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THE TELEOLOGY OF LAW: RESPONSIBLE CITIZENSHIP AND DISCIPLESHIP

ROBERT J. ARAUJO, S.J.*

I. INTRODUCTION

What does the law have to do with things about the future, you might ask? My suggestion that there is a teleology, that is an end or goal, of the law might sound odd to some. A person may suggest that the study of teleology is better suited to the abstractions of philosophy or theology. That is the point I hope to make: that there is a connection between the law as a social institution and the religiously inspired goals many people work toward as individuals and as members of communities — local, national, and global.

The thesis of this paper is that the law can be, and for some of us is, a means by which we, as human beings who live in community with one another, can identify and develop ways in which we can live more harmoniously with one another. The harmony we cultivate in the present fosters our movement together into the future we share with one another. The law, as we encounter it in our social institutions, can be a means by which we develop that better society where peace, justice, and reconciliation abide between and among peoples. In other words there is an end — a purpose — for the law and the social and political institutions it cultivates. This end extends from the agreements and rules which people develop through the different covenants formed between individuals and groups. The hope underlying some of these agreements often is that the dignity which a person desires for one's self be extended to others. When an individual takes actions that could affect others, she or he is guided by the law which aids that person in developing conduct that respects others

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as well as the self. The law can provide for and sustain an ethics-based covenant by which this expectation for the self and the self's dignity becomes a mutual expectation shared with and by others.

Eschatology is the study of the end, the goal. Ethics is the study of the way in which we live with and treat one another. The two can and do intersect in the law when those of us who participate in the law's development (which includes the ability to vote for elected officials) realize that the law is suited to eliminating conflicts between people, reconciling differences that may exist among different individuals and communities, and planning a better tomorrow in which more and more people have greater opportunities to enjoy those things which this life provides.¹

Law is also a covenant between parties in which they share agreement and understanding on respective rights and responsibilities. Biblical texts are a rich source of some major covenants illustrating the connection between ethics and eschatology. For example, in the Old Testament, there are the covenants between God and Abraham,² God and Moses,³ and God and David.⁴ Each of these covenants details a relationship that spells out the commitments of humans toward God; in turn, God makes commitments to Abraham, Moses, and David. Under these agreements, it is understood that God is King of the people who enter the covenantal relationship.⁵ The hope underlying the covenantal relationship is that the reign of God establishes a lasting event of peace, justice, and prosperity through His blessings.⁶

The prophet Isaiah suggests that this kingdom promised through the covenants with God might occur during the reign of a descendant of King David.⁷ In the New Testament literature, particularly the Synoptic Gospels, this promise is materialized by the birth of Jesus Christ. As the earliest of these Gospels indicates, Jesus came to proclaim the good news by saying, "The time is fulfilled, and the kingdom of God has come near, repent and believe in the good news."⁸ In a different presentation, Matthew has John the Baptist proclaim that "the kingdom of heaven has

¹ Contemporary authors have developed different lists of these things which people come to expect and desire. See JOHN RAWLS, *A THEORY OF JUSTICE*, 62 (Harvard 1971) for his list of "primary goods"; see also JOHN FINNIS, *NATURAL LAW AND NATURAL RIGHTS* 106-07 (Oxford 1981) for his list of "basic goods."

² See *Genesis* 15.

³ See *Exodus*, 19-24.

⁴ See *2 Samuel*, 7.

⁵ See, e.g., *Deuteronomy* 33:5; *Judges* 8:23; and *Isaiah* 43:15.

⁶ See, e.g., *Leviticus* 26 (the blessings bestowed for following the covenant and for the penalties for failing to abide by its terms).

⁷ *Isaiah* 9:7.

⁸ *Mark* 1:15.

come near," for the one prophesied by Isaiah is at hand.⁹

In Luke's Gospel, Jesus missions the seventy to proclaim that the kingdom of God is near.¹⁰ Within this same chapter of Luke, there is the account of the lawyer who, in an attempt to justify himself, asks Jesus the question what must he, the lawyer, do to inherit *eternal* life, i.e., what must he do in this life to prepare for the *end time*.¹¹ It is this wonderful story that sets the stage for the parable of the Good Samaritan.¹² At this stage in my discussion, I suggest that this parable and the story about Jesus and the lawyer establish a model in which the teleology of the law becomes concrete for us today. This Lukan account makes the connection between ethics and eschatology in a way that has application to our contemporary context. The connection can be reduced to this: our lives as good citizens make us good disciples. Good citizenship paves the way for discipleship with and for God: the ethics we practice in this life will facilitate our movement into God's kingdom. Our disobedience to the law that is consonant with God's kingdom will prevent us from enjoying this future in the reign of God.

II. LAW IN A CONTEMPORARY CONTEXT

The skeptic may point out that there are many laws in this world which hinder rather than promote peace, justice, and reconciliation between and among people. One does not have to look far to think about examples. The fugitive slave laws that existed in nineteenth century America clearly denied the rights to black people which white people demanded for themselves.¹³ One can look to the more recent laws of Nazi Germany and South Africa to see other illustrations of one people denying another people that which the first group demands for itself. This type of law is what is called positivist law, i.e., it is law because it is *posited* by the institution recognized by people as the agency authorized to promulgate and enforce rules and regulations.

In contrast to positivist law is natural law, law which is the reflection of God's law in this world. It is my view that this natural law provides the better, the more desirable source from which human conduct ought to be regulated as well as encouraged. Natural law, in short, is a means by

⁹ *Matthew* 3:1.

¹⁰ *Luke* 10:9.

¹¹ *Luke* 10:25.

¹² *Luke* 10:30-37.

¹³ See *Dred Scott v. Sanford*, 60 U.S. (19 How.) 393 (1857) for a graphic illustration of this. The words of Chief Justice Roger Taney depict how law and legal institutions mistreated black people: "[T]hey were at that time considered as a subordinate and inferior class of beings . . . and had no rights or privileges but such as those who held the power and the Government might choose to grant them." *Id.* at 404-05.

which the citizen becomes the disciple. The law and legal system inspired by and reflecting natural law facilitates the connection between ethics and eschatology.

An underlying question accompanying the issues of ethics and morality in contemporary society is: what is the source of our ethics and morality? Often, discussions about ethics and morality lead to an exchange of strong views largely developed by the emotions of the participants. Take, for example, discussions concerning the recent war in the Arab-Persian Gulf. Human emotions properly have a role in any debate involving moral and ethical issues. However, the emotional component of discussions surrounding the major ethical and moral questions of the day does not identify what might be a more objective and shared source of the rational component concerning the same issues.

In reviewing some of the commentaries on the recent war, one can identify ethical arguments made for and against the war from utilitarian,¹⁴ consequentialist,¹⁵ contractarian,¹⁶ or Kantian¹⁷ arguments. Each of these ethical schools makes a helpful contribution to the rational understanding of what is ethical and moral in the world of human endeavors. But, there is also another source to examine what is ethical or moral in a factual context: natural law.

Thomas Aquinas

For many years, students of ethics have pretty much agreed that natural law has been and continues to be a source of Christian social ethics, particularly the views taken by the Roman Catholic Church. A written source codifying and discussing the natural law foundation of the Church's views on ethical questions has been Thomas Aquinas' *Treatise On Law*.¹⁸ The fundamental view of Aquinas is that human beings, as rational creatures, participate in God's eternal law through natural law.¹⁹

Within the *Treatise On Law*, law is identified as the institution

¹⁴ See, e.g., J. S. MILL, *ON LIBERTY* (1859).

¹⁵ See, e.g., G. E. M. Anscombe, *Modern Moral Philosophy*, 33 *PHILOSOPHY* 1 (1958).

¹⁶ See, e.g., JOHN RAWLS, *A THEORY OF JUSTICE* (Harvard, 1971).

¹⁷ See, e.g., IMMANUEL KANT, *ETHICAL PHILOSOPHY* (Hackett, 1983).

¹⁸ For the purposes of my discussion, I shall refer to Thomas Aquinas' discussion of natural law taken from his *SUMMA THEOLOGIAE* I-II as his *TREATISE ON LAW* [hereinafter cited as *TREATISE*].

¹⁹ *TREATISE*, Question 91, Article 2:

Now among all others, the rational creature is subject to Divine Providence in the most excellent way . . . Wherefore it has a share of the Eternal Reason, whereby it has a natural inclination to its proper act and end: and this participation of the eternal law in the rational creature is called the natural law.

Id.

which cares for all people by establishing order for the common good.²⁰ All law contains three essential components: (a) a measure or rule of acts (generally human); (b) conceived by reason; and, (c) promulgated with a view toward the common good.²¹ Aquinas saw the first kind of law as eternal law: it extends from the rule of Divine Providence in the universe over which God is the sole and supreme ruler.²² Eternal law is promulgated by God's Divine Word and establishes a government whose end is God.²³

The second kind of law Aquinas identifies and addresses is that which has already been mentioned, viz. natural law. Human beings, for Aquinas, cannot directly know God's eternal law, yet, as rational creatures, humans come in contact with eternal law through its participation in this world by natural law.²⁴

Aquinas identifies the third type of law as human law. Through this human legal institution, people use reason to obtain knowledge of things not directly imparted by nature; thus, human law enables people to make particular decisions or determinations of certain matters that would be consistent with the precepts of eternal law.²⁵

The fourth type of law Aquinas addresses is Divine law which facilitates humanity's sharing more perfectly in the eternal law.²⁶ Divine law can mold human conduct, and therefore human law in four ways: (1) by leading individuals to perform in a way that is consistent with their final end (which is happiness and knowing God²⁷); (2) by directing human actions (which can be misled by the uncertainty of human judgment) so that individuals may know what they ought to do and what they ought to avoid; (3) by compensating for the deficiency in exterior human actions through the regulation of their interior acts; and, (4) by punishing perpetrators of evil who manage to escape punishment under human law.²⁸

For Aquinas, the fundamental moral principle²⁹ for human beings is

²⁰ TREATISE, Question 90, Article 3.

²¹ *Id.*, Question 90, Article 4.

²² *Id.*, Question 91, Article 1.

²³ *Id.*

²⁴ *Id.*, Question 91, Article 2, which states in part that, [T]he light of natural reason, whereby we discern what is good and what is evil, which is the function of the natural law, is nothing else than an imprint on us of Divine light. It is therefore evident that the natural law is nothing else than the rational creature's participation in the eternal law.

²⁵ *Id.*, Question 91, Article 3.

²⁶ *Id.*, Question 91, Article 4.

²⁷ See SUMMA CONTRA GENTILES, Chapters XXV and XXXVII.

²⁸ *Id.*, Question 91, Article 4.

²⁹ See generally F.C. COPLESTON, AQUINAS (Penguin Books, 1986) ch. 5, *Morality and Society*, especially pp. 225-6.

simple: do good and avoid evil.³⁰ However, what constitutes good or evil has been debated for centuries since Aquinas wrote the *Treatise*. One purpose of my inquiry is an attempt to identify what may be considered good and evil in our world of today. Ultimately, an emphasis will be placed on the status of natural law in developing Christian social ethics since the Second Vatican Council. Hence, this discussion of the "good" will concentrate on what constitutes the "good" for the individual and the community in which the individual exists. But before turning to the development of natural law principles since Vatican II, it might be useful to identify and discuss the role natural law has played in forging Christian social ethics.

Contemporary Movement Into Natural Law

In 1891, Leo XIII issued the encyclical *Rerum Novarum* (*On The Condition Of The Working Class*). While in large part addressing the economic issues of the European working classes, *Rerum Novarum* injected the theme of what is "good" into the discourse on social ethics which has grown in importance: the notion of the common good as nurtured and protected by existing political, economic, and social institutions.³¹ Many social and political institutions exist to protect individuals, and the best way of doing this— of achieving what is good — is through the promotion of the common good. As Pope Leo stated,

If . . . any injury has been done to or threatens either the common good or the interests of individual groups, which injury cannot in any other way be repaired or prevented, it is necessary for public authority to intervene.³²

In the context of the gulf between impoverished workers and wealthy owners of industry, the Pope attempted to demonstrate, through natural law principles, the common sense of promoting harmony between laborers and the economic elite. His ethical considerations illustrate that the con-

³⁰ TREATISE, Question 94, Article 2:

[T]he first principle in the practical reason is one founded on the notion of the good, viz., that *good is that which all things seek after*. Hence this is the first precept of the law, that *good is to be done and ensued*, and *evil is to be avoided*. All other precepts of the natural law are based upon this. . . (Emphasis in the original)

Id.

³¹ ¶ 48 of RERUM NOVARUM states in applicable part that,

[t]hose governing the State ought primarily to devote themselves to the service of individual groups and of the whole commonwealth, and through the entire scheme of laws and institutions to cause both public and individual well-being to develop spontaneously out of the very structure and administration of the State . . . For the state is bound by the very law of its office to serve the common interest.

Id.

³² *Id.* ¶ 52.

flict between these two social and economic classes found in nineteenth-century Europe could be minimized, if not eliminated, if the members of these classes could see that they mutually relied on one another: "neither capital can do without labor, nor labor without capital."³³

Essentially, this encyclical begins to draw the outline recognizing the common ground that underlies the common good: people need one another. (This is tantamount to the idea of *mutuality* which will be discussed later.) The common good is built upon the recognition and fostering of mutuality of the human condition (the common ground, if you will) shared by and among *all* people. Within his encyclical, Pope Leo identified the Church's teaching role in developing a natural law-based social ethic. For Pope Leo, the Church should show all people God's will (the eternal law) in which each person becomes obedient to duty to others, regulates the activities of a self-seeking mind, and comes to love both God and neighbor.³⁴ To love both God and neighbor is a principle long taught by the Church in relying on the example of Jesus who in turn drew from the Great Commandment of God in the Old Testament.³⁵

In commemorating the fortieth anniversary of *Rerum Novarum*, Pope Pius XI in his encyclical *Quadragesimo Anno* (*On Social Reconstruction*) further developed the natural law-based social ethic introduced by Leo XIII with particular emphasis on issues of economic justice. Pius XI saw the need to elaborate upon the importance of the common good. This pope examined (within the economic context involving the relationship between laborer and the owner of business) the need to encourage fair compensation of the worker and the business owner. By ensuring a suitable means of earning a living for all concerned; that is, for both the laborer and the owner of the business, social justice is enhanced and the common good is promoted. Workers can earn enough to support themselves and their families while at the same time ensuring that businesses will be able to produce goods and services, remain competitive in the relevant market place, and continue the employment of their labor force.³⁶ Like his predecessor Leo XIII, Pius XI concluded that both the state and its citizens shared the duty "to abolish conflict between classes . . . and thus foster and promote harmony between the various ranks of society."³⁷ In advancing this natural law argument, Pius XI understood that eco-

³³ *Id.* ¶ 28.

³⁴ *Id.* ¶ 40.

³⁵ See *Luke* 10:27, "You shall love the Lord your God with all your heart, and with all your soul, and with all your strength, and with all your mind; and your neighbor as yourself." *Deuteronomy* 6:5, "You shall love the Lord your God with all your heart, with all your soul, and with all your might." *Leviticus* 19:18, "[Y]ou shall love your neighbor as yourself. . . ." These Biblical texts will be the focus of my discussion in Part V, below.

³⁶ *QUADRAGESIMO ANNO* ¶ 38 (St. Paul's Edition).

³⁷ *Id.* at ¶ 81.

nomie justice for all (the good to be achieved) would be promoted if all members of society recognized and acknowledged the need to cultivate the common good.³⁸

In 1961, before he convened the Second Vatican Council, John XXIII issued his own social encyclical *Mater Et Magistra* (*Christianity And Social Progress*) in which he built on the social ethics foundation established by Leo XIII and Pius XI. *Mater Et Magistra* was a prelude to Vatican II's pronouncements on social ethics. In this encyclical, John XXIII redefined the meaning of the common good in the context of a world dominated by super-power struggles as well as clashes between and among smaller nation-states or other warring factions.

For John XXIII, the common good cultivates the fundamental natural law principle of doing good and avoiding evil by encouraging people to pursue "concord among themselves."³⁹ Inextricable to promoting the common good, however, is acceptance and promotion of the idea that individuals must be treated as unique persons who are to be encouraged to "participate in the affairs" of the human community.⁴⁰ What John XXIII was arguing, then, is that, regardless of one's status in economic or social or political life, every human being shares common ground — a mutuality — with every other human being, viz. "the freedom of individual citizens and groups of citizens to act autonomously, while cooperating with the other."⁴¹ In the mind of John XXIII, by people acknowledging, recognizing, and cultivating this common ground shared by all — whatever their status in life — the common good could be promoted on the national⁴² as well as on the international⁴³ level.

Vatican II

With the convocation of Vatican II, the minds and hearts of many of the Council's participants were prepared to endorse the natural law-based Christian social ethic which started with *Rerum Novarum* in 1891. In large part, Vatican II announced its views on the common good of humankind in *Gaudium Et Spes* (*Pastoral Constitution On The Church In The Modern World*). At the core of its message on the common good, the Council stressed that the members of the human family ought to express mutual concern and care for one another; after all, every person shares the common ground of what it is to be human— no person is completely insulated from the adverse conditions that affect people. The Council also

³⁸ *Id.* ¶ 52.

³⁹ *MATER ET MAGISTRA* ¶ 65.

⁴⁰ *Id.* ¶ 65.

⁴¹ *Id.* ¶ 66.

⁴² *Id.* ¶ 79.

⁴³ *Id.* ¶ 80.

correctly saw a growing need for interdependence among people in a world becoming more affected by and tied to technological developments.⁴⁴

In developing its methodology for implementing God's law through natural law principles, the Council was careful not to set the Church up in competition with the social, political and economic institutions which have the chief responsibility for developing programs that implement the common good; but rather, the Council considered the Church as having the role of penetrating the minds and hearts of all people with "the light and energy" of God's message of how human beings ought to live with and to treat one another.⁴⁵ By inducing people to exercise charity toward one another,⁴⁶ the divine order which God intended for humankind can be "actualized" in the world as people adopt the common sense of the common good in their search for peace with and justice toward one another.⁴⁷

The Council's Aftermath

The Council was opened by John XXIII and closed by his immediate successor Paul VI. Pope Paul let no moss gather on the social ethics advocated by the Council. A little over a year after the final session of the Council, this pope issued his own social encyclical *Populorum Progressio* (*On The Development Of Peoples*). Paul VI was not satisfied that the natural law-based social ethics advocated by the Church were being taken seriously enough by many in the world.

He saw that the world in 1967 was punctuated with many injustices caused by the failure of individuals from public and private life alike to

⁴⁴ GAUDIUM ET SPES ¶ 23 states in relevant part that,

[o]ne of the salient features of the modern world is the growing interdependence of men one on the other, a development promoted chiefly by modern technological advances. Nevertheless brotherly dialogue among men does not reach its perfection on the level of technical progress, but on the deeper level of interpersonal relationships. These demand a *mutual* respect for the full spiritual dignity of the person. *Christian revelation contributes greatly to the promotion of this communion between persons, and at the same time leads us to a deeper understanding of the laws of social life, which the Creator has written into man's moral and spiritual nature.* (Emphasis supplied)

Id.; see also M. Blumenthal, *The World Economy And Technological Change*, 66 FOREIGN AFFAIRS 529-50 (1988) for comments about interdependence among people caused principally by the dramatic and fast-paced revolution in high technology applications.

⁴⁵ GAUDIUM ET SPES ¶ 42.

⁴⁶ *Id.*

⁴⁷ *Id.* ¶ 78. As the Council stated, "peace results from that order structured into human society by its divine Founder, and actualized by men as they thirst after ever greater justice." *Id.*

promote the common good.⁴⁸ This pope was candid about the imminent need to combat the injustices resulting from this failure. He stated in unusually blunt and direct language that

The world is sick. Its illness consists less in the unproductive monopolization of resources by a small number of men than in the lack of brotherhood among individuals and peoples.⁴⁹

The solution the pope prescribed was both bold and simple. While recognizing that it was the Church's duty to teach authentic norms of morality, the Pope argued that,

it belongs to laymen, without waiting passively for orders and directives, to take the initiative freely and to infuse a Christian spirit into the mentality, customs, laws and structures of the community in which they live.⁵⁰

Finally, Paul VI saw the need for all men and women of good will, regardless of their religious views, to duplicate this effort.⁵¹ After all, the need to be just to others along with the desire to be treated justly by others is something which all people share. In the end, it is this mutuality, this common ground, which emphasizes the need for the common good to be promoted.

John Paul II has also taken up the vanguard of promoting the natural law-inspired social ethics introduced by Leo XIII.⁵² Early in his papacy, John Paul II inserted into the discourse on Christian social ethics the importance of people's recognition and acknowledgement of the dignity of the individual and the primacy of the worker in evaluating issues of economic justice that fosters the common good.⁵³ Inherent in this pope's position is the point that social and economic justice toward the individual (i.e., how human beings live with and treat one another) is inextricably related to the common good.⁵⁴ Although he wrote twenty years after Paul VI issued *Populorum Progressio*, John Paul saw little encouragement that the status of the oppressed in the world had changed much since 1967. In his specific reference to Paul VI's encyclical, John Paul II stated that,

The first fact to note is that the hopes for development, at that time so lively, today appear very far from being realized. In this regard, the Encycli-

⁴⁸ POPULORUM PROGRESSIO ¶ 31.

⁴⁹ *Id.* ¶ 66.

⁵⁰ *Id.* ¶ 81.

⁵¹ *Id.* ¶¶ 82, 83.

⁵² In May of 1991, John Paul II issued a social encyclical, entitled CENTESIMUS ANNUS, released on the one hundredth anniversary of RERUM NOVARUM. See THE NEW YORK TIMES, Friday, May 3, 1991, at 1, col. 3 (Papal Encyclical Urges Capitalism To Shed Injustices).

⁵³ LABOREM EXERCENS (ON HUMAN WORK) ¶¶ 1, 14.

⁵⁴ SOLLICITUDO REI SOCIALIS (ON SOCIAL CONCERN) ¶ 15.

cal had no illusions. Its language, grave and at times dramatic, limited itself to stressing the seriousness of the situation and to bringing before the conscience of all the urgent obligation of contributing to its solution.⁵⁶

Pope John Paul's response to the continuation and worsening of unjust conditions found across the globe once again focuses attention on the need for people to "commit" themselves to the common good.⁵⁶ Underlying his discussion is the notion that people are interdependent. Like his predecessors, John Paul II emphasizes the need for people to see that they share the human condition with all other people; thus, they ought to be in "solidarity" with one another. As this Pope has said,

Solidarity helps us to see the "other"— whether a *person, people, or nation*— not just as some kind of instrument, with a work capacity and physical strength to be exploited at low cost and then discarded when no longer useful, but as our "neighbor," a "helper" . . . to be made a sharer, on par with ourselves, in the banquet of life to which all are equally invited by God.⁵⁷

III. NATURAL LAW: A LENS FOR SOCIAL ETHICS

It is important to note at this stage that these sentiments about the relationship between social ethics and the common good are not restricted to the hierarchy of the Church. Indeed, since Vatican II, they have begun to surface in the writings and exhortations of members of the laity (Catholic and non-Catholic). Although he wrote some twenty years before the Second Council ended, Jacques Maritain investigated and promoted the importance of the common good. Maritain saw a strong, unbreakable nexus between the individual and society, between the interests of the unique person and the common good.⁵⁸

The bond between the individual as a distinct person and the society

⁵⁶ *Id.* ¶ 12. (Emphasis in original)

⁵⁶ *Id.* ¶ 38.

⁵⁷ *Id.* ¶ 39. (Emphasis in original)

⁵⁸ JACQUES MARITAIN, *THE PERSON AND THE COMMON GOOD* 102-03 (Charles Scribner's Sons, 1947). Maritain suggested that,

There is a common work to be accomplished by the social whole as such. This whole, of which human persons are the parts, is not "neutral" but is itself committed and bound by a temporal vocation. Thus *the persons are subordinated to this common work*. Nevertheless, not only in the political order, is it essential to the common good to flow back upon the persons, but also in another order where that which is most profound in the person, its supra-temporal vocation and the goods connected with it, is a transcendent end, it is essentially that *society itself and its common work are indirectly subordinated*. This follows from the fact that the principal value of the common work of society is the freedom of expansion of the person together with all the guarantees which this freedom implies and the diffusion of good that flows from it. (Emphasis in the original)

in which she or he lives has been characterized in a number of insightful ways by different thinkers over the years. Aristotle saw the significance of this connection between and among individuals as the foundation of "true friendship." For Aristotle, true friendship is equivalent to true justice.⁵⁹ It is through the justice inculcated by true friendship that individuals cultivate a mutuality and an interdependence with other people; true friendship fosters virtuous relationships in which individuals wish well for the other and do good for the other before they do good for themselves.⁶⁰ Aristotle's view of friendship is reflected in the tradition of care and concern for the other displayed in the Old Testament, viz. bringing justice to the oppressed by providing for the widow, the orphan, and the destitute.⁶¹

The opposite of this notion surfaces when an individual rejects interdependence among people, denies mutuality shared with others, or fails to understand the human condition (the common ground about which I spoke earlier) shared with all persons, even those persons with whom an individual does not directly associate. A graphic example of this lamentable display of inhumane treatment of others is discussed by H.L.A. Hart. In referring to a tale offered by Mark Twain, Prof. Hart recounts the following:

Huckleberry Finn, when asked if the explosion of a steamboat boiler had hurt anyone, replied, "No'm: killed a nigger." Aunt Sally's comment "Well it's lucky because sometimes people do get hurt" sums up a whole morality which has often [unfortunately] prevailed among men.⁶²

The point Prof. Hart makes is that this kind of attitude (viz. one which precludes treating other individuals as fellow human beings to whom reciprocity is owed and with whom mutuality is shared) ignores or denies the common ground that binds people together. Hart goes on to give graphic examples from the modern world of the "morality" of Nazi Germany and South Africa in which it became normative, i.e., "moral", to treat Jews and blacks as inferiors, as non-persons.⁶³ Needless to say, such attitudes do not foster the common good and they do not reflect the natu-

⁵⁹ ARISTOTLE, NICHOMACHEAN ETHICS, Book VIII, Ch. 2, 1154.

⁶⁰ *Id.* at 1156.

⁶¹ See generally NORBERT LOHFINK, S.J., OPTION FOR THE POOR: THE BASIC PRINCIPLE OF LIBERATION THEOLOGY IN THE LIGHT OF THE BIBLE (Bibal Press, 1987). Fr. Lohfink traces the historical tradition of people, especially among the leadership ranks of the Ancient Near East ("ANE"), to assume the responsibility for the welfare of others, especially the poor, the widowed, the orphaned, and the oppressed. *Id.* at 18. Apparently, this notion was shared by a number of cultures in the ANE; thus, concern for others — as expressed in this rudimentary understanding of the common good — is not a specifically Christian idea. *Id.* at 23.

⁶² H.L.A. HART, THE CONCEPT OF LAW 196 (Oxford, 1961).

⁶³ *Id.*

ral law principle of offering the same dignity to all human beings that a person expects for one's self.⁶⁴

One of the most recent, comprehensive contributions to the development of natural law theory to issues concerning social ethics and justice is John Finnis's *Natural Law and Natural Rights*.⁶⁵ Prof. Finnis develops a contemporary sense of the common good which is based in large part on the right of each person to flourish in the entitlement and enjoyment of basic human goods.⁶⁶ Within a just system, then, the person must not only seek "to realize and respect human goods not merely in himself and for his own sake but also in common, in community."⁶⁷ Some of these same sentiments were echoed earlier by Lon Fuller when he gave the Storrs Lectures at Yale Law School in 1963.

Prof. Fuller, in responding to the challenges of legal positivism,⁶⁸ delved into the importance of people exploring and identifying the bonds that tie them with one another. While examining the dignity of the individual (albeit in a secular, political context somewhat different from the context of the papal encyclicals discussed earlier), Fuller identifies the "one central indisputable principle of what may be called substantive natural law"—the discovery, maintenance, and preservation of channels of communication [common ground] through which people "convey to one another what they perceive, feel, and *desire*."⁶⁹ Fuller suggests that by people taking account of the needs, the desires, and the aspirations of one another (i.e., people acknowledging their interdependence and the mutuality they owe to each other), the boundaries and barriers that separate one person from another can be overcome.⁷⁰ In essence, these conditions are conducive to promotion of the common good.

A different, but still related view about the law being a device through which the common good — or at least community — is enhanced is that of Ronald Dworkin. In his *Law's Empire*,⁷¹ Prof. Dworkin suggests that the attitude of the law ought to be constructive. This notion is ori-

⁶⁴ In his *PERSONAL RESPONSIBILITY AND CHRISTIAN MORALITY* (Georgetown University Press, 1983), Joseph Fuchs, S.J., at 225-6, in contrast to the norms of Nazi Germany or South Africa, develops moral norms in which actions taken by society serve not only the society but the individuals found in that society and the *dignity* due each and everyone of them.

⁶⁵ JOHN FINNIS, *NATURAL LAW AND NATURAL RIGHTS* (Oxford, 1981).

⁶⁶ *Id.* chs. 3-4, Part II.

⁶⁷ *Id.* at 161.

⁶⁸ For an interesting and informative article contrasting legal positivism with legal theories espousing the moral content of law, see Deryck Beyleveld and Roger Brownsword, *The Practical Difference Between Natural-Law Legal Theory and Legal Positivism*, 5 *OXFORD J. L. STUD.* 3 (1984).

⁶⁹ LON FULLER, *THE MORALITY OF LAW* 186 (Yale University Press, 1964). (Emphasis supplied)

⁷⁰ *Id.*

⁷¹ RONALD DWORKIN, *LAW'S EMPIRE*, (Harvard-Belknap, 1986).

ented toward identification and development of principles that will show the way *toward a better future for all members of society*. As he states,

[Law] is, finally, a fraternal attitude, and expression of how we are united in community though divided in project, interest, and conviction. That is, anyway, what law is for us: for the people we want to be and the community we aim to have.⁷²

Dworkin's statement reveals several important contributions to the conversation about mutuality among people and the common good that ought to result. First of all, when he talks about the people "we want to be," he can mean people as distinct individuals who may and do hold different, sometimes opposing views on important issues (which he calls projects); but he can also mean that these distinct individuals can envision the need to put aside these differences and come together in a community that is supportive of the individuals and the diverse interests they have. In other words, through community—a notion supportive of the common good—people preserve their own uniqueness while at the same time they acknowledge the need and desirability of fostering what makes other people unique.

Kent Greenawalt provides an insight which parallels Dworkin's contribution to the compatibility of natural law ethics and the development of people. Prof. Greenawalt has suggested that reciprocity is "implicit in the idea of the common good."⁷³ Without necessarily endorsing their content, Greenawalt points out that laws developed under natural law theory are "rules for the common good, the common good embracing the *good of individual members of the community*."⁷⁴ Nevertheless, this principle does not share the contractarian view of justice which is pursued out of self interest; it parallels, rather, the duty to respect the interests of others as well as those of one's self.

Within the context of Catholic beliefs and American life, John Courtney Murray made a substantial contribution to the role of Christian beliefs (that are based on natural law theory) being implemented in every day life. A good deal of his work focused on examining the relationship between American citizenship and Christian faith.⁷⁵ Fr. Murray characterized this work as, "the reflections of a Catholic who, in seeking his

⁷² *Id.* at 413. Prof. Dworkin has indicated that his views on law may well constitute a form of natural law. See Ronald Dworkin, "Natural" Law Revisited, 34 FLA. L. REV. 165 (1982); as Dworkin says, "[A]ny theory which makes the content of law sometimes depend on the correct answer to some moral question is a natural law theory, then I am guilty of natural law."

⁷³ KENT GREENAWALT, *CONFLICTS OF LAW AND MORALITY* 162 (Oxford, 1987).

⁷⁴ *Id.* at 161. (Emphasis supplied) (citation omitted).

⁷⁵ JOHN C. MURRAY, S.J., *WE HOLD THESE TRUTHS: CATHOLIC REFLECTIONS ON THE AMERICAN PROPOSITION* (Sheed and Ward, Inc., 1960).

answer to the civil question, knows that the principles of Catholic faith and morality stand superior to, and in control of, the whole order of civil life."⁷⁶

While acknowledging that the Catholic response to social concerns in the United States has been historically ambivalent, Murray believed it was proper for the Christian to challenge temporal authority that veers away from the Christian social ethic.⁷⁷ At the center of this challenge is the Christian "effort to live out of the whole Gospel."⁷⁸ Fr. Murray sees the wider problem and challenge as one in which terrestrial humanism relates to and possibly conflicts with what he calls "eschatological humanism." Within his contribution to the debate, Murray suggested that the human contribution alone is not sufficient to realizing the kingdom of God: what is essential is that while encouraging humanity to seek truth, she (the Church) must carefully guide the action.⁷⁹

Michael Perry has extended this discourse. In his *Morality, Politics, And Law*, he examines and critiques what he calls "liberal political-philosophy" and concludes that its search for normative impartiality/neutrality is "doomed to failure."⁸⁰ As a result of the failure of the liberal political project, he is drawn toward natural law as a source supportive of human flourishing and the development of all people toward a better future. Ultimately, Prof. Perry arrives at a social ethics which he labels "deliberative, transformative politics."⁸¹ A principal element of this form of public life is moral discourse.⁸² As he develops his theory, Perry demonstrates that the desire for human flourishing meets and confronts the demands of common or community life. What is at issue, then is not "what should I do?" or "how should I conduct myself?" but: "how are *we* to 'be' together." It is not self-deliberation about my life, but *mutual* deliberation conducted between agents implicated in a common life.⁸³ For Perry, moral deliberation and discourse require both consideration of other individuals and the communities in which they live.⁸⁴ Perhaps the strongest statement Perry makes about the mutuality of people in legal and political matters is in his final chapter where he states that,

Politics, then, in a morally pluralistic society, is in part about the credibility of competing conceptions of human good. Political theory that fails to ad-

⁷⁶ *Id.* at ix.

⁷⁷ *Id.* at 182.

⁷⁸ *Id.* at 193.

⁷⁹ *Id.* at 195.

⁸⁰ MICHAEL PERRY, *MORALITY, POLITICS, AND LAW* 71 (Oxford, 1988).

⁸¹ *Id.* at 4.

⁸² *Id.* at 153.

⁸³ *Id.* at 157 (citing R. BEINER, *POLITICAL JUDGMENT* 152 (1983)) (Emphasis supplied).

⁸⁴ *Id.*

dress questions of human good — questions of how human beings, *individually and collectively*, should live their lives — is, finally, vacuous and irrelevant.⁸⁵

IV. A SYNTHESIS: PRELUDE TO CITIZENSHIP AS DISCIPLESHIP

What I have attempted to present so far is a natural law theory in which the good to be sought includes the protection and development of the interests of both the individual and the community(ties) in which the individual lives. Within the context of natural law, the evil to be avoided is any situation in which *either* the self-serving interest of the individual prejudices the interests of other individuals in the community, *or* the interest of the collective harms or frustrates the flourishing of each individual. John Mahoney has captured the essence of the common good and the vitality it gives to contemporary Christian social ethics. His understanding of such an ethic focuses on *koinonia*, the community, and fellowship:

The totality of the Church, then, is to be seen as the primary agent of moral theology . . . As a communion of all Christian believers, or "the *koinonia* of the saints," it is a hospitable concept . . . It is coming to embrace in increasing awareness those who, despite their tragic disunities within the fellowship, share "the *koinonia* in the gospel . . ." And it also embraces all others who may know not the God of Jesus Christ but who have, nevertheless, been "called into the fellowship of his Son" . . . In so perceiving itself as the place and the agent of moral theology, the Church at the same time receives as its charge the gift and the task of deepening not only its own, but also all men's fellowship *with each other and with God*, in whose own nature all are called to be sharers. . . .⁸⁶

Regardless of what we call it— community, fellowship, or *koinonia* — the entire human community, both present and future, ought to take to heart the contributions which the natural law-based understanding of human mutuality and the common good can do for us as distinct individuals and as individuals who are in relationship with one another. The social ethics generated by natural law and the attendant search for a shared future can do much to address and remedy the ills of our society. But for this natural law-based ethics to be effective, it must not simply be rooted in our social, economic, and political institutions. It must also be able to call home the minds and hearts of individuals everywhere.

⁸⁵ *Id.* at 182. (Emphasis supplied) Perry notes that as a Catholic one of his principal moral texts is the scene of the Last Supper in the Gospel according to St. John, *John* 15:12 — "This is my commandment: love one another, you must love one another as I have loved you."

⁸⁶ JOHN MAHONEY, S.J., *THE MAKING OF MORAL THEOLOGY: A STUDY OF THE ROMAN CATHOLIC TRADITION* 345 (Oxford, 1987) (Emphasis supplied).

As I develop a model of the goal we should approach in our own individual lives, I must first ask the question how the guidelines, the *law*, contributes to and molds the human conscience and action that results. Another way of looking at this question is to frame the issue not simply as a question but as a search for a method, perhaps *the* method, for making the connection between the goal — the *telos* — and how one lives one's life while working toward that goal.

A start toward resolving this issue within a Christian context is to frame it in this light: how would Jesus Christ act? Often, Jesus would address a particular concern by *doing* something (e.g., healing, feeding, protecting). On other occasions he would actually perform a miracle or two. Perhaps the most powerful, enduring method Jesus relied on in trying to mold the consciences of others was through the vehicle of a parable.⁸⁷ As Bruce Chilton has argued, "The Kingdom in word, a *parable performed and repeated*, elicits and at the same time reflects the Kingdom in deed."⁸⁸

While we are free in most instances to take action we believe desirable (either for ourselves *or* for ourselves in relationship with others), the parable gives us a Christian framework and foundation within which we can develop the action that we take and that will often have consequences (both positive and negative) on others. By relating the proposed plan of action to a parable, we encounter, as Chilton suggests, "the reality with which, as human beings, and (to use the "Kingdom" metaphor) as God's subjects, we are primarily concerned."⁸⁹ I believe, then, that the vehicle of parable, such as that found in Luke 10:25-37 (the Great Commandment and the parable of the Good Samaritan), serves as a useful and desirable lens for focusing the plans we have about the action we propose so that the action ultimately taken is that which does, in a Thomistic sense, good and avoids evil.⁹⁰ The Great Commandment is particularly helpful in identifying what is good and what is not; it is about love for one another

⁸⁷ See John Donahue, S.J., *Biblical Perspective of Justice*, in *THE FAITH THAT DOES JUSTICE* 87 (Paulist Press, 1977, John Haughey, S.J., ed.) where Jesus as the eschatological proclaimer of God's Kingdom shows that the Kingdom penetrates and permeates our every day existence.

⁸⁸ BRUCE CHILTON & J.I.H. McDONALD, *JESUS AND THE ETHICS OF THE KINGDOM* 20 (Eerdmans Publishing Company, 1987) [hereinafter cited as CHILTON & McDONALD].

⁸⁹ *Id.* at 69.

⁹⁰ As Bruce Chilton suggests that,

[E]schatological motifs are cognate with ethical themes. Moreover, we have suggested that explicitly moral instructions, most notably the commandment to love in its various forms, arises out of an underlying understanding that God is eschatologically active. . . . Eschatological motifs and ethical themes are aspects of a single vision of God's ultimate action in the world.

Id. at 114-15.

and the mutuality we share as human beings. Through the parable of the Good Samaritan, Jesus instructs the scribe about good action that makes concrete the love for one's neighbor.

Interestingly, it is the Johannine version of the commandment to love which intrigues Prof. Perry and leads him to the belief that God's plan, the eschaton, is active in our lives in the here and now. One important way of coming to know this is by listening to Jesus' parabolic instruction. Let us now listen to the parable of the Good Samaritan and see how it might reflect in another concrete way what Perry has suggested.

V. GOOD CITIZENSHIP AS DISCIPLESHIP

I hold and present the view that being a good citizen, a good neighbor, is analogous to the discipleship to which Christian life calls us. The parable of the Good Samaritan is particularly helpful in serving as a catalyst that activates good citizenship which leads to discipleship with Jesus Christ and our place in God's Kingdom.

My use of the Lukan account of the good Samaritan will not focus entirely on what the heroic Samaritan did in contrast to the inaction of the priest and the Levite. My discussion will also look at the role of the innkeeper. At this point, I shall just say that the response of the innkeeper to the events in this parable is an important link between the ethics we live in our own lives and the future we have with God, viz. our sharing with Him eternal life.

A major reason for looking at the innkeeper is that very few of us are heroes like the Samaritan. Of course, there is nothing wrong with wanting to be like him: perhaps most of us desire to respond just as he did to the needs of another person who has been brutally victimized and whom no one else offers to help. The fact of the matter is that most of us often turn away from the victims we encounter in our lives. While we are somewhat conscious of those around us, just what do we do when we meet the homeless on the streets of our cities or when we read about the plight of the starving or of the refugee? We probably shy away, or we may muster the response: "What can I do?"

A suggestion for using parables is that they can begin to free us from this futile attitude when we discern if we can identify with any of the individuals portrayed in this parable. The point I shall be developing is that the role of the innkeeper provides a useful *and realistic* model by which we can make connections between the ethics we live and practice and the extent to which we are open to God leading us to His promise of eternal life.

The parable begins with a scribe (the lawyer of his time) who attempts to justify himself while talking with Jesus. Jesus uses the Socratic method to encourage the scribe to answer his own question: "What must I

do to inherit eternal life?"⁹¹ In answering his own question, the scribe correctly recites the Great Commandment, the *Shema*.⁹² In addition, the scribe incorporates into his answer the Levitical command that one love one's neighbor as oneself.⁹³ Jesus approves this two prong answer by saying, "You have answered right . . . [D]o this and [eternal] life is yours."⁹⁴

When the scribe asks Jesus who is his neighbor, the Socratic dialogue halts and Jesus tells the parable of the Good Samaritan. This story is filled with several ironies. One would expect the priest and the Levite (who represent religious leadership and familiarization with the Law God handed down to Moses) to come to the aid of the robbers' victim. Neither does. Perhaps they wanted to avoid the impurity of coming in contact with the victim; maybe they wanted to help, but felt compelled to continue on their journey. Perhaps they were just callous and did not want to get involved. A further surprise is that the Samaritan (considered by some to be an outcast, or at least a foreigner) is the one who stops, delays his journey, and aids the victim.

While the action so far is important to help us understand the ethics of daily life in the context of loving of one's neighbor, the lessons to be learned from the parable do not end here. After administering first aid, the Samaritan takes the victim to a nearby inn. Here, the Samaritan continues to look after the man left for dead on the roadside and spends the night with him. The next day, he prepares to leave. At this point, the more subtle level of instruction contained in this parable emerges. This dimension of the parable draws our attention to the innkeeper (who remains silent and on the sideline throughout the telling of the parable).

We might imagine ourselves in the innkeeper's position. First of all, he might have been upset by a guest bringing a brutalized victim of highway robbery into his place of business— he ran a hostelry, not an emergency room in a hospital! The innkeeper is not paid to help care for the wounded or the sick. And then, the innkeeper is asked to do the unexpected. The Samaritan announces that he is leaving and resuming his journey but that he will return. He then gives the innkeeper an advance for two days' lodgings for the victim and tells him that on his return he will reconcile the account if more is spent on the victim than the amount of the deposit.

⁹¹ *Luke* 10:25.

⁹² *Deuteronomy* 6:4-7:

Hear, O Israel: The Lord our God is one Lord; and you shall love the Lord your God with all your heart, and with all your soul, and with all your might. And these words which I command you this day shall be upon your heart. . .

⁹³ *Leviticus* 19:18.

⁹⁴ *Luke* 10:28.

How did the innkeeper react to this? How would you or I react if we were in his position? Would we pocket the money and evict the victim once the Samaritan was on his way? Or would we allow the victim to stay and trust the Samaritan that he would return to reconcile the account? What I suggest at this point is that we can fill in the untold portion of this parable with what we think Jesus would have done or what he would have expected.

Let us assume that the innkeeper trusted the Samaritan that he would return. Let us also keep in mind that the Samaritan himself must have trusted the innkeeper to do as was requested. After all, there are grounds that the Samaritan, like the innkeeper, could have doubts about the innkeeper throwing out the man and could pocket as a quick and easy profit the money advanced. What is at the heart of my reconstruction of the parable is expansion of the theme of love for one's neighbor⁹⁵: the innkeeper does what the Samaritan asks, and the Samaritan returns to reconcile the account. Both the Samaritan and the innkeeper knew the Law of Moses; they understood that love of the neighbor includes the stranger they may not know. They practiced in their respective lives the deeds correlative with faith in God and observance of His law. Each in his own way did something for the stranger who suddenly became the neighbor.

At the root of their respective actions is the ethical behavior that the Law of Moses and the Good News ask us to implement both in belief and in deeds. The action of the Samaritan displayed in the parable, and my extension and reconstruction of the innkeeper's response, point to something vital to the performance of an ethical life, viz. individual recognition of the mutuality of human beings. By mutuality, I mean that in living our lives we are graced with countless opportunities to acknowledge how much we are like one another even though we often attempt to deny this by word or action. In doing as the Samaritan or innkeeper did, we encounter the mutuality we share with one another and the interdependence we have with one another. *This recognition comes when we see that we can be the victim just as easily as we can be the Samaritan or the innkeeper.*

It might seem that the freedom we have and can exercise in our lives

⁹⁵ I am not alone in suggesting the value of reconstructing parables within contemporary contexts. See, e.g., CHILTON & McDONALD, *supra* note 88, at 124 where they state that a person

can hardly escape the conclusion that, while the traditional motifs of the Kingdom in the Gospel parables remain constant, the response to them in modern situations can be as varied and creatively imaginative as the original performance was in Jesus' ministry.

Id.

would be incompatible, or at least at odds, with our mutuality and interdependence with other people. Yet this paradox is just the thing which prompted Philip Rossi to probe the connection between human independence and interdependence.⁹⁶ It is fundamental to Rossi's understanding of human morality that sooner or later human beings must confront their likeness with one another which ultimately enables us to understand our freedom in the context of our living together as a community.⁹⁷

Rossi posits at the beginning of his discussion that human freedom is a tool by which we come to recognize and acknowledge our likeness with one another — our mutuality — and the correlative fact that we “venture into the future together.”⁹⁸ His foundation of how the lives we lead — the morality we follow, the ethics we live — is connected with this future toward which we journey together. While it is true that our freedom can show us independence and individuality, our freedom would be incomplete and imperfect if this is all that is realized through its exercise.⁹⁹ The more complete our freedom becomes, the more we examine who we are, the more we come to see that our interdependence — our mutuality — leads us to acknowledge that the good for each of us is the good for one another.¹⁰⁰

VI. CONCLUSION

As our cognition of this reality strengthens, the fashion in which we live in community with other human beings becomes fortified with a morality in which we see one another as we see ourselves. As a result of this increased recognition of mutuality, life in human community increasingly becomes a pledge between and among people to “care for one another's well-being.”¹⁰¹ Earlier I had mentioned how human relationships and relationship with God stem from covenant. Rossi ties in the notion of covenant with the ethics of mutuality that leads us into the future with one another. As he suggests, at the core of covenant between God and humanity is the disclosure that God enters the mutuality we experience with other human beings; through God entering our lives, we experience “a share in God's own life.”¹⁰² The climax of Rossi's thesis is that by sharing in God's life, our human existence, our development, and our destiny is

⁹⁶ PHILIP J. ROSSI, S.J., *TOGETHER TOWARD HOPE: A JOURNEY TO MORAL THEOLOGY* (University of Notre Dame Press, 1983).

⁹⁷ *Id.* at viii.

⁹⁸ *Id.* at 3.

⁹⁹ *Id.* at 5.

¹⁰⁰ *Id.* at 68.

¹⁰¹ *Id.* at 145.

¹⁰² *Id.* at 149.

tied up into God's.¹⁰³ As we grow together in the present, we grow together into the future; our present *and* our future are therefore inextricably related to God.

It is this presence of God simultaneously in our now and in our movement toward the future that the critical connection between the ethics we live and the fulfillment of the Kingdom of God surfaces. Our attraction to and engagement with the life of Jesus — as often told through parable — enters into the lives we live today and tomorrow. The more we see our mutuality with one another, the more we see that our good is tied up with the good of all others. The more that we see the good for all others, including our own selves, the more God enters into our now and our future. As Chilton and McDonald have suggested,

Whoever perceives God ultimately revealing himself in the world must — if he is sincere — behave in that world, for good and all, as a new person. He is a new person, whose citizenship has been changed irrevocably.¹⁰⁴

As our citizenship in the communities in which we live prompts us to exercise more and more our mutual need for one another, our recognition for interdependence over independence, the bond between the morality we practice and the future we enter together, becomes stronger. The direction in which human development ought to move — the attainment of its goal, its *telos* — is guided by the rules to which we adhere.¹⁰⁵ And if those rules reflect the morality, the ethics, the enlightenment of Christian life, they can carry us from our present conditions of desires and unfulfilled needs toward a future with one another and a future with God in which the common good — as revealed through our human mutuality — becomes more of a reality.¹⁰⁶

¹⁰³ *Id.* at 174.

¹⁰⁴ CHILTON & McDONALD at 120. (Emphasis in the original)

¹⁰⁵ See CHILTON & McDONALD at 128. "The ultimate goal, towards which all positive development moves, is eschatological." *Id.*

¹⁰⁶ See ZACHARY HAYES, VISIONS OF A FUTURE: A STUDY OF CHRISTIAN ESCHATOLOGY 150-51 (Michael Glazier, 1989) for another discussion about the relationship between political life and faith and how this relationship is connected with the future — the *telos*.