

## On Conscience

Rev. Adam L. Hertzfeld, STD

Presented to Saint Thomas More Society, Toledo

Sep 21, 2022

### The Right to Act in Conscience

1. Definition of conscience
2. Right and corresponding duty
3. Conflicts of conscience, especially with respect to civil law (Judge Michael Goulding)

- A note on sources. In this talk on conscience I draw from several sources. They are, in no particular order of importance, the Catechism of the Catholic Church, Josef Ratzinger, Dietrich von Hildebrand, and Servais Pinkaers, O.P.

1. The abuse crisis which came to light in 2002 deeply shook the Catholic Church. Since I was ordained a priest that year, my entire priesthood has been lived out in its shadow. As a crisis, however, it did not arise from a void. Very serious problems were present in the Church for many decades, most especially in the area of moral theology. All theological and philosophical theories have concrete consequences. The bad moral theology of the twentieth century (primarily the denial of absolute moral norms) had many terrible results, a significant one being the crisis of clerical abuse.

I remember early in my priesthood being part of a priests' discussion group that focused on the abuse crisis. The question we explored was what should be done with priests whose immoral actions could not be prosecuted by the civil law but who obviously could not continue serving as a priest in good standing. The proposal suggested by some was for the abusing priest to enter into a life of prayer and penance in a monastery. One member of the group objected to this solution. What, he asked, if the guilty priest does not want to go live in a monastery and do prayer and penance?

The member's response betrays a frightening notion of freedom, one severed from any regulating source, from any higher authority than the individual self. The individual based his objection on "want", that is, on the personal desire of the offending actor, rather than on what is objectively good and true. While the one offering the objection seems to appreciate the freedom of the individual subject (that is, the offending priest's desires), his position actually creates a situation of totalitarianism which crushes all freedom except for that of the strongest person on the scene. When morality is severed from objectivity and is based only on subjective elements such as desire, only the strongman wins.

Today there seems to exist a dichotomy, two opposing ways of seeing things, when it comes to conscience and morality. But I do not want to set up a strawman. Rather, I want to present the best of both sides and then see which one is correct.

I am a Catholic. If I wasn't a Catholic, I would be a Jew. If I wasn't a Jew, I'd be a secular atheistic humanist. The only reason I would not be a Catholic would be if Jesus Christ never existed. In that case, the only way I would not be a Jew would be if God did not exist. I would be a secular atheistic humanist only if there was no God, if there was no Jesus Christ. If neither Christ nor God existed, then there would be no Creator and existence would be inherently void of all meaning unless I, as person, chose to give existence some meaning. Freedom in this context is not a power ordered to something greater than one's self, toward a transcendent reality which we discover and must respect, but rather a power to confer meaning upon existence as we see fit and according to our own designs. As I said, I do not intend to construct a strawman. This is a real argument that I believe makes good sense if Christ and God did not exist.

This way of viewing things is not uncommon. Just yesterday columnist Suzy Weiss reported in *Common Sense* a statement from a typical citizen of our time whose name is Sky: "Crime is an abstract term that means nothing in a lot of ways," said Sky. "The construct of crime has been so socially constructed to target black and poor people." (*Crime is a Construct: A Morning with the Park Slope Panthers*). Here we see a very practical application of the reasoning that comes from someone formed in the context of secular atheistic humanism. It is the reasoning of a postmodern person.

The notion of freedom I would hold if I were a secular atheistic humanist sets up the dichotomy I mentioned earlier: freedom verses imposed norms; autonomy verses heteronomy; self-determination verses external determination. It is a notion of freedom based in power and it involves itself in a struggle for power when multiple autonomies hold to meanings which come into conflict.

Yes, if not a Catholic then I would be a Jew. If not a Jew, then I would be a secular atheistic humanist. And as a secular atheistic humanist, I would do all within my power to make sure that my meaning is that which is imposed upon the world around me rather than someone else's. I will not be the victim of another person's construct.

But alas, I am a Catholic. I am a Catholic because not only is there a God but he is the God of Jesus Christ. In him I discover how things really are. In him I discover how I really am. In him I discover not the primacy of power but the power of the truth.

The *Catechism of the Catholic Church* defines conscience as “a judgment of reason whereby the human person recognizes the moral quality of a concrete act that he is going to perform, is in the process of performing, or has already completed” (1778). The paragraphs surrounding this definition help explain it. More helpful, however, is the explanation of conscience given by Josef Ratzinger in a brilliant essay entitled “Conscience and Truth” [published by Ignatius Press in 2007 (On Conscience)]. Permit me now to guide you through some of the insights of this great theologian.

Back when I was a philosophy student at Franciscan University of Steubenville, I learned that conscience involved *synderesis*. At the time, I had no idea what *synderesis* meant. No amount of listening to the professor or reading the assigned texts helped me. I was unsettled and thought *synderesis* just must be a concept that is beyond my ability to grasp. My difficulty with the notion was vindicated when I read these words by Ratzinger in his little essay: “The word *synderesis* came into the medieval tradition of conscience from the stoic doctrine of the microcosm. It remained unclear in its exact meaning, and for this reason became a hindrance to a careful development of this essential aspect of the whole question of conscience” (30). I rejoiced that I was not alone in thinking this concept was unclear. A better concept for conscience, says Ratzinger, is the Greek notion of *anamnesis*. As well educated attorneys, you are not intimidated by difficult concepts. A difficult concept is helpful only insofar as it actually means something, actually points to reality. While the helpfulness of *synderesis* is dubious, the concept of *anamnesis* is not dubious at all. It points to something real, an experience we all have. Most simply put, *anamnesis* is a type of remembering. Now, let’s unpack that.

We must be cautious when saying *anamnesis* is a type of remembering. *Anamnesis* is not a remembering in the usual sense of thinking back to some previous experience we had. In some ways, it is not a remembering at all. It is like a remembering. It is a basic power of the human person to grasp certain aspects of reality for what they truly are. It does not apply to all knowing, but only to some forms of knowing. It involves an insight into the knowledge of things which are and cannot be otherwise. It involves eternal things.

For those familiar with the basic tenets of Platonic philosophy, we can think of *anamnesis* in terms of the belief of the preexistence of the soul and her familiarity with the Eternal Forms. This proposal, while false, was a good attempt by the Greeks at explaining why some things are completely obvious, inherently harmonious and attractive, and utterly devoid of inner contradiction. Our soul existed prior to its earthly incarnation. During that time, we experienced the Eternal Forms. When our souls fell from eternity into our bodies and thus into time, we have a memory of what we once experienced.

Unfortunately, Christianity rejects the preexistence of the soul, thus making our job of explaining the experience of anamnesis harder. Ratzinger turns to several experts in order to describe the phenomenon of anamnesis. He quotes Saint Augustine: “We could never judge one thing as better than another, if a basic understanding of the good had not already been instilled in us.” Saint Paul says something similar: “When Gentiles who have not the law do by nature what the law requires, they are a law to themselves, even though they do not have the law. They show that what the law requires is written on their hearts, while their conscience also bears witness” (Romans 2:14-15).

Some truths are contingent, meaning they depend upon another for their existence. They are but they could have been otherwise. Contingent truths are discovered by means of our sensual observation. These truths are the content of scientific and historical truth. Because our senses can fail us, we can know contingent truth only with varying degrees of certainty, never with absolute certainty.

Other truths are eternal and we can know them with absolute certainty. Since sensual observation never provides absolute certainty, the certitude of the eternal truths must come to us in some other way. They are not given to us by the senses. When we experience them, when our minds are open to them, it is as if we had always known them. They are, as Saint Basil says, the spark of divine love which has been hidden in us (see 31). A good example of an eternal truth is that justice can only be applied to personal beings, never to impersonal beings. This is clear and certain. In no other universe could it be otherwise, and to know it is something joyful, since it points to the dignity of persons as free and therefore responsible actors.

Ratzinger says speaks of our experience of these eternal truths clearly: “the first so-called ontological level of the phenomenon [of] conscience consists in the fact that something like an original memory of the good and true (they are identical) has been implanted in us, that there is an inner ontological tendency within man, who is created in the likeness of God, toward the divine” (32). Because of this, Ratzinger says further on, “man’s being resonates with some things and clashes with others.... It is, so to speak, an inner sense, a capacity to recall, so that the one whom it addresses, if he is not turned in on himself, hears its echo from within. He sees: That’s it! that is what my nature points to and seeks” (32).

At this point, one might criticize the great theologian as appealing to first principles. To that, I say, exactly. He is certainly appealing to first principles, but that is not something to criticize. Show me the person who claims to reason without first principles and I will show you a fool. There exists basic, inherently non-contradictory truths which appeal to the very mind and heart of the human person. Our discovery of those truths is not a process foreign to

and outside of ourselves, but at once both transcendent and internal to us. In the moral realm, Saint Thomas “describes anamnesis as an inner repugnance to evil and attraction to the good” (37).

Anamnesis is the first aspect of the conscience. It is, to use a medieval term, a habitus, a lasting quality of the being of a person. The second aspect of the conscience is conscience as actus. It consists of the recognizing of and bearing witness to the truth and applying that truth to a particular situation in an act of judging.

Here an example will help. I know, or “recall”, or “experience the validity of” the importance of always acting justly in my dealings with others. This knowing is possible because of my capacity for anamnesis. The knowing turns into acting when, in recognizing this truth I bear witness to it and apply it in a particular situation. For example, I give my customer a dozen glazed doughnuts because he paid for a dozen glazed doughnuts. My grasping of the reality of justice (anamnesis) prompts me to act accordingly.

But how can I be sure that my conscience is not in error? For example, there are some people who are convinced that exercising violence in any form, even self-defense or in defense of the innocent, is evil and ought never to be done. Their conscience convicts them of this. Are they infallibly correct because they are acting out of conscience? The answer is no. They are in error. For some reason they are blind to the legitimacy of resorting to violence toward an unjust aggressor when violence is the most reasonable resort. Are they culpable for this blindness? Maybe, and maybe not. Maybe they are blind to the legitimacy of self-defense or the defense of the innocent because they have subtly given into the temptation of taking the easier path of capitulation before a bully. In this case, they are guilty of allowing their conscience to be blinded. Yes, they must follow it, but that does not mean they are free of guilt. On the other hand, maybe they were attacked as a child and have a deep-seated and crippling fear of violence. In this case, their culpability is greatly lessened if not entirely reduced. They are still in error, but the error was due to circumstances beyond their control.

2. This brings us to our second (and for me, final) point: the obvious importance for properly forming one’s conscience. The certainty of our experience of anamnesis compels us always to act on the promptings of our conscience. It is a right of the person. But that right comes with an extremely important duty, namely to form one’s conscience by appealing to higher authorities.

External authorities, such as the Church or the state, play an important role in helping us to recognize the truth and thus be able to live by it. How the Church or state comes to possess this authority is a question unto itself. I state briefly

that it is from God. My point here, however, is simply that both these institutions possess an authority which helps us form our conscience so that we may be free from error and conform our actions to the true and good.

At this point, cries will go up from the postmodern camp: "This is just what we denounce. It is heteronomous and therefore evil and depersonalizing!"

In reply, we say that, while there is a measure of heteronomy in this relationship between the subject and the external authority, it is not exclusively so, because it appeals to the law within, to our capacity for "remembering" in the sense of anamnesis. External authority and internal authority find their harmonious coexistence in the truth.

It is the divinely ordained task of the Church to form Christians in the ways of truth. Only in this truth will we ever be truly free. Our freedom to act is not a freedom devoid of a purpose for our acting. In exercising our freedom we either grow closer to our divine destiny as children of God, made in his image and likeness, or we grow away from that destiny.

On a very practical level, the Decalogue and the Gospel must both be understood and lived in order to ensure that our remembering and acting are not in error. These two things stand as an external support to our internal experience of moral right and wrong. It is an important part of the mission of the Church to ensure that these treasures are passed down and live from one generation to the next, until the end of time.

This concludes my portion of the presentation. We now turn our attention to Judge Goulding's insights into the potential clash between conscience and law.