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Comment

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I am pleased to offer some comments on Professor Michael White's excellent paper concerning the law-like nature of practical reason, which was presented in honor of the extraordinary life achievement of Professor John Finnis. And I should like to thank the organizers of the Scarpa Conference of the Villanova University School of Law for inviting me to do so.

In his paper, Professor White locates the law-like nature of practical reason, the prescriptive aspect of human intelligence, in its very unmodern property of heteronomy. This nicely brings out a fundamental opposition between ancient and modern moral philosophy, namely, that between heteronomy and autonomy.

Ever since Rousseau and Kant, we have been taught that morality logically depends on freedom and that freedom depends on the will freely imposing law on itself, that is, the possibility of morality requires the will to be an autonomous faculty. As Professor White shows, the Western and classical moral tradition going back to the Stoics has held to a heteronomous view of moral norms: morality is grounded in a higher law. I would add that this view can be traced back to the Pre-Socratics who give us a potent adumbration of this view and even, in some cases, an explicit formulation of it. To cite but one example, take the magnificent fragment of Heraclitus, himself an inspiration to the Stoics: "For all the laws of men are nourished by one law, the divine law."[1]

Both in Heraclitus and in Plato's *Laws* we are presented with the specific terms of human and divine law, *anthropos nomos* and *theios nomos*, respectively. It is because the universe is ruled by divine law that it is *eukosmos* or, as it were, a happy cosmos because well-ordered. Such a universe is suitable for the common life of rational beings, a social life within the recognizable divine government of the universe. This idea of the cosmos became a commonplace of analogical practical thought in Hellenistic moral and political philosophy and it had an influence on St. Paul who hailed from Tarsus, a city suffused with popular Greek philosophy.

Aristotle, as Professor White brings out, was not given to making analogies between human law and the divine order of things, and this because Aristotle's God did not create or fabricate the universe and does not exercise a conscious government and providence over it. Thus, the supreme being of Aristotle is not strictly a lawgiver, but is rather a supreme final cause alone, enclosed within its contemplative separated substance and drawing the natural world unconsciously to its perfect state of being. How-

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1. G.S. Kirk & J.E. Raven, The Presocratic Philosophers 213 (Cambridge Univ. Press 1957).

(921)

922   VILLANOVA LAW REVIEW   [Vol. 57: p. 921

ever, even in Aristotle there is a definite appreciation of human reason, the locus of speculative and practical first principles, as being something divine or standing in relation to the divine. Furthermore, it is because Aristotelian science puts forward a teleological universe that we have the classical norm of the moral analysis of human acts, to wit, the divinely grounded finality of nature and of human nature in particular. As such, it would not be inappropriate to speak of a natural or divine law of teleology in Aristotle. This is certainly a heteronomous world-view, one which has been traditionally a rich source of ethical, and especially natural-law, reflection, feeding the practical thought of St. Thomas Aquinas and many others.

In recent times within the natural-law tradition, but echoing innovations in Hobbes and Grotius (e.g., the attempt to understand the natural moral law without God or metaphysics), there have been various philosophical efforts, the natural-law theories of Professors Finnis and Germain Grisez among them, which have tried to disentangle teleology from moral analysis. Such disentanglement, it would appear, is meant to avoid certain metaphysical commitments. Presumably, this is because of the opprobrium covering things metaphysical and teleological since Darwin and of the historical victory of modern natural science in general. This victory has enclosed us in an empire of chance or in a cosmos ruled by necessity without intentionality. In such states of affairs, how are we to build a viable moral system, and on what basis? Is ethics in the wake of the findings of modern science possible at all?

The efforts of contemporary natural-law theorists have often tried to secure the validity and justification of practical first principles in a combination of self-evidence and universal anthropological behavior, revealing a commonly acceptable equality of circumscribed goods. However, as Professor White's emphasis on the heteronomy of practical reason would suggest, these grounds, which are by no means to be despised, would only constitute a necessary but insufficient justification, an incomplete justification at best of moral principles. A complete justification, indeed a final one, must recognize, in a speculative manner with immediate practical consequences, that man is neither the author of his own being nor of the laws of right conduct. Therefore, the ontological and teleological recognition of a necessary and divine author of natural being, normativity, and obligation is the ultimate *sine qua non* of moral theory and of any ethical system. We are not beings as such but contingent beings, beings of a creaturely mode, as Professor White references. Thus, the positing of an autonomous will in the modern sense might be considered a form of usurpation and hence unlawful.

Moreover, though Aristotle (not Plato nor Cicero) is practically silent on the virtue of religion, St. Thomas Aquinas makes religion the supreme moral virtue.[2] Religion here is the natural virtue through which men pay

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2. *See* THOMAS AQUINAS, SUMMA THEOLOGIAE IIa–IIae, q. 81, a. 6.

to God the worship and reverence which they owe to him as the first prin-ciple and governor of things. This would appear necessarily to speak to a hierarchy in the order of human goods, something which most contempo-rary moral theorists, even those inspired by Thomas, do not endorse.

Finally, I wish to touch briefly on the matter of the modern is/ought divergence inasmuch as Professor White alludes to David Hume, whose 300th birthday is commemorated in 2011. This putative divergence has also been a matter of interest in discussions surrounding the ethical writ-ings of Professor Finnis. Given the subscription to moral naturalism on his part, Hume did not mean by said divergence, of which he is the source, that no natural facts (the is) imply moral truths (the ought). After all, for Hume, man's sentiments of approbation and disapprobation are the natu-ral basis of judgments of right and wrong. What Hume meant, therefore, by no ought from is, is that only from moral natural facts (e.g., human sentiments), as opposed to non-moral natural facts, can we derive moral truths; this was to safeguard his moral theory from teleology. Contrari-wise, St. Thomas would say there are teleological facts about the universe and, in particular, human nature that are speculative or metaphysical truths with rational implications for practical norms. In other words, and to conclude, natural human inclinations (the teleological facts of human nature) imply ends, end implies good, good implies ought or obligation, obligation implies law. Hence, we find an is/ought convergence, getting us from non-moral natural facts to moral laws.

924   VILLANOVA LAW REVIEW   [Vol. 57: p. 921