cause, and such derivation and dependence entails that the effect is in potency to the cause in the required respect.[24] Causality is thus able to be analyzed in terms of act and potency.[25] It follows that if there are specifically different contexts in which the act/potency relation can be found, then there will be specifically different contexts in which causality will be found. Hence causality is not a univocal notion but an analogous one proportionate to the context in which it is applied. As is well known, the four traditional causal contexts that Aristotle enumerates and Aquinas adopts are (i) material, (ii) formal, (iii) efficient, and (iv) final.[26]

In the causality of mobile beings, form actuates matter into the matter of a particular kind of thing (e.g., a cat, dog, horse, tree), but form does not act of itself; rather, it requires some efficient cause to introduce it. The efficient cause introduces form for the sake of some end, whether that end is foreseen and willed by a rational creature or proceeds by way of a natural inclination, as in the case of nonrational creatures. Therefore the final cause, while not first in the causal process, is primary insofar as the efficient cause would not act without the end, and if the efficient cause did not act, the form (the formal cause)

[23] II *Phys*., lect. 5 (Marietti ed., n. 176).

[24] *De potentia Dei*, q. 5, a. 1 (Turin: Marietti, 1927): "Effectum enim a sua causa dependere oportet. Hoc enim est de ratione effectus et causae."

[25] V *Metaphys*., lect. 1 (Marietti ed., n. 751): "Hoc nomen causa, importat influxum quemdam ad esse causati" ("Potency and act distinguish the relation of cause to effect"); and V *Metaphys*., lect. 3 (Marietti ed., n. 794): "Potentia et actus diversificant habitudinem causae ad effectum" ("Potency and act distinguish the relation of cause and effect"); II *Phys.,* lect. 5 (Marietti ed., n. 183): "Omnia ista habent unam rationem causae, prout dicitur causa id ex quo fit aliquid" ("All of these have a single nature of cause, namely, that a cause is that from which something comes to be").

[26] V *Metaphys*., lect. 2 (Marietti ed., nn. 763-71); and V *Metaphys*., lect. 3 (Marietti ed., nn. 777-82).

would not actuate the matter.[27] Without the final cause, then, there can be no causality; it is the cause of causes.[28]

While anybody can observe and record the goal-directed activity of mobile beings, only the metaphysician can offer an explanation of it. This is because an explanation of such activity will not be a recording that it took place; rather, it will endeavor to offer an account as to why the efficient cause acted in such a manner; that is, it will offer an explanation for the causality of the efficient cause. Thus, an explanation of the goal-directed activity of a natural thing seeks to isolate the cause of the efficient cause's causality, and so will in turn be an explanation of a kind of causality (efficient causality) by appeal to a different type of cause (the final cause). Given that the finality of the efficient cause is imparted to it by the final cause, the presence of finality in a system requires a causal explanation in terms of the final cause, so that advertence to finality as an *explanandum* will require an appeal to causality. Clearly, as it is concerned with finality, the fifth way must be interpreted causally, and hence it seeks to conclude to a cause for the finality of things, and not merely a designer. Having said this, we can integrate such an interpretation of the fifth way deeper

[27] *STh* I-II, q. 1, a. 4: "Prima autem inter omnes causas est causa finalis. Cuius ratio est, quia materia non consequitur formam nisi secundum quod movetur ab agente, nihil enim reducit se de potentia in actum. Agens autem non movet nisi ex intentione finis. Si enim agens non esset determinatum ad aliquem effectum, non magis ageret hoc quam illud, ad hoc ergo quod determinatum effectum producat, necesse est quod determinetur ad aliquid certum, quod habet rationem finis. Haec autem determinatio, sicut in rationali natura fit per rationalem appetitum, qui dicitur voluntas; ita in aliis fit per inclinationem naturalem, quae dicitur appetitus naturalis" ("The first among all causes then is the final cause, and the reason is this. Matter does not follow form unless it is moved to do so by some agent; for nothing reduces itself from potency to act. The agent does not move unless from the intention of an end; for if the agent were not determined to some effect, it would no more do this than that. But in order for it to produce a determinate effect, it is necessary that it is determined to something certain, which has the nature of an end. Just as in the rational nature this determination is through the rational appetite which is called the will, so too in other things it is through a natural inclination, which is called the natural appetite"). See also *De Verit.*, q. 28, a. 7; *De Princip. Natur.*, c. 4.

[28] See I *Sent.*, d. 38, q. 1, a. 1, ad 4; d. 45, q. 1, a. 3; II *Sent.*, d. 9, q. 1, a. 1, ad 1; *STh* I, q. 5, a. 2, ad 1; *De Verit.*, q. 28, a. 7; *De Princip. Natur.*, c. 4.

into the metaphysics of Aquinas by considering the relationship between final and efficient causality in causal series.

III. The Explanation of Teleology

We have noted that the explanation of finality is a determining factor in the interpretation of the fifth way. We have noted that the final cause is what motivates the efficient cause to initiate a causal series, and so the causal series exhibits the finality, the "in order to," granted to it by the efficient cause. To return to the example of the fifth way, the archer shoots the arrow and the arrow exhibits finality, but the motivation of the archer to shoot the arrow, thereby giving it finality, is derived from the final cause, in this case something like the archer's intending to hit the target. In natural processes the process is unconscious but subject to the same analysis. The primary efficient cause of the natural process gets the process going, and its action is for *something*, it does *something* which *something* is its end. Hence each stage of the process exhibits finality for that end and thereby participates in the finality granted to the process by the efficient cause which is "motivated" to act by the final cause. We thus have a complex interweaving of efficient and final causal series.

In demonstrations of God's existence, we can get a good grasp of efficient causal series since we can easily visualize the causal regress and see where the argument against the infinity of such series is going. The case is different for final causal series since, at least in the fifth way, Aquinas does not present us with a model for explaining the causal series within which finality is operative; he takes it for granted, and this is no doubt a contributing factor to misinterpreting the fifth way as a design argument. Arguments of the Paleyite variety do not incorporate the finitude or nonfinitude of causal series, but focus more on explaining certain features of things within the universe as the result of some design; the finitude or nonfinitude of causal series is often the consideration of those arguments for God that

are lumped together as cosmological arguments.[29] Given Aquinas's metaphysics of causality and the focus on finality in the fifth way, we can read the fifth way as utilizing the metaphysics of causal series, a metaphysics that is to be found explicitly in the first two ways (and in my opinion implicitly in the third and fourth ways). Accordingly, although Aquinas does not explicate that metaphysics in the fifth way, it should nevertheless be read as being in harmony with the metaphysics of the causal series present in the earlier *viae*.

This metaphysics of causality that is present in all five ways is the causality of ordered series. In the second way Aquinas writes:

> In all efficient causes following an order, the first is the cause of the intermediate, and the intermediate is the cause of the ultimate, whether the intermediate are many or only one. Therefore, if there were not a primary in efficient causes there would be no ultimate or intermediate. So if one were to proceed to infinity in efficient causes, there would be no primary efficient cause, and thus there would be no ultimate effect, nor intermediate efficient causes.[30]

What Aquinas is drawing upon here is his thought on what have come to be called essentially ordered series (Aquinas himself

[29] This is a characterization that is often made of Aquinas's primary cause arguments—unfairly so, in my opinion, because in such arguments Aquinas is intent on showing that not only do things within the cosmos require a cause, but also things outside the cosmos (e.g., angels).

[30] See *STh* I, q. 2, a. 3. Aquinas exhibits the same kind of reasoning in the first way, though he does not use the terminology of ordered causes. In the first way he writes: "Hic autem non est procedere in infinitum, quia sic non esset aliquod primum movens; et per consequens nec aliquod aliud movens, quia moventia secunda non movent nisi per hoc quod sunt mota a primo movente, sicut baculus non movet nisi per hoc quod est motus a manu. Ergo necesse est devenire ad aliquod primum movens, quod a nullo movetur" ("This then cannot proceed to infinity, for then there would be no primary mover and consequently no other mover, because secondary movers do not move unless they are moved by a primary mover, just as the staff does not move unless moved by the hand. Therefore it is necessary to arrive at some primary mover which is moved by no other"). For an analysis of the second way, which focuses heavily on Aquinas's metaphysics of ordered series, see Gaven Kerr, "The Relevance of Aquinas's Uncaused Cause Argument," in *Revisiting Aquinas' Proofs for the Existence of God*, ed. Robert Arp (Leiden and Boston: Brill, 2016), 71-87.

uses the terminology of *per se* series). The members of such a series do not possess the causality of the series essentially, and so require a cause for their causality. By contrast, in an accidentally ordered series the members do possess the causality of the series essentially and so do not require a cause for their causality.[31]

The typical examples that Aquinas offers of these two series are:

(i) *Per se*: a stone (z) is moved by a stick (y) which is moved by a hand (x) which is moved by the mind (w): $w \rightarrow (x \rightarrow (y \rightarrow z))$.
(ii) *Per accidens*: a son (z) is begotten by his father (y) who is begotten by his father (x) who is begotten by his father (w) and so on: $(w \rightarrow x) \rightarrow (x \rightarrow y) \rightarrow (y \rightarrow z)$.[32]

I have explored the metaphysics of these series elsewhere in some detail.[33] Here I would like to summarize that metaphysics and connect it with the metaphysics of finality, thereby drawing the fifth way into the same argumentative framework as the earlier ways.

In the *per se* series the posterior causal relata are causally inefficacious without some cause for their causality; this is because they do not possess the causality of the series essentially (motion in the above example), and so they depend on something which does possess that causality essentially (the

[31] For an account of Aquinas's thought on essentially ordered series, see Gaven Kerr, "Essentially Ordered Series Reconsidered," *American Catholic Philosophical Quarterly* 86 (2012): 541-55; and idem, *Aquinas's Way to God: The Proof in "De ente et essentia"* (New York: Oxford University Press, 2015), chap. 5. For an application of the metaphysics of essentially ordered series to Aquinas's argumentation against infinite causal regress in the first way in particular, see Caleb Cohoe, "There Must Be a First: Why Thomas Aquinas Rejects Infinite, Essentially Ordered, Causal Series," *British Journal for the History of Philosophy* 21 (2013): 838-56.

[32] These examples are taken from *STh* I, q. 46, a. 2, ad 7, but in n. 29 above the mind-hand-stick-stone example is found in the first way. Examples of nonconscious causal series can also be provided: *per se*, the fire heats the pot which heats the contents of the pot; *per accidens*, a domino knocks over its neighbor which knocks over its neighbor, etc.

[33] Kerr, "The Relevance of Aquinas's Uncaused Cause Argument."

mind or mental agent in this case; the fire in the nonconscious case). That cause must be present to all members of the series granting their causality such that, as the second way states, "remove the cause and you remove the effect." So in the mind-hand-stick-stone example, if the mind is removed the motion of the series collapses, for without the presence of the mind as cause of the causality of the series there would be no causality in the series. The causality of the posterior causal relata, therefore, is a participation in the causality or causal efficacy that the mind possesses of itself. This feature is drawn out in the symbolic formulation above since therein *w* (signifying the mind) has the greatest causal scope, and thereafter we have descending levels of causal scope (and so greater restriction through bracketing in the symbolic formulation), but all such causality is dependent on that of *w*: if *w* is removed the causality is removed, and the series collapses as a causal series. Accordingly, no posterior member of the series would act unless it participated in the actuality of the primary cause, *w* in this case.

By contrast, the causal relata in the accidentally ordered series do indeed possess the causality of the series essentially, and so they do not require a cause for their causality. The causality of the cause is terminated in the immediate effect. So a father can produce a son, and the son can produce his own son (the father's grandson); but the father is not the cause of the son's son (the grandson). The son does not need his father's help in producing his own offspring. So long as he is a biologically capable male the son can exercise his own causal efficacy in producing his own son. The father need not be present for the latter act, whereas the mind must be present throughout the hand-stick-stone series, or there is no motion in the series. Hence, in the bracketing above, cause and effect in the *per accidens* series relate only in a one-one relation, such that the causality of the cause terminates in the immediate effect ($w \rightarrow x$). This effect can go on to act as a cause in the same manner ($x \rightarrow y$), but in so doing it does not require participation in the causality of its prior cause *w*; hence, the symbolic formulation must be bracketed off from the earlier causal relation $(w \rightarrow x) \rightarrow (x \rightarrow y)$.

Since in the *per se* series the very causality of the posterior causal relata must itself be caused, we may infer that the *per se* series cannot be without a primary cause. If it were, the posterior causal relata, which are causally inefficacious in themselves, would have nothing on which to depend for their causal efficacy, and so the causal series would collapse. Consequently, *per se* series are necessarily finite. This recognition is key to Aquinas's procedure in the first and second ways (and, in my opinion, the third and fourth ways) for establishing that there is some primary cause for the particular causal property in question, be it motion, efficient causality, necessity, or grades of perfection. By contrast, the *per accidens* series need not have a primary cause for the causality of the series, since each of the members possesses the causality of the series essentially (though of course Aquinas will argue, and I along with him, that such series are embedded within one overall *per se* series, whose causality is such that without it nothing would be).

Now where does finality fit into all of this? In drawing out the nature of finality above, it was shown that for Aquinas an efficient cause is causally inefficacious without some final cause. That is to say, unless the efficient cause acts for some end, unless it does something, it does not act. Every action of an efficient cause is for an end, so that the end is the motivation by which the efficient cause acts. The final cause, then, is the cause of the causality of the efficient cause.[34] Given this, and given the fact that a *per se* series is one in which a cause of the causality of the series is required, a final causal series, or a causal series in which finality is operative, is a *per se* series. Any final causal series is one in which there are effects (efficient causes), which

[34] V *Metaphys*., lect. 2 (Marietti ed., n. 775): "Efficiens est causa finis quantum ad esse quidem, quia movendo perducit efficiens ad hoc, quod sit finis. Finis autem est causa efficientis non quantum ad esse, sed quantum ad rationem causalitatis. Nam efficiens est causa inquantum agit: non agit nisi causa finis. Unde ex fine habet suam causalitatem efficiens"; *De Princip. Natur.*, c. 4 (Leonine ed., 4, ll. 16-19): "Efficiens enim dicitur causa respectu finis, cum finis non sit in actu nisi per operationem agentis: sed finis dicitur causa efficientis, cum non operetur nisi per intentionem finis" ("The efficient cause is termed a cause in respect of the end, since the end is not in act unless through the operation of an agent; but the end is a cause of the efficient cause since the latter does not operate unless through the intention of the end").

depend on some cause (the final cause) for their causality, and that is a defining feature of *per* se series. Hence, an explanation of finality will be a causal one which utilizes the metaphysics of essentially ordered series, a metaphysics which, it will be recalled, eliminates the possibility of an infinite regress of causes in the first and second ways.

All we have to do now is to modify the efficient essentially ordered series outlined above so as to incorporate final causality, and with that we will have a causal model for interpreting the fifth way.[35]

We may give an account of the mind-hand-stick-stone example in terms of finality.[36] We represented the series as follows: $w \rightarrow (x \rightarrow (y \rightarrow z))$. Now, instead of a mind-hand-stick-stone, we may imagine Dr. Smith going to the golf course to hit balls: Dr. Smith (w) moves his hands (x) to swing the club (y) to move the ball (z); considering the causal series in this way will give us a plausible scenario by which we can introduce finality (though the model for representing final causality is applicable to both conscious and unconscious situations, given that finality and hence final causality is applicable to both).

Why does Dr. Smith go to the golf course—for what reason or purpose? Perhaps he works in a department whose dean is a fan of golf and easily impressed by a skillful golfer. The opportunity for promotion has come along and Dr. Smith wants to impress the dean. So Dr. Smith goes to the golf course to hit balls *in order to* improve his swing *in order to* impress the dean. Here we have final causality at work. The overall final cause is to impress the dean—that is what motivates Dr. Smith—but to do that he must improve his swing. The goal of impressing the dean by means of his golf skills exercises causality over Dr. Smith, and hence the *in order to* of the series exhibits that finality.

With 'B' standing for improving his swing and 'A' standing for impressing the dean, we modify our formulation of the

[35] Aquinas gives us an indication of how to think of final essentially ordered series in *STh* I-II, q. 12, a. 2.

[36] I first proposed this account of finality and essentially ordered series in my 2017 article, "Essentially Ordered Series Reconsidered Once Again."

essentially ordered series as follows: [[w→(x→(y→z))]←B]←A. The original efficient causal series, including the overall causal scope of the primary cause (the mind, or Dr. Smith), is now contained within the overarching (final) causal scope of A (impressing the dean), whose causal scope requires a subordinate final cause B (improving the swing). A, and by subordination B, motivates w to induce motion to the series of x, y, z, in order to achieve that end. As primary efficient cause, w would not impart causality to the series unless motivated to do so by A, its final cause. Hence the causality of w is caused by A, which is the final cause. We have now integrated finality into our initial model of the essentially ordered series. Thus, we can link efficient and final causality in essentially ordered series.

Elsewhere I have argued that if we can locate a causal feature of (efficient) causal series without which there would be nothing, and if we can locate that causality within essentially ordered series, then we can establish that there is a primary cause without which there would be nothing. In the case of efficient causality, this causal feature is Thomist *esse*; whatever does not have *esse* is nothing. Similarly, if we can isolate a kind of final causality without which there would be no finality, and if we can locate that within a suitable essentially ordered series, then we must come to a primary final cause without which there would be no finality and hence no efficient causality (and certainly no primary efficient causality). Defending these claims is not my goal here; I am concerned rather with how to read the fifth way. This will be the focus of my concluding remarks.[37]

CONCLUDING REMARKS

In the five ways, as indeed in nearly all of his arguments for the existence of God, Aquinas's mode of procedure is to isolate some feature of reality and argue that that feature requires some absolute primary cause, otherwise it would not be; this is a key

[37] For more detailed discussions of a primary efficient cause and a primary final cause, see my works cited in this article: "Essentially Ordered Series Reconsidered"; *Aquinas's Way to God*; "The Relevance of Aquinas's Uncaused Cause Argument"; and "Essentially Ordered Series Reconsidered Once Again."

strategic move in his inference from participated to unparticipated being. In the first way, this is motion conceived in terms of act and potency; in the second, it is efficient causality; in the third, necessity and contingency; and in the fourth, degrees of perfection. Most important for our purposes, in the fifth way the relevant feature of reality is finality: "We see that there are things without knowledge, such as natural bodies, that operate for an end." God's existence is required to account for the finality of things that do not determine their own ends.

As pointed out above, arguments for the existence of God that proceed from an advertence to finality or teleology, and thence infer God as the governor of that finality, are often classified as design arguments; this is precisely because in that case God is simply an architect who arranges things in their dispositions to act and to relate to one another in just the right way. Aquinas may share the same starting point, but the advertence to the goal-directed behavior of things means that his mode of argumentation is not the same as that of design arguments.

Aquinas seeks to explain the finality of things that do not have minds but act with intention. Their acting with intention entails that they are ordered to their end; and so the ordered acting for an end requires explanation. This is evident when Aquinas says that "it is apparent that it is not by chance but by intention that they act for an end" and in his conclusion that God is responsible for the ordering of the acting for an end: "All natural things are ordered to an end by something intelligent, and this we call God." This ordering of natural things to their ends calls for an interpretation not only in terms of final causality, but also in terms of essentially ordered series, as I have argued.

So how can we cast the fifth way?

We begin with unintelligent things acting for an end. Such things act as efficient causes to bring something about, but they do not bring something about by means of their own intentions; their finality is caused from without. Just as the hand-stick-stone in the mind-hand-stick-stone series do not possess the causality

of the series themselves but require a primary cause which originates their causality, so too unintelligent things do not possess finality of themselves but require some cause of their finality in which they participate. The argument thus takes place within the context and indeed the metaphysics of *per se* ordered series. Now in accord with the metaphysics of that series, unless there is some primary cause which itself is capable of originating the causality of the members of the series, there is no causal series. If the causality is not originated, the members of the series have no causality. Applying such metaphysics to the fifth way, we must conclude that there is some primary cause which originates the finality of all unintelligent things in creation, without whose causality such things would not display finality. Drawing out the metaphysics further, we can see that the primary cause of finality for all unintelligent things must be uncaused in respect of final causality, or it would not be the primary cause of the series, but an effect within the series.

This interpretation thus far considers only unintelligent things, things incapable of willing the end for themselves. This works as an interpretation of the fifth way, since that is all the fifth way envisages. But an interesting question is whether or not all things, intelligent and unintelligent, require some ultimate final cause in whose causality such things participate for their own finality. I have argued elsewhere that we do need such an ultimate final cause, and indeed that Aquinas's metaphysics of essentially ordered final series commits us to just such a cause. All finality is ordered toward the good of those participating in it. Finality guides the efficient cause to its end, to what it is for; hence the final cause signifies the completion or perfection of the efficient cause. The presence of finality in all things, then, intelligent and unintelligent, guides such things to their ends and hence their goods. The causality of finality then is the causality of the good; goodness is the causal feature of final causal series so that every final causal series is motivated by the good in some way. Given the necessary finitude of essentially ordered series, there must be in final essentially ordered series some ultimate (or primary) final cause whose goodness is not caused but which causes the goodness of others

(just as in other contexts Aquinas argues there must be some primary efficient cause of *esse* whose *esse* is not caused). This ultimate final cause would be the good itself, and as the cause of the causality of final causal series it would be that which all desire, and what ultimately motivates all efficient causality, such as is found in the earlier *viae*.[38]

Intelligent things, no less than unintelligent things, are subject to the causality of the good itself. The difference is that intelligent things implement that finality through their willing of some course of action, not through a natural propensity to act in such a way. Consequently, while the fifth way explores the finality only of unintelligent things, the metaphysics which informs it can be extended to intelligent things as well.

It is not surprising that Aquinas's fifth way can be interpreted as a causal argument drawing on the metaphysics of essentially ordered series. In more recognizable demonstrations of God's existence, such as we have in the earlier ways, we meet with some form of causality and infer a primary cause without which such causality would not be. Indeed, Aquinas conceives of God as that on which all things depend for their being: the participated yet unparticipating source of all that is. In coming to the conclusion that the primary being in each of the five ways is what we understand God to be, Aquinas maintains that the particular mode of argumentation adopted in each way gets us to that primary source, He Who Is, as the *sed contra* of question 2, article 3 conceives of him. It would be odd for Aquinas to deliver us a primary being exercising causality over all beings in the first four ways, and then in the fifth way conclude to a primary being that is nothing more than a glorified architect. The oddness disappears when we interpret the fifth way not as a design argument but as a causal argument utilizing Aquinas's metaphysics of essentially ordered series. Once we have that in place, we can say that the fifth way concludes to a primary (final) cause of all that is (unintelligent). Interpreting the fifth

[38] In "Essentially Ordered Series Reconsidered Once Again" I argue that the primary final cause is identical with the primary cause of *esse*.

way in this way allows us to align it more closely with the earlier *viae* and more intimately with Aquinas's wider thought.[39]

[39] I wish to thank the Editor and Staff of *The Thomist* for helping me in bringing this article to publication. I also wish to thank two anonymous referees for their insightful comments on an earlier version of this paper.

BOOK REVIEWS

Work of Love: A Theological Reconstruction of the Communion of Saints. By LEONARD J. DELORENZO. Notre Dame, Ind.: University of Notre Dame Press, 2017. Pp. xiii + 346. $55.00 (cloth). ISBN: 978-0-268-10093-3.

DeLorenzo's new book covers a surprisingly wide range of topics, both philosophical and theological, and of authors, old and new. Among the topics dealt with are baptism, beatific life, charity, Christology, creation, death, desire, ecclesiology, eschatology, Eucharist, freedom, holiness, the Holy Spirit, Mariology, memory, original sin, purgatory, personhood, the resurrection of the dead, the saints, salvation, and sin. Among the authors, some of whom are considered in great detail, are Augustine, Hans Urs von Balthasar, Dante Alighieri, Henri de Lubac, Jacques Derrida, Dorothy Day, Romano Guardini, Martin Heidegger, Immanuel Kant, Jean-Luc Marion, Friedrich Nietzsche, Karl Rahner, Joseph Ratzinger, Rainer M. Rilke, Teresa of Avila, and Thérèse of Lisieux.

Surprisingly, the core notion that keeps all these topics and authors together might well be considered as secondary in theology, occupying as it does a relatively minor place in the Apostles' Creed: the *communio sanctorum*, a term that is usually translated as "the communion of saints" but also as "the communion of holy things." The author holds that the *communio sanctorum* is at the very heart of the Christian economy. He does not consider it a static reality that may be described in a simple, abstract way. Rather, "the communion of saints" is a living reality that is in the process of being gradually developed, purified, repaired, and constituted. The process is based on God's work of creation; it must take into account the fall of humanity (original sin), which has had the effect of breaking up the original harmony and communion present in creation; it requires the intervention of divine power through Christ, the sacraments, and the exercise of Christian charity; and it is destined to beatific, eschatological fullness.

The work deserves a careful read and provides fascinating insights into very topical and challenging issues. In addition, the author provides a wide-ranging bibliography and excellent indices.

I believe the key issue dealt with is the memory at the heart of the *communio sanctorum*. In effect, DeLorenzo asks: "If the memory of Christ is the central mystery of the Church in which the *communio sanctorum* is formed, then whose memory is this? Who remembers Christ and his saints?" (183). In other

words, who is the *subjectum* of the *communio sanctorum*? Toward the beginning of the book, the author argues that "death is creation's absolute zero as self-contradictory nonexistence. It is the collapse into nothing of that which was created out of nothing; this is the full meaning of death with which Christianity reckons" (ibid.). Death after all is the correlate of sin. He goes on to explain "that the gift of life that overcomes this unmitigated catastrophe [of death] is given in history but does not come from history—this gift is the Resurrection of Jesus Christ. In him, the Word of God that entered into the solitary silence of being dead speaks a new creation in the risen One, who embodies mercy as the truth of creation and the gift of new life in the Holy Spirit" (ibid.). But where does this new reality reside? What memory does liturgical celebration refer to and live off?

After all, when people die, they do so "as whole persons—no powers or potentialities remained in them, for them, or to them. If we can speak now of their memory, then we must acknowledge that their memory is dependent on that which does not, first of all, come from them" (183-84). Likewise, "if the power of memory is attributed primarily to the community that gathers in the liturgy, so too is this community made up of members who will, in time, die. . . . The memory that any creature maintains is limited, faulty, and, in the end, bound for erasure in death" (184).

The conclusion DeLorenzo takes from this reflection is as follows: "when the Church venerates its saints, remembers the dead, and enacts the memory of Jesus Christ in the Eucharist, it only ever does so *within God's own memory of history*" (ibid., emphasis added). This refers, of course, to the Eucharistic *anamnesis* (or living memory): "the blessed Passion, the Resurrection from the dead, and the glorious Ascension into heaven of Christ," as the Roman Canon describes it (ibid.). In effect, "in the Eucharistic liturgy, God's own memory is given to the Church so that the Church can make this sacred memory its own" (ibid.). The author insists that the memory that constitutes the living heart of the *communio sanctorum* does not belong to the creature but to the Creator: "This memory does not come from the Church but is given to the Church so that the Church may come to be. The Church discovers itself in this sacred memory the more it desires to know and love itself and all creation through this memory alone. . . . Without the memory that is given, creation is bound by the nothing from which it comes and the death to which it goes" (ibid.). Thus, "belief in the *communio sanctorum* absolutely depends on belief in the Triune God, and conversely, belief in the Triune God blossoms into the *communio sanctorum* as the Christian faith moves toward its consummate form" (ibid.). In brief, "the communion of saints is the eschatological symbol of the Word of Life spoken through the noncommunication zone of death" (185).

The book speaks frequently of God's memory as the basis for constituting the communion of saints (189, 196-97, 200-201, 223-24, 236-38), drawing on Augustine's reflections on human and divine memory in book 10 of his

Confessions. "This drama of communion is God's memory of creation—a memory preserved at the heart of the Church's liturgy" (223). "The absolute priority of God's memory is the heart of the communion of saints because the conferral of the sacred memory illumines all of creation in the redemption wrought in Christ" (237).

The author argues his position convincingly. He provides a well-integrated view of many aspects of Catholic theology. It is interesting to note, however, that he speaks frequently about death in parallel with creation. It would seem that just as God created all things without presuppositions of any kind—*ex nihilo* as the classic expression would have it—the death of humans will constitute a return to nothing. "I have gone to great lengths . . . to argue that, in the Christian view, human death is a definitive end. Due to sin, this end approaches the total breakdown of communication from God, who is the source of all life" (96). He often states that death is a correlate of sin (72ff., 80-81, 88, 103) and of noncommunication (e.g., 48, 62-63, 76-77, 80ff., 90). It would seem, therefore, that the resurrection of the dead would be a kind of "re-creation" of the human being. Thus he suggests that "the gift of the resurrection of the body [is] comparable to but not identical with God's original act of *creatio ex nihilo*" (64). DeLorenzo writes further, "Seeing through the absolute gift of the Resurrection illuminates the analogous relationship between the *resurrection of the body* and the doctrine of *creatio ex nihilo*" (94-95). Moreover, he says, "Life in the Spirit proclaims the deepest logic of the world as *created*, so that those who are re-membered [resurrected] in the liberating gift of God's mercy in Christ come to embody *caritas* as a testament to the ultimate truth about the world and the God who created it" (178).

Perhaps this view of death and the afterlife explains why DeLorenzo does not deal with the question of the human soul throughout the work. In fact, he speaks negatively of "the Platonic doctrine of the immortality of the soul, which holds that the soul is freed from the body at death" (244 n. 1). He observes: "From a Christian perspective, this doctrine is insufficient due to its disregard for creation and history. . . . This view is not only inadequate for the fullness of Christian hope, but also . . . it comes under attack from modern philosophy, which often takes this view as standard for Western religions, especially Christianity" (ibid.).

The classic view of death, of course, involves the "separation" of body and soul induced by original sin and overcome at the moment of the resurrection of the dead. Yet Aquinas's view of the soul, understood as the *forma corporis*, the form of the human body, and thus inspired by Aristotle's hylomorphic theory, is very different from Plato's and fully respects the created and historical character of man. It is interesting to note that the modern philosophical view of the human spirit, dependent on Descartes, draws more on Platonic dualism than on Thomistic and Aristotelian monism.

But a proper understanding of the soul is deeply related to the key issue raised by the author, namely, that the divine memory alone reconstitutes the

communio sanctorum. Thomas holds that humans enjoy not only sensitive memory (in this life), but also (against Avicenna) spiritual memory (*STh* I, q. 79, aa. 6-7; *ScG* II, c. 74), which in principle will last forever on the basis of the soul's native incorruptibility. Of course, all living memory ultimately has its roots in God the Creator, as the author rightly asserts. And a wide variety of theologians understand the resurrection of the dead in terms of a raising up of the human-life narrative through the power of God, as I explain in *Christ our Hope* (Washington D.C.: The Catholic University of America Press, 2011), 109-12. But does this make it necessary to sacrifice the enduring quality of all created memory by death? Is the role God wished humans to occupy in their own salvation fully respected? Perhaps the author attributes too much weight to the destructive power of sin and death over the human subject. Interestingly, he speaks of the value sin and death occupy in human life: "The very wounds of the sins of many become the sites of the resurrection of the body, where new relationships based in mercy are forged among those who previously stood in enmity, suspicion, and hatred" (157).

All in all, the work provides a powerful and unitary reading of Christian salvation centered on the communion of the saints. Yet a properly understood incorporation of the concept of "soul," God's "work of love," might have better filled out the picture of our understanding of the communion of saints.

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Exodus. By THOMAS JOSEPH WHITE, O.P. Brazos Theological Commentary on the Bible. Grand Rapids, Mich.: Brazos, 2016. Pp. xx + 316. $32.99 (cloth). ISBN: 978-1-58743-346-7.

The goal of the series in which this learned, judicious, and accessible volume appears is stated nicely by the editor, R. R. Reno, in his preface: to encourage an "unashamedly dogmatic interpretation of scripture" (xv). The commentators are thus "not biblical scholars in the conventional, modern sense of the term [but rather] were chosen because of their knowledge of and expertise in using the Christian doctrinal tradition" (xiii). Procedurally, the method is based on the conviction, again in Reno's words, that "philological precision and stability is a consequence of, not a basis for, exegesis. Judgments about the meaning of a text fix its literal sense, not the other way around" (xv). To the pressing question of just how such a doctrinally determined exegetical method relates to

what he calls "the now-old modern methods of historical-critical inquiry," the editor professes himself agnostic (xiv), but he underscores his determination to pursue a more traditional and theologically focused alternative when he quotes the old adage "War is too important to leave to the generals" (xiii).

Thomas Joseph White, O.P., the author of this commentary on Exodus, meets these goals with outstanding success. To what extent succeeding in this controversial task, however, involves taking liberties with the scriptural texts is a more complicated question and one we shall explore anon.

In White's case, "the interpretations offered . . . presuppose the perennial truth of [Roman] Catholic doctrine" (17) and draw "special inspiration from the theological insights of Thomas Aquinas" (8). In the Thomistic exegetical mode, "the literal sense of the text of scripture pertains primarily to *the realities signified* by the human author of the text, under the inspiration of the Holy Spirit" (ibid.), and "the spiritual sense . . . is *always founded in the literal sense*" (9). Unlike a conventional, historical-critical commentary, White's book is thus focused on the spiritual meanings, giving attention to the moral, typological, and anagogical senses, that is, to "things to be done," "realities pertaining to Christ and the Church," and "the eschatological life of the world to come," respectively (ibid.).

Apart from the literal sense, however, it is the typological that receives the most attention, and here the reader grounded in premodern Christian exegesis will find the method familiar but the insights refreshing and edifying. Moses's intercession for the people Israel in the narrative of the Golden Calf is thus interpreted "to denote literally a reality in Israel's past" but also "typologically, as a prefiguration of Christ, who prays for all of humanity on the Cross, or of the Church, who prays for the salvation of human beings from sin and death." Similarly, White interprets the "crossing of the Red Sea" as a report that once more "denotes literally an event in Israel's past," but, on the basis of Revelation 4:6, he also sees it anagogically "as an image of the blessed who stand on the far side of the divide between heaven and earth" (10). Similarly, citing the thirteenth-century Jewish commentator Nachmanides (Rabbi Moses ben Nachman), he sees the descent into Egypt as a type of "the later exile of the people of Israel into Babylon," but he also connects it with "the voyage into Egypt of Joseph and Mary with the child Jesus" in Matthew 2. Anagogically, the same event "represents the souls of men who go down into the material things of this world," from which they must then be delivered (26).

White's investment in the spiritual sense should not blind the reader to his equally Thomistic conviction that "the teaching of the Old Testament has an integral literal signification that must be explored for its own sake" (10). Unlike many highly religiously traditional commentators in the Jewish or Protestant traditions, he has recourse to historical-critical research and does not object to the notion that Exodus shows ample evidence of a complex compositional history involving the work of multiple authors and editors over the course of several centuries. On balance, though, he is little interested in historical

questions, inclines towards a conservative view of the historicity of the narratives (at least *in nuce*), and does not dwell on the differences in theological vision among the sources underlying the redacted text. To put matters more affirmatively, he exhibits a salutary sense of the speculativeness of most historical reconstructions and authorial attributions. It is devoutly to be wished that more historical critics were possessed of the same awareness of the insecurity of their judgments.

The commentary displays impressive knowledge of the contents of both testaments of the Christian Bible and of Roman Catholic tradition alike. It includes apt citations of the Fathers and ample recourse to Aquinas. It is written with admirable concision and pleasing fluency, despite the occasional Latinism and an odd habit of monotonously repeating the word "God" where the substitution of a pronoun would remove the awkwardness. Usually, this disinclination to use pronouns is owing to a desire to avoid male-gendered language, but White's occasional employment of masculine forms where "God" is the antecedent shows that this is not the motivation in his case.

The most formidable challenge in using typology is to identify the appropriate set within which the correspondences can attain credibility and avoid the charge of arbitrariness. In this book, the author sometimes invokes those "realities pertaining to Christ and the Church" as if they are the contextual sense of the passage within the Hebrew Bible itself. He writes, for example, that "within the larger context of the Torah, the robes of the priest [in Exodus 28] should be understood against the backdrop of Gen. 3:21. . . . In Israel, Adam is clothed in glory before God, or put another way, Israel is the new Adam, particularly in the offering of sacrifice to God, which stands at the heart of the covenant and the center of creation" (256–57). This notion of a new Adam who reverses the effects brought about by the first Adam is familiar from the New Testament (1 Cor 15:21-22; Rom 5:12-21). Given the venerable status of the story Christians call "the Fall of Man" as a weight-bearing beam in the edifice of Christian theology, Christians can have difficulty appreciating that the story is much less consequential in the Torah. In fact, the little tale of Adam and Eve is arguably never referred to again within the Hebrew Bible. In White's comment on the priestly robes, he imports Christian priorities into the text of Exodus without labeling them as typological and dependent on the early Christian reuse and revalorization of the Hebrew Bible. As for the claim that "the offering of sacrifice to God . . . stands at the heart of the covenant and the center of creation," I can imagine a case for the centrality of sacrifice to covenant, but the extension to creation is again an unwarranted extrapolation from the Christian reading of Genesis 3 and, most likely, also from Roman Catholic theological reflection on the Mass—unwarranted, I hasten to add, "within the larger context of the Torah."

This instance and many others in White's commentary call into doubt Reno's conviction that "judgments about the meaning of a text fix its literal sense, not

the other way around" (xv). A better approach would be a dialectical one that acknowledges that there is a variety of contexts in terms of which a text yields its sense and that the senses that different contexts produce are not easily convertible or subsumable into each other. In such a hermeneutic, one can privilege a given trajectory—Christian, Jewish, or whatever—on confessional grounds, but one cannot assume that the "literal sense" (itself a complicated concept) points unequivocally in the desired direction.

White's eagerness to harmonize the Book of Exodus with Christian, especially Roman Catholic, theology and practice leads him to a number of misstatements, only a few of which I can mention here. In Exod 19:15, he finds the seed of "the radical witness of consecrated celibacy on the part of some prophets, like Elijah and Jeremiah" (149). But there really is no evidence for such an institution in ancient Israel. Even the Nazirite is not forbidden to marry (Num 6:2-8). In the case of Jeremiah, the prohibition on the prophet to do so and to have children effects a sign of an impending judgment, one that will result in the death of children and put an end to the joy of weddings (Jer 16:2-4, 9); it is not a spiritual ideal.

"On the Sabbath," White writes in reference to the Decalogue of Exodus 20, "the community is to refrain from unnecessary work . . . and the revelation of God should be studied" (165). Here, the term "unnecessary" reflects nothing in the commandment itself and betrays an underestimation of its scope. Studying the sacred text is quite characteristic of the Sabbatarian observance in the Jewish tradition but not in the Hebrew Bible itself and certainly not in the Decalogue. As for the prohibition on false witness in Exod 20:16, White thinks this "concerns the matter of truths spoken to another or about another" (185). One might reasonably extend the range of the prohibition in that direction, but surely the explicit forensic context of the verse should be acknowledged.

Although White affirms that the election of the Jewish people remains in effect, and that there are thus "theological as well as humanitarian reasons to support the existence of the modern state of Israel" (208), he tends to downplay the role of election and covenant in the Hebrew Bible, preferring to stress, sometimes unconvincingly, the universality of the community addressed and the norms enjoined upon it. He holds, for example, that the Decalogue "refers directly to the 'natural law' that is written implicitly on the hearts of all human beings" (151). Within the specific context of the Book of Exodus, however, this minimizes the preamble in which the LORD identifies himself as the one who took Israel out of Egypt (Exod 20:2; in rabbinic tradition, this by itself constitutes the first of the ten divine utterances). It also overlooks the import of the second-person address and the particular identities of the divine and human parties, all of which are key to the covenantal theology in evidence. It is also not easy to derive from universally available law such commandments as the ones that prohibit all visual representation or enjoin the Sabbath.

Similarly, in support of what he calls "the universality of the covenant" (269), White cites Gen 17:4-5, in which God promises Abraham that he will

become the father of a multitude of nations, as indeed he does in the Torah, but White neglects v. 21, which explicitly restricts the covenant to Isaac's line. As early as Paul's Letter to the Galatians (4:21-31), Christians have identified the Church with Isaac alone among Abraham's progeny and seen conversion to Christianity as the means by which all humanity will eventually inherit the promises to Abraham (3:6-8). Whereas White sees "the universality of the covenant" as one of the "internal tensions or paradoxes that [the Torah] cannot resolve itself and that call for resolution" (269), it would be more productive for understanding the theology of the Hebrew Bible itself to note that universalism in that set of books takes a different course and is not tethered to membership in the lineage of Abraham, Isaac, and Jacob.

Given the historicism and secularity of so much biblical scholarship today, one can easily sympathize with Reno's judgment that the Bible is too important to be left to biblical scholars, and Thomas Joseph White's new commentary on Exodus shows the value of biblical work done by a nonspecialist with robust faith, unshakeable doctrinal commitments, immense theological learning, and a gift for lucid communication. But there is still a good reason to keep biblical scholars in the conversation: to make sure that amidst so much theology and doctrine, the distinctive voices of the biblical texts themselves, in all their variety and ambiguity, are still heard.

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Tolerance among the Virtues. By JOHN R. BOWLIN. Princeton: Princeton University Press, 2016. Pp. 265. $39.50 (cloth). ISBN: 978-0-691-16997-2.

When Karl Popper said that we should "claim, in the name of tolerance, the right not to tolerate the intolerant," he illustrated well the confused and confusing relationship that liberal society has with the very notion of tolerance. On the one hand, we are inclined to think of tolerance as something praiseworthy and admirable. On the other, there are a great many things that even the most tolerant of us feel unable or unwilling to tolerate. In *Tolerance among the Virtues*, John Bowlin examines the complicated notion of tolerance. In spite of the many confusions that surround it and in spite of the many criticisms leveled against it, Bowlin argues that tolerance, rightly understood, is

not only a virtue but one that fits well into the landscape of virtue described by Aquinas. The book consists of an introduction, six chapters, and an epilogue.

Any attempt to locate tolerance as a virtue must first address the vexed question of what tolerance *is* (and is not). Aristotle does something similar when he describes the virtue of courage: he takes care to distinguish the genuine article from its several false forms or "semblances," which resemble the real thing but which fall short in crucial respects. Bowlin argues that many of tolerance's critics make a similar mistake: they are rightly critical of *something*, but the object of their criticism is not tolerance itself but a false semblance of it. Tolerance, Bowlin argues, is typically (wrongly) characterized as a kind self-restraint, where we unwillingly stifle our opposition to what we despise in order to achieve some other good. If this is what tolerance is, then it certainly is problematic: we can only practice tolerance by going *against* what we desire, a practice which can only lead to resentment. Bowlin proposes that we approach tolerance from a different angle: that we assume that tolerance is a virtue and that we attempt to give an account of it.

As one might expect, the meat of Bowlin's book consists of an attempt to offer a substantive account of tolerance as a natural virtue, one that, if not found in Aquinas's lengthy lists of virtues, is at least Thomistic in spirit. The qualification "natural" merits attention. Bowlin uses the term in the first place to refer to what makes a virtue a virtue in the first place. A virtue is "natural," he says, "whenever we locate an activity characteristic to our kind that cannot be performed well and a pursuit that cannot succeed without the habitual perfection it implies" (64). Tolerance will be a natural virtue, then, insofar as there are human pursuits that cannot be performed well without it. But, as becomes clear later in the book, Bowlin also uses the term "natural" for a separate reason, namely, to distinguish the virtue he wishes to describe from *supernatural* virtues: those virtues that are ordered to our supernatural fulfillment and that are bestowed along with sanctifying grace. Bowlin will ultimately argue that there is also a supernatural version of the natural virtue he describes.

What then is the virtue of tolerance? Tolerance, Bowlin proposes, is a disposition to "endure the objectionable differences of others in order to maintain the society they share, the peace that abides between them, and the autonomy each enjoys with respect to differences in dispute" (118). Perhaps most important, the tolerant person does these things not primarily for himself but for the person he tolerates. He renders it to him as *his* due: "tolerance, like justice, sets a relationship right, and the relationship set right is the end that the tolerant hope to achieve, the common good they hope to secure and share with the person they tolerate" (119). Why do we *owe* others tolerance of their objectionable differences? Because, Bowlin argues, the society we share with them and the respect their autonomy deserves demand it. We cannot live peaceably in society with others or give them the autonomy they deserve unless we tolerate some of the things we find objectionable about them. Truly to

possess tolerance as a virtue, a lot is required. One must accurately recognize which differences are objectionable and which are not. Bowlin argues, for instance, that there can be no virtuous tolerance of "race, religion, ethnicity and sexual orientation" (135) because these differences are not objectionable to begin with. Furthermore, one must accurately recognize which genuinely objectionable differences need to be tolerated in order to secure our shared common good. Perhaps most important of all, once it is determined that an objectionable difference ought to be tolerated, persons who possess the virtue of tolerance will endure that difference *virtuously*: they will not endure it grudgingly, but willingly, because they recognize that their patient endurance is *owed* to the other.

Bowlin is by no means arguing that all things ought to be tolerated, let alone that the virtue of tolerance requires one to tolerate all things. Indeed, just as the virtue of courage sometimes requires one to flee rather than stand firm, sometimes it will be appropriate for those who possess the virtue of tolerance to be intolerant or even coercive. This will occur when the patient endurance of objectionable differences cannot achieve the ends tolerance seeks to achieve.

Bowlin's analysis of tolerance and his attempt to fit it into Aquinas's schema of virtue is representative of the best of modern Thomism. By applying Aquinas's categories to a topic of contemporary relevance, he brings Aquinas into genuine conversation with contemporary culture in an admirable way. At the same time, however, there are aspects of Bowlin's account that I wish were developed further. I will close by mentioning three of them.

First, I wish Bowlin offered more examples. He opens his book with an extremely relevant example, an example he promises to return to: the story of his visit to an Oklahoma cockfight. I waited the entire book for Bowlin to take a stand: is cockfighting deserving of our patient endurance, or is it not? Yet when he finally does revisit cockfighting at the end of the book, he says only that some, himself included, find cockfighting intolerable and that others do not. And while he is willing to describe what he believes should not be tolerated (a list that contains no surprises), he offers hardly any examples of things he believes ought to be tolerated. In all, the only example of tolerance he devotes any time to is that of tolerating a teenager's unpleasant taste in music. I would find this book much stronger if it pushed the reader to tolerate something outside her comfort zone. If the virtue of tolerance does not require us to do anything we do not already do, then the need for cultivating it or for recognizing it as a special virtue is unclear.

Second, I never fully understood what the "patient endurance of objectionable difference" would amount to in practice. What, for instance, would the patient endurance of cockfighting amount to? Is it possible to "patiently endure" cockfighting while simultaneously working to end it? While engaging its advocates in debate? Or does patient endurance require that one refrain from all attempts to eliminate it? Similar questions can be raised about "tolerating" a

teenager's taste in music. If I let my son play his music but debate with him about what makes music good, am I still tolerant? If I let him play his music but refuse to pay for songs I find objectionable, am I still tolerant? It seems to me that these questions are not just important but all-important. They are crucially related to the third point I wish to raise.

Bowlin describes the virtue of tolerance as a part of justice, something that we owe others for the sake of their autonomy and for the sake of the society we share. I cannot help but feel that there has to be something more to tolerance than this. What makes a child feel that a parent genuinely tolerates his musical taste? I suspect that it actually has very little to do with the specifics of what his parent allows him to do or not do and a very great deal to do with whether the child continues to feel genuinely that his parent loves him as a person in spite of whatever differences they might have. I think the same is true of the political differences we have with our friends and neighbors. Can we disagree with our fellow citizens about deeply important issues, and perhaps even fight for dramatically different social structures, while still showing the people with whom we differ friendship and love? The ability to do so is rare and important and would seem to me to constitute truly virtuous tolerance. I do not think Bowlin is necessarily unsympathetic to this notion, but I wish this aspect were addressed.

These few comments notwithstanding, I think this is an interesting and important book, well worth the read for anyone interested in bringing Aquinas into conversation with contemporary culture.

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The Prophetic Church: History and Doctrinal Development in John Henry Newman and Yves Congar. By ANDREW MESZAROS. Oxford: Oxford University Press, 2016. Pp. xvi + 268. $99.00 (cloth). ISBN: 978-0-19-878634-4.

Andrew Meszaros has given us a highly informative study of the relationship between the thought of John Henry Newman and Yves Congar on the crucial issue of doctrinal development. He rightly recognizes that reconciling the stable content of divine revelation with the socio-historical contexts from which doctrine emerges qualifies as one of the thorniest and most pressing theological issues today. The book's purpose is to show that doctrinal development, and so

Christian doctrine itself, is "both thoroughly historical and thoroughly divine" (12).

Meszaros is well aware that most theologians take careful account of the role of history in the formulation of Christian teachings, but that not all are similarly careful with protecting the normative and representational role of doctrine. Meszaros states, for example, that "[Lieven] Boeve from a postmodern hermeneutical point of view, [John] O'Malley from a historical point of view, and [Terrence] Tilley from a pragmatic/philosophical point of view relativize doctrine to the point that it becomes difficult to identify the basis for any doctrinal normativity" (7).

What Meszaros admires in Newman and Congar is that they were fully alive to historicity—and so to the historical conditioning of Christian doctrine—but without betraying doctrine's materially continuous and ostensive mediation of divine revelation. Neither of these thinkers falls prey to the idea that doctrinal formulations are "so historical, so contextually and linguistically dependent" that they lose (invoking all the necessary qualifications) their representational force (ibid.).

Of course, it is the issue of material continuity over time—despite the challenging winds of history, culture, and language—that originally gave rise to extended reflection about the development of Christian doctrine. The first theologian to examine this issue *ex professo* was St. Vincent of Lérins, who already in the early fifth century recognized that the Church had to account theologically for the use of nonbiblical terms such as *homoousios* and *Theotokos*. Did these linguistic innovations maintain the identity of biblical meaning? Did they "guard the deposit" as St. Paul insistently writes to Timothy (1 Tim 6:20)? If theological change does occur over time, as is clearly the case, then how does one distinguish a legitimate development (*profectus*) from a pernicious corruption (*permutatio*)? And which theological warrants allow one to make that decision? All of these questions were discussed by Vincent in his *Commonitorium*, written not long after the Council of Ephesus concluded in 431.

These ideas gained new force, of course, in the work of Newman. With crisp and accessible prose, Meszaros guides us through the reception of Newman by French thinkers—and Newman's influence was considerable in France—and by Congar specifically. By the time Congar was writing, Newman had been cleared of any association with Modernist authors, such as George Tyrrell, who had appropriated Newman for their own purposes. He had also been rescued from the anti-intellectual cast that Henri Brémond, Newman's translator, had given to the Victorian by accenting his interest in imagination, intuition, and feeling (35). These interests caused Thomists such as Ambroise Gardeil to be wary of Newman. Meszaros points out that the effort to rescue Newman from Modernist interpretations had been led by Erich Przywara (37). Another significant influence on Congar's thought, Louis Bouyer's biography of Newman,

had asserted, "whereas Newman sought permanence amidst change, the French Modernists sought a principle of change within tradition" (38).

I was surprised to learn that Congar never wrote an article solely on Newman, but, as Meszaros points out, he incorporated the Victorian's thought into much of his work—on the material sufficiency of Scripture, on the relationship between Scripture and Tradition, and, of course, on the role of the laity and the *sensus fidelium* (51). With Newman's help, Congar recognized that modernity had posed two weighty challenges to Catholic theology: (1) the role of the subject, that is, what the active subject brings to the noetic situation; and (2) the irrepressible role of history in doctrinal development. Congar was impressed with Newman's assertion that the "persuasive efficacy of evidences and arguments" depends on the subjective disposition of those addressed (22). And he came to appreciate Newman's conviction that an individual's "prejudices, presuppositions, and moral dispositions" shape his reasoning and his eventual knowing (60). Congar also appropriated Newman's emphasis on Mary as one who not only accepted the Word of God, but who dwelled upon it and so developed it (94). On all of these points, Newman helped Congar to see the essential role of the subject in receiving and interpreting divine revelation.

Congar was also deeply impressed by Newman's approach to history. For both men, history is an important *locus theologiae*, serving as one of the causes behind doctrinal development (141). While both regarded history positively, Newman tended to interpret history typologically—with the visible order teaching us about the invisible—while Congar, more heavily influenced by St. Albert the Great and St. Thomas, tended to see value in the natures of things themselves (138). For Newman, this world "subserves" the next one, acting as a veil or a sign. Congar, on the other hand, "gives more explanatory power to created realities without thereby sidelining God" (221). Meszaros rightly stresses the complementary aspects of these two approaches, which, of course, ultimately reach down to the relationship between nature and grace.

A point uniting Newman and Congar is that "historical existence does not preclude an enduring adhesion to fundamental principles" (161). In other words, a concern for historicity is combined with an attachment to dogmatic truth. Historical events may influence and prompt a definition, but what the Church believes is never simply the product of history. For Congar, history both demands doctrinal development and, often enough, provides the tools for it. For example, the great discoveries of the fifteenth century demanded new theological reflection on the time-honored axiom *Extra Ecclesiam nulla salus* (172). But history also provides insofar as it offers concepts that help the Church express her faith. Person, nature, substance, and accident are good examples of concepts provided by "history" although transformed by the new wine of the gospel. Ultimately, for Congar, history is never on an equal footing with the *donné révélé*. The *donné* of the world is always "judged and clarified by the *donné* of the gospel" (170).

I found particularly helpful Meszaros's discussion of how Congar's understanding of doctrinal development changed after Vatican II. He gradually distanced himself from a naïve, linear theory of development that amounts, in Congar's own words, to "a simple unfolding of the implicit by a consistently linear process" (184). But what does he put in its place? Congar holds for a "less unified trajectory of doctrinal development" that takes account of plural developments and discontinuities (ibid.). His fundamental insight is that doctrines take circuitous paths throughout history—not simply linear ones—and so theology must take account of "discontinuity, plurality, forgetting and recovery of doctrine" (184-85). As an example, Congar cites the historical and theological complexities attending the illicit ordinations of heretics. But we can also turn to Vatican II—on topics such as religious freedom and ecumenism—to see that there were conciliar discontinuities with the prior teaching of the Church's ordinary magisterium. The major point is this: development is not simply linear and cumulative, but often takes a complicated, labyrinthine path characterized by forgetting, recovery, and novelty. Congar does not proscribe the words "homogeneous" or "unfolding"; at the same time, he wishes to make clear that development should not be understood in an "excessively logical manner" or in a way that is "too chronologically tight" (187).

Meszaros points out that Congar's post-Vatican II theory of development was deeply influenced by Jean-Pierre Jossua and Gregory Baum. The latter argued that certain positions taken at Vatican II were not homogeneous developments but represent "something like a quantum leap" (190). Congar is more cautious, recognizing that the council breaks new ground but insisting nonetheless on the enduring meanings of dogmas, which remain permanent (191).

What all this indicates is that Congar, a master of positive theology, sought to be true to history—acknowledging that doctrinal development occurs in fits and starts—without spilling over into relativism. The stability of Christian doctrine always remained a concern for him. As Meszaros states, "sensing what is tantamount to a rehashed Modernism in the 1970s," Congar warned against allowing the "*données du monde* [to] take the place of the *donné révélé*" (195). For all of Congar's emphases on the circuitous path of development, there is "nevertheless a deep continuity and progress on the dogmatic level," and the "truth of the faith that a formula communicates is permanent," even if the formula itself is contingent (ibid.). Dogma can never be reduced either to a pragmatic statement or to a symbol of religious experience, leading Meszaros to affirm that "Congar's concurrence with Newman's dogmatic principle is indubitable" (99). For both men, doctrine is equally a product of history and an instrument of divine revelation (240).

In my judgment, this excellent book does have one weakness. As earlier noted, Vincent of Lérins is the first Christian thinker to have seriously wrestled with the issue of doctrinal development. While Meszaros points out that "both

Vincent and Newman admitted of development" (65), the book would have been helped by a more extended treatment of Vincent's enduring influence on Newman's understanding of development. Newman translated significant sections of the *Commonitorium* (with commentary) into English while still a young man. This volume was to have a profound effect on him for his entire life, with Newman remarking in the *Apologia pro vita sua* that the principle of development "is certainly recognized in the Treatise of Vincent of Lérins." Newman not only adopts Vincent's primary metaphor for development—the law of the body—but his first note for ensuring authentic development, "identity of type," the note on which the Victorian spends the greatest amount of time, is deeply indebted to Vincent's insistence on maintaining the *idem sensus* over time (a position canonized by Vatican I and *Ineffabilis Deus*, as they both cite *in eodem sensu eademque sententia*). Further, Newman closely follows Vincent—even while expanding upon him—in his treatment of the theological warrants inevitably invoked when making a judgment as to whether some doctrinal change is a *profectus* or a *permutatio* (a distinction, once again, that Newman explicitly borrowed from Vincent's work).

Congar, on the other hand, who hit few false notes over the course of his long and extraordinarily productive theological career, never fully understood Vincent. He consistently misinterpreted the Lerinian's famous canon, "*id teneamus quod ubique, quod semper, quod ab omnibus creditum est,*" accusing Vincent of a theology that is "excessively static" and has an "archaizing" quality, a misunderstanding that can still be found in certain theologians. Tracing the differences between Newman and Congar on this point might have yielded fruitful results.

Despite this minor quibble, I found Meszaros's volume to be a very solid piece of research—well-written and deeply engaging. There is barely a Catholic theologian alive who has not been influenced by Newman and Congar. This book, which skillfully blends the contributions of both thinkers, will help theologians to understand them more profoundly.

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Aquinas on Virtue: A Causal Reading. By NICHOLAS AUSTIN, S.J. Washington, D.C.: Georgetown University Press, 2017. Pp. xxiv + 233. $104.95 (cloth), $34.95 (paper). ISBN: 978-1-62616-472-7 (cloth), 978-1-62616-473-4 (paper).

Most recent works on virtue ethics, if they delve into the history of philosophy at all, draw on classical Greek or Hellenistic thought as their primary historical resource. Theologians sometimes, but philosophers rarely, draw on Aquinas, despite his robust and sophisticated treatment of virtue. Misinterpretations are distressingly common. The fault lies in part in contemporary philosophers' impatience with Aquinas's theological commitments (even Philippa Foot, who admired Aquinas, disliked reading those parts of his work that are explicitly theological), but in part with Aquinas scholars themselves, who are apt to fall into opaque Thomistic jargon and often fail to connect Aquinas's concerns with those of contemporary scholars. Aquinas's world would seem so much less foreign and so much more fruitful if only there were adequate bridges to take us there.

Aquinas on Virtue is just such a bridge: advanced undergraduates, graduate students, and philosophers and theologians whose specialty is not Thomistic ethics will find this work particularly helpful. Austin packs a lot into this little book, designed to show the relevance of Aquinas's theory of virtue for contemporary ethics. To this end, he takes on some important objections, such as that Aquinas's ethics is prudish or patriarchal, that it fails to recognize the decisive role of situations (rather than character) in determining what we do, and that its reliance on intrinsic finality in nature is misguided (because it is rendered obsolete by Darwin or because it is a mere projection of the human mind onto nature). Austin offers brief and clear responses that, while hardly decisive, nevertheless demonstrate that there is a fuller debate to be had.

Austin's focus is Aquinas's theory of virtue, which he distinguishes from a virtue theory. Aquinas does not offer a virtue theory in the sense that his account of virtue is more fundamental than, say, his account of natural law or his action theory. In his more holistic approach, Aquinas intertwines these various elements. The study of Aquinas's theory of virtue therefore gives us one important inroad into his ethical theory. What sets Austin's study apart from other studies of Aquinas on virtue is his embrace of a "causal approach." For Aquinas, a full account of something requires that we explore all its causes, not just its formal cause but its final, efficient, and material causes as well; and so we find him examining all four causes in treating any number of topics, such as the human being, free choice, and virtue. Austin finds that by following Aquinas's lead in this way, not only will he be able to offer a full and systematic account of Aquinas on virtue, but in the process he will be able to set up and investigate key questions and problems, such as those concerning the distinction

and increase of virtue. It also allows Austin to make clear the metaphysical bases of Aquinas's theory of virtue as well as its theological character.

The result is an admirable and well-researched systematic treatment of Aquinas on virtue. Some scholars will object to Austin's decision to reorganize Aquinas's ideas rather than to present them in the way and order in which Aquinas did himself. However, Austin's presentation hardly spoils Aquinas's pedagogy; instead, he enables the contemporary reader to take advantage of it. Aquinas's own students, approaching his texts with an impressive background in Aristotelian scholarship, biblical exegesis, and Scholastic training, would have—maybe—been able to follow his arguments as he wrote them. Not so the contemporary student, who will inevitably miss, or misunderstand, a great deal of what Aquinas writes in the *Summa theologiae* or the disputed questions *De malo*. A careful, systematic book such as this one supplies contemporary readers with adequate background to make their way through this unfamiliar territory, understand it, and see why Aquinas's problems and questions are still interesting and important. Most of the time, Austin succeeds nicely. His treatment of habits in chapter 3, for instance, is exceptionally clear and helpful. He contrasts Aquinas's conception of *habitus* with common contemporary conceptions of habit, outlines the ways in which Aquinas relates law and virtue, and contrasts Aquinas with casuists and particularists. Only rarely does Austin not expound fully enough to give readers a good start at addressing Aquinas's more puzzling claims. In one such case, attempting to distinguish a cause from a principle or mere necessary condition, Austin notes that a cause is an "influence" over a thing. However, he says nothing to shed light on what this influence amounts to. He also appeals to the doctrine of the Trinity as an example of principles that are not causes, since the Father is a principle but not a cause of the Son. While the example is apt, the use of one dark and mysterious teaching to exemplify another dark and mysterious teaching is a questionable pedagogical strategy.

One of the book's most interesting chapters is also one of its most problematic. Chapter 8, entitled "Passionate Virtue," explores Aquinas's treatments of the function of virtue in the will and in the sensory appetites. Austin draws on a tension in Aquinas's thought to question whether Aquinas gives virtue in the will a large enough role. The will needs the perfection of virtue to be rightly ordered to God and neighbor, but Aquinas asserts that the will's natural inclination is sufficient to order agents to their own proper good. However, he also notes that the will suffers the effects of original sin, with the result that agents express a disordered self-love. Do we not require virtue to counter these baneful effects of original sin? Austin, unfortunately, does not address this question further, but leaves it for us to ponder.

Aquinas's second assertion, that virtue perfects the sensory appetites, was controversial in his own day. If virtue is tied to choice, which is an act of the rational appetite and not the nonrational appetites, how can our nonrational appetites be subjects of virtue? Drawing on Aristotle, Aquinas responds that the

nonrational appetites may participate in reason and become habituated to respond rationally. What is less clear is *how* they express this rationality. Austin cites two opposed interpretations. On the first, dubbed "the pure spontaneity view," our virtuous nonrational appetites may "bypass reason and will" (137) and direct us to perform good actions by the springs of well-trained passion alone. The second, which he calls "rationalist," maintains that any passion elicited before deliberation and judgment may be an obstacle to clear, accurate moral reasoning and must therefore be eschewed (136). By contrast, passion elicited *subsequent* to moral judgment may help us to execute our well-thought-out determination more effectively. Austin rightly opts for an interpretation that falls between these extremes, which he calls "the moderate spontaneity view," according to which virtuous passions elicited prior to judgment may help us to deliberate well precisely because they are inclinations to objects that are genuinely good. Presumably, Austin means that such inclinations help agents to focus their deliberation on what is salient without the need for long reflection about the fundamental principles of morality.

However, as far as I can tell, no one has ever held the pure spontaneity view. Austin tells us (ibid.) that in Jean Porter's early work she "tends to" this view. However, nothing Porter writes implies pure spontaneity. Austin cites as evidence her claim in *The Recovery of Virtue* (1990) that "the virtuous person's 'immediate responses will reliably direct him to act appropriately, at least in normal circumstances'" (ibid., quoting *The Recovery of Virtue*, 103). However, maintaining that we do not need to deliberate consciously and constantly about our final end does not imply that we do not need to deliberate at all if we have virtue. Instead, as Porter makes clear in *Moral Action and Christian Ethics* (1999), virtue enables us to see certain courses of action *as* exemplifying or failing to exemplify values that constitute our commitments (*Moral Action*, 173).

As rich a source as Aquinas is for philosophers, Austin never fails to make clear the ways in which this theory of virtue forms an essential part of Aquinas's larger theological project. In fact, some elements of Aquinas's theory are explicitly theological, such as his view that the exemplar causes of the virtues (like the exemplar causes of all creatures) preexist in God. More striking for a contemporary reader, however, is Aquinas's insistence that human beings gain some virtues not by a process of habituation but through God's gift of grace. These so-called "infused" virtues include not just the three theological virtues of faith, hope, and charity, but a panoply of moral virtues as well, such as infused temperance, courage, patience, and religion. These share the same material object as their acquired cousins but differ in formal object: while acquired moral virtues direct us to this-worldly happiness, infused moral virtues direct us to other-worldly happiness. We could not acquire these virtues on our own because the happiness of the next life, which consists in the vision and enjoyment of God, is beyond the unaided power of human beings to attain. Therefore, like the theological virtues, they must be divine gifts. In chapter 10,

Austin offers a controversial but convincing argument that, once humans receive infused virtues and aim at the beatific vision as their happiness, acquired virtue still has a role to play. Drawing on Aquinas's distinction between elicited and commanded acts, Austin contends that someone with grace may command the acts of the acquired virtues to contribute to meritorious acts, thereby making use of those hard-earned habits in the service of Christian charity. While the view that there are two temperances, two courages, and two generosities may strike readers as odd, it is perfectly consistent with Aquinas's psychological and theological commitments.

Although *Aquinas on Virtue* does not treat any single problem in depth, it never oversimplifies or offers easy answers, but leads readers to consider these matters further on their own. Although it tackles thorny issues in Aquinas's ethics and its metaphysical basis, it never resorts to the Thomistic jargon that drives students and potential Aquinas scholars to more welcoming studies. The book is a positive pleasure to read: always clear, teacherly, and admirably nonpartisan. Austin is as happy to draw on John Poinsot as on Robert Pasnau, on Philippa Foot as on David Gallagher. This sophisticated introduction to Aquinas's theory of virtue moves Aquinas studies in just the right direction.

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Thomas Aquinas on Moral Wrongdoing. By COLLEEN MCCLUSKEY. Cambridge: Cambridge University Press, 2017. Pp. xiii + 198. $99.99 (cloth). ISBN: 978-1-107-17527-3.

This book offers a lucid, thorough, and compelling account of Aquinas's moral psychology, particularly in relation to his theory of badness (*malum*). While engaging both the theological and secular problem(s) of evil, McCluskey's primary concern "is how to explain why agents engage in wrongdoing or evildoing in the first place" (2). In this review, I begin with a brief synopsis of her main points. Next, I consider a recurring theme throughout the text, namely, the separability of Aquinas's theological commitments from his moral psychology. Finally, I conclude by drawing from the previous considerations in order to engage with McCluskey's intriguing proposal regarding the application of Aquinas's theory of wrongdoing to the problem of racism.

McCluskey begins by providing her own interpretation of Aquinas's account of human nature. After outlining the basic strata of the soul, she offers a detailed and well-sourced analysis of both the passions and the intellective will in their own right and in relation to each other as a kind of integrated singularity.

Drawing from the work of Eleonore Stump, she next considers the problem of the will specifically. Tying these strands together is her engagement with Aquinas's account of human action. While skillfully responding to common objections to Aquinas's general position, McCluskey also succeeds in presenting Aquinas's account in a manner that is both clear and complex:

> To summarize, the production of action begins with the general desire of the good found in the will, which moves the intellect to identify a specific end that can be considered good. The intellect then presents a particular end to the will, which intends the end. The will then moves the intellect to deliberate over means for achieving the end. The intellect presents the alternatives to the will, which consents to those identified as good. (27)

At the same time, she recognizes that "Aquinas is arguing for a logical priority here, not a temporal succession. Nothing prevents him from acknowledging that this process takes place quickly or even simultaneously" (28). Citing *STh* I, q. 82, a. 4, ad 3 and several other texts, McCluskey maintains "a controversial interpretation of Aquinas" as arguing for "a priority of intellect over will in the process of action" (29). She shows how this account is capable of responding to the worry about necessitation (and how Aquinas himself responded to it) and concludes the chapter with a concise and informative presentation of how Aquinas's theory of action is nested in his account of freedom.

The next chapter takes on the account of evil as a privation in order to raise important points relevant to Aquinas's moral psychology. After a brief examination of evil's ontological status, McCluskey proceeds to consider the relationship between goodness and being. In her reading of Aquinas, "actuality and perfection bridge the conceptual gap between being and goodness" (40). She shows how in one sense existence is a range-point property for Aquinas—or as she calls it, "an all-or-nothing affair"—while goodness is scalar in the sense that it admits of degrees. Thus, "nothing in the world is completely devoid of goodness," since such a being would not be. In another sense, evil is "a lack of goodness that ordinarily should be there" (41). Though McCluskey engages with objections to the privation account, she ultimately concludes that, as far as the chief purpose of her book is concerned (explaining why agents engage in wrongdoing), one may remain "agnostic" with regard to Aquinas's view of the ontological status of evil, as his "discussion of the psychology of wrongdoing does not rest on the privation account in any substantive way" (72-73; see 73 n. 92).

The next step in McCluskey's sequence of arguments involves building upon her thesis that "the foundation for voluntariness in Aquinas's view is knowledge" through a consideration of the complex interactions between the intellect, the will, and the passions. She is particularly concerned with delineating as precisely as possible the lines that demarcate culpability from bad actions for which the agent is not responsible. The presence of ignorance, a disordered will,

and even very intense passions do not necessarily excuse an agent for her actions. McCluskey's chief point, however, concerns the primacy of the intellective will in Aquinas's moral psychology:

> Should the passion bring about a complete breakdown of the cognitive capacity, as is the case with insanity on Aquinas's account, then even the will cannot rescue the intellect. This suggests that the origin of the will's activity to release the intellect from the passion is the intellect itself. In other words, the will is moved to defeat the influence of the passion at the realization by the agent that takes place in virtue of her intellect that doing so would be good. (105)

While wrongdoing can originate in the intellect, the will, or the passions, the most comprehensive explanatory mesh point of the three is the intellective relationality of the capacities.

McCluskey subsequently examines wrongdoing that originates in the will. Of particular interest in this chapter is her discussion of Aquinas's view of deliberate wrongdoing—cases where the will "moves itself toward what is wrong" (123, citing *STh* I-II, q. 78, a. 3). McCluskey regards Aquinas's claims regarding a disordered fear of hell (despair) and a counterfeit hope for eternal life (presumption) as illustrative of the nonhabitual mechanism by which the agent may be moved to wrongdoing. While despair and presumption are sometimes vices linked to other vices, in which case they lead to "deliberate wrongdoing on the basis of the habitual mechanism," they may also be "sins in their own right" (125). Emphasizing again the relational primacy of the intellect, McCluskey points out that, for Aquinas, presumption and despair may be understood as "appetitive movements in conformity with false views about God's program of salvation for sinners." Keeping with her interpretation of Aquinas's view as maintaining that "all activity in the will is tied to prior activity in the intellect," she points out that in his discussion of presumption and despair, "Aquinas directly ties the movement of the appetite to a belief in the intellect" (ibid.). In her reading of Aquinas, then, "a particular act of wrongdoing originates in ignorance or a passion of the sensory appetite or primarily in the will even though what drives the process is fundamentally the same for all action: the agent's good as the agent perceives it" (128).

After a related but importantly distinct discussion of whether human beings can "perform evil simply for the sake of evil," McCluskey transitions to a discussion of the vices (140). Revisiting questions regarding the nature of habits and how they are attained, she provides a basic taxonomy of the vices in Aquinas. Applying to the capital vices her previous discussion of deliberate wrongdoing, McCluskey distinguishes between internal and external causes of sin in order to show how Aquinas's "basic moral psychology intersects with his account of the vices" (170).

In recapitulating her argument, McCluskey emphasizes that understanding the causes of wrongdoing is important in order to distinguish between more and

less serious gradations of wrongdoing as well as to "develop strategies for effectively addressing or preventing wrongdoing and the harm it generates" (174). With these objectives in mind, she closes with an insightful application of Aquinas's account of wrongdoing to the problem of "racism in the United States" (ibid.). Before analyzing that application, however, I wish to consider a recurring theme in the book—the relation of Aquinas's theological commitments to his overall moral psychology—in the hopes that this may be illuminative with regard to considering the moral valuation of racism (and responses to racism) as informed by Aquinas.

McCluskey continually downplays the significance of Aquinas's theological commitments in relation to various aspects of his moral psychology. Broadly, she claims that "nothing about the framework of [Aquinas's] explanation of wrongdoing depends upon his commitment to theism" and further that he offers an "entirely . . . naturalistic explanation grounded in his account of human psychology" (74). More specifically, she argues that Aquinas's commitment to the doctrine of original sin and his theology of grace can be divorced from his account of wrongdoing since neither removes voluntariness and, therefore, the blameworthiness or praiseworthiness of human actions (78). These points, combined with the accounts of privation theory and the treatments of presumption and despair mentioned earlier, allow us to see a common theme throughout: Aquinas's theism either "drops out" entirely or serves a merely explanatory function for phenomena, a function that can be substituted with an alternative without fundamentally altering the main lines of Aquinas's thought (51).

While the separation between Aquinas's theology and his philosophy is by no means the main point of the book, one may wonder whether in fact his faith commitments offer something important in his account of wrongdoing and how best to respond to it—as we can see if we examine McCluskey's application of this account to the problem of racism.

In McCluskey's view, it would be "a blessing if Aquinas's account could help not only to explain why people engage in racist actions but also help point toward effective solutions" (174). Drawing from her account of Aquinas, McCluskey divides "people who engage in racist actions" into those who do so on the basis of "a defect in the intellect, a defect in the will, or a defect in the passions of the sensory appetite" (175). In the first category she places "individuals (mainly white) who fail to recognize that racism remains a problem in the United States." In regard to this group, she states, "Given the ongoing critique by people of color, one could argue that such individuals ought to know better and are able to know better, so their ignorance is culpable." She maintains that ignorance of implicit bias, too, could be considered culpable "given that implicit bias has been studied and documented, especially in the psychology literature" (ibid.).

The next category consists of "explicitly unrepentant racists." This group consists of individuals who in fact "recognize that racism is wrong but don't care." McCluskey holds that "these individuals have a defect in their wills." They resist "self-scrutiny because on some level they know that if they do so, they will have to reform their attitudes and actions" (ibid.). Because their ignorance is willed, "it has its origin in a defect of the will" (176).

The third group is not ordinarily racist but may out of anger or fear do something like "utter racial slurs." They may do so, for example, if they are angry or afraid "that their goodwill or good character has been questioned." McCluskey also notes that racism can be a kind of habit: "a common habit among whites is to check that their car doors are locked whenever they see an African-American walking on the street while they are driving." She connects this habit of "unacknowledged judgment" with racial profiling (ibid.).

McCluskey argues that Aquinas's account can not only explain "a number of racist actions, practices, and behaviors" but also help "determine appropriate responses to the actions" (ibid.). Education may work for the ignorant. The "willful racist" will need to be punished for violating "antiracist laws." Finally, "developing calm and safe environments where individuals can come together to discuss their frustrations openly and constructively might be one effective method for addressing wrongdoing that arises out of the passions" (177-78). She does point out that "Aquinas would not give up hope because he belongs to a religious tradition that believes in the possibility of repentance and forgiveness" (177). I would argue that a theological commitment such as this, whether explicitly held or simply enacted, leads to a moral valuation of both racism and responses to it radically distinct from a view not so informed. Absent such a commitment, one could hold, for example, that racism is so deeply engrained in society and in some people that the idea of changing hearts and minds should be relegated to the category of wishful thinking. On one level of analysis, this may suggest that Aquinas's moral psychology is nested in the Christian story in such a way that the former is drastically altered when prescinded from that context. However, that is a conversation for another time.

In sum, *Thomas Aquinas on Moral Wrongdoing* marks a significant contribution to the scholarly literature. Drawing from Aquinas in order to explore the question of "why agents engage in wrongdoing or evildoing in the first place," McCluskey skillfully guides the reader through the complex twists and turns of Aquinas's moral psychology in a manner that is both understandable and not without practical application (2). She succeeds in addressing perennial problems in a fresh, compelling, and valuable way.

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