

“Doing as I Please or Pleasing as I Do: Constructive and Destructive Autonomy in Relation to Conscience, Freedom and Obligation”

*“Be free, yet without using freedom as a pretext for evil, but as slaves of God”
– 1 Peter 2:16*

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This paper is divided into three parts. First, I provide a description of what I call destructive autonomy. Then I suggest an antidote in what I call constructive autonomy, knowing full well that this is a slight concession to contemporary terminology, which tends to see the term “autonomy” always in a good light. To the extent that autonomy as a term is not going away any time soon, this paper attempts to make the word itself neutral and define its destructive and constructive aspects, which are more closely akin to anarchy and antinomianism. As I will discuss, destructive autonomy has wreaked enormous havoc in the arena of medical law and ethics, while constructive autonomy has the promise of being life-affirming. However, before I get to this, the first part of the paper starts with a personal reflection on how I have come around to thinking about destructive and constructive autonomy.

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Introduction

August 24, 1952 was the most important day of my life. Coming just nineteen days after I was born into this world, it was the day on which I was baptized and thereby was born again as an adopted son of God.¹ My parents had me baptized with the names Thomas John. I once asked my parents why they named me Thomas John. My middle name, John, made sense, since my father and my grandfather were named John. But where did the name Thomas come from? My parents gave no profound or historical explanation, saying simply that they liked the name Thomas and they wanted to give me a name that no one else in the family had.

Over the years, I initially presumed that my patron saint was Saint Thomas the Apostle, the first saint to bear that name. As I progressed through my seminary studies, I began to look to Saint Thomas Aquinas for his intercession to help me with my academic pursuits. Later, after I graduated law school and was admitted to the Illinois bar, I began to look more to Saint Thomas More, patron saint of lawyers. When I was named Chancellor of the Archdiocese of Chicago in 1992, Saint Thomas More took on added significance for me since he had served as Lord High Chancellor of England from 1529 to 1532.

Then in 2010 when I was named Bishop of Springfield in Illinois, I asked my Archbishop, the late Francis Cardinal George, what date he was available for him to come to Springfield for my Installation Mass. He said that June 22nd would be good for him. Of course, June 22nd is the Memorial of Saints Thomas More and John Fisher. That would be

perfect! I would be installed as a bishop on the feast day of the patron saint of lawyers as well as of a renowned bishop, both of whom died as martyrs.

Immediately it became clear to me that this was all in God's plan. Although my parents did not fully understand it at the time, on the day of my baptism they were setting me on a lifetime journey, naming me Thomas John, that would lead to the day of my installation as a diocesan bishop on the Memorial of Saints Thomas More and John Fisher. Thus it was a blessing to be here in England this past Saturday on the Memorial of Saints Thomas More and John Fisher and to have the privilege this week of visiting some of the historical sites associated with my patron saints.

You might not be surprised to learn that my favorite movie of all time is the 1966 classic, "A Man for All Seasons," which won the Academy Award for Best Picture, about the life of Saint Thomas More, played by the British actor Paul Scofield. In one particular pertinent scene as it relates to the theme of today's symposium, Thomas More is having a conversation with his predecessor as Lord High Chancellor, Cardinal Thomas Wolsey, the Archbishop of York. Cardinal Wolsey is seeking More's help in drafting a letter to the Holy See regarding the desire of King Henry VIII to divorce the Queen, Catherine of Aragon, so that he could marry Anne Boleyn.

Challenging More's reluctance to help, Wolsey says, "You're a constant regret to me, Thomas. If you could just see facts flat on, without that horrible moral squint, with just a little common sense, you could have been a statesman. . . . Now explain how you as Councilor of England can obstruct those measures for the sake of your own, private, conscience."

Thomas responds, "Well . . . I believe, when statesmen forsake their own private conscience for the sake of their public duties . . . they lead their country by a short route to chaos."² The implication is that conscience, by contrast, will save the world!

"Conscience" is a word that means different things to different people. To some, following one's conscience means to do as one pleases, as one sees fit; to others, following one's conscience is to have the moral and political freedom to please God by what he or she does in life, to oneself and one's neighbors, not simply as one might like or as one would prefer, but as one ought to do.

In this regard, I am reminded of a speech given by my favorite American statesman, Abraham Lincoln, the esteemed sixteenth President of the United States of America. Abraham Lincoln was born in Kentucky, grew up in Indiana, and lived most of his adult life in Springfield with his wife and children, while he practiced law riding the circuit to courthouses across central Illinois. The Lincoln Home sits just a few blocks from where I reside at our Cathedral Rectory. Springfield is also home to the Abraham Lincoln Presidential Library and Museum, as well as the Lincoln Tomb, where Mr. Lincoln was buried following his assassination in 1865.

In an address given in Baltimore on April 18, 1864, President Lincoln said,

The world has never had a good definition of liberty, and the American people, just now, are much in need of one. We all declare for liberty; but in using the same word we do not all mean the same thing. With some the word liberty may mean for each man to do as he pleases with himself, and the product of his labor; while with others the same word may mean for some men to do as they please with other men, and the product of other

men's labor. Here are two, not only different, but incompatible things, called by the same name – liberty. And it follows that each of the things is, by the respective parties, called by two different and incompatible names – liberty and tyranny.

This quote from Abraham Lincoln is helpful to call to mind today as we discuss words that have different meanings to different people, words such as autonomy, conscience, freedom and obligation. Moreover, words such as these do not exist in isolation, but must be understood in relation to each other.

Constructive and Destructive Autonomy

The title of this lecture is, “Doing as I Please or Pleasing as I Do: Constructive and Destructive Autonomy in Relation to Conscience, Freedom and Obligation.” This title alludes to the fact some people understand autonomy and liberty in the destructive sense as the freedom to do whatever they please, whereas others recognize that autonomy and liberty are essential means that allow people to live a virtuous life and to please God as they do so.

Thus, the exercise of “autonomy” could have either negative or positive implications. The word “autonomy” comes from the Greek words, “*auto*,” which means “self,” and “*nomos*,” which means law. Autonomy then means laws made for oneself. Autonomy is constructive when a person comports himself or herself, or a state governs itself, in a way that serves the common good and not just self-interest. Used in this way, the word “autonomy” can be understood in a positive sense, much like the word, “self-

discipline." Autonomy is destructive when it becomes self-serving for hedonistic reasons rather than self-regulating for altruistic purposes. The worst expression of destructive autonomy is a state of lawless anarchy where everyone does as he or she pleases with no regard for the negative impact of their behavior on others.

An easy and presumably non-controversial example of a destructive notion of autonomy is the nuisance of litter. Yes, I am talking about trash, such as paper, cans, and bottles, that is left lying in an open or public place. I am old enough to remember the public service announcements that ran on American television in the 1950s and 1960s with the slogan, "Don't be a litterbug." The anti-litter campaign was promoted by an organization called Keep America Beautiful, founded in 1953 in response to the growing problem of highway litter.

Perhaps it is just my imagination, but the problem of litter seems to be getting worse in recent years. It is my practice to go running almost every morning, and after my run I usually cool down by walking around the grounds of our Cathedral campus, where I live. In recent months I have noticed what seems to be an increased amount of trash apparently thrown out of car windows by passersby, including empty beer cans, soda cups, pizza boxes, hamburger containers, banana peels, etc. Because I think this is unsightly for people coming to Mass and since I am often out there early before our maintenance worker can get to it, I pick it up myself.

Once, a few weeks ago, I was picking up the litter in front of the Cathedral as a woman came out of the church. I was wearing my running clothes and my customary Chicago White Sox baseball cap. She asked me if I worked there. I said yes, whereupon

she directed me to the corner of the lawn in front of our rectory next to the Cathedral with the instruction that I should pick up the dog droppings there. I said I would take care of it right away! Afterwards I thought it appropriate that the Vicar of Christ in his diocese should be mistaken for the gardener!

My point is simply that littering is an example of destructive autonomy. The litterbug says, "The world is my garbage can and so I am free to throw my trash wherever I want." Never mind the unsightly effect this has on the environment or the inconvenience imposed on others who have to pick up the litterbug's trash. Autonomy run amok seeks only to do as one pleases regardless of whether it is displeasing to others.

A more ethically significant example of destructive autonomy can be seen quite clearly in the abortion license, wherein what is claimed to be the woman's subjective right to control her own body as she pleases is considered to override any rights possessed by the baby in her womb. In fact, the so-called "Reproductive Health Act" recently enacted in the State of Illinois – truly a misnomer because it does not protect the health of either the mother or her baby – states, "A fertilized egg, embryo, or fetus does not have independent rights under the laws of this State." Indeed, the new statute in fact takes steps to undermine the health of the woman seeking an abortion by, for example, doing away with abortion clinic reporting requirements and allowing non-doctors to perform abortions, all in the name of autonomy.

This entirely subjective and destructive view of autonomy is most starkly expressed in the majority opinion of Justice Anthony Kennedy in the 1992 decision in *Planned Parenthood v. Casey*, upholding the right to abortion created by the United States

Supreme Court in their 1973 decision in *Roe v. Wade*. In *Planned Parenthood v. Casey*, Justice Kennedy wrote this line, described by some as his “notorious mystery passage,” memorable for its profound vacuity: “At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life.”³ Let me repeat this line if you have never heard it before, “At the heart of liberty is *the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life.*” This is a statement completely dissociated from any normativity whatsoever – it is destructive autonomy at its most chaotic because it isolates the individual not just from the community or any objective sense of human nature, but it also isolates an individual from every other person. The statement denies that humans can in any way share a goal if an individual can validly opt for his or her own concept of human life. Even assuming a modern positivist conception of morality as social convention, Justice Kennedy’s variant of autonomy offers no home for any sort of consensus about a shared moral vision. The consequences of destructive autonomy and the preservation of this hyper-individualist approach to life as a *legal right* is enormously dangerous.

Some commentators dismissed Justice Kennedy’s “mystery passage” as rhetorical flourish with no particular import. On the contrary, despite the illogic of what the late Justice Antonin Scalia pilloried as the “sweet mystery of life passage,” its sentiments and moral vision have taken hold and blossomed in recent years, blossomed with thorns that are tearing at the fabric of civil society. Not surprisingly, we are seeing this unfettered assertion of destructive autonomy trampling on the rights of others. In the United States,

we have seen this especially in restrictions on the right to religious liberty and in governmental mandates providing for taxpayer funding for abortion and requiring all employers, even religious charities, to pay for coverage of contraceptives and abortifacients in their employee health insurance plans. Such measures clearly violate the conscience rights of those who have moral and religious objections to immoral medical procedures.

Closely related to a destructive notion of autonomy is the concept of antinomianism. The word “antinomianism” may be easily understood if we simply parse its etymology from its Greek roots. As we know, the prefix *anti* means “opposed to or against” something, while *nomos* means “law.” Thus, “antinomianism” means being against or opposed to the law, not in the sense of being illegal, but rather being fundamentally opposed to law in general.

Taken to its theological extreme, antinomianism holds that there are no moral laws that God expects people to obey. In this view, since Jesus died for our sins, we are already forgiven by Christ, so we do not need to follow the moral laws, whether available to us by reason or revealed in Scripture. This approach, however, misinterprets Saint Paul’s writings about the Law of the Old Testament. When Saint Paul wrote in his letter to the Galatians that “Christ ransomed us from the curse of the law by becoming a curse for us” (Gal. 3:13), he was not saying that Christians were no longer bound to the moral law, such as the Ten Commandments, but rather was referring to the covenantal requirement of circumcision, the disciplinary laws, dietary laws and the laws for temple worship found in the Torah. In fact, Saint Paul explicitly rejected antinomianism in his Letter to the

Romans, writing, "Shall we sin because we are not under the law but under grace? Of course not!" (Romans 6:15) In this regard, Jesus himself said, "Do not think that I have come to abolish the law or the prophets. I have come not to abolish but to fulfill" (Matthew 5:17).

Since the Second Vatican Council, it may be said that an antinomian spirit has taken no small part of the Church. This post-Vatican II antinomian spirit has had profound repercussions for the Church in a variety of ways. The widespread disregard for canon 915, which provides that those who "obstinately persist in manifest grave sin are not to be admitted to Holy Communion" – such as politicians who support abortion rights and divorced persons who are civilly remarried without an annulment – is a prime example of the antinomian spirit that prevails in certain quarters of the Church today.

Conscience

Regarding the term "conscience," we often hear this word evoked in the phrase, "I am just following my conscience." An example of this occurred in November 2011 when Cardinal Francis George, then Archbishop of Chicago, and the other five bishops in Illinois, including myself, criticized then Governor Pat Quinn, a Catholic, for giving an award at an upcoming event for an abortion-rights political action committee. Governor Quinn responded to our criticism that this action was a betrayal of his Catholic faith by saying "I just follow my conscience. I think that's all you can do in life."⁴

However, equating “following my conscience” with “doing as I please” or “doing what *I* think is right even if *you* disagree,” manifests a faulty notion of what conscience is and how it works. Cardinal Thomas Collins, Archbishop of Toronto (Canada), explains the matter this way:

It is sometimes suggested that our conscience is some kind of subjective oracle that on its own provides adequate direction in life. It is granted that we should take a good look at Church teaching, but the basic point is that we go with our conscience. Church teaching, or doctrine, presents us with the challenges of the Gospel call to discipleship. Those challenges are sometimes seen to be burdensome, not really capable of being lived in the real world, except perhaps by a heroic few. They are seen by some as forming a kind of abstract Christian ideal that we certainly honor, but meanwhile we have got to get along with the challenges of real life. There is a wall between doctrine and life. If we think of things that way, the role of conscience is to adapt the abstract Christian ideal to what is practicable in our current situation, particularly as it is shaped by contemporary secular culture. This approach disregards the reality of grace, and the simple fact that Jesus has not called us to a way of life that cannot, in fact, be lived. Plenty of people live Christian discipleship to the full; this is especially evident wherever Christianity is actually flourishing, but it is true everywhere.⁵

The word “conscience” comes from two Latin words, “co-” (which means “together” or “with”) and “science” (which means to have knowledge about something). Conscience means to share knowledge with someone else about what is right or wrong. It is to think with God. Conscience does not act in isolation, based on some sort of

personal or individual intuition, disconnected from other people and from the truth. For a Catholic, a properly formed conscience means to share God's knowledge and the Church's teaching about right or wrong. So those who invoke "conscience" to justify their rejection of the natural moral law we can know by reason or the divine law disclosed in revelation and taught by the Catholic Church are saying that they have chosen to follow the thinking, knowledge and values of someone or something other than the Catholic Church or by God, who embedded certain moral truths into the world and into us.

Another unfortunate example of an erroneous understanding of conscience occurred just last week when Brebeuf Jesuit Preparatory School in the Archdiocese of Indianapolis refused to adhere to a directive from Archbishop Charles Thompson to fire a teacher in a same-sex marriage. As a result, the Archbishop announced that the Archdiocese of Indianapolis would no longer recognize the school as a Catholic institution as of June 21, 2019.⁶

In response, the school issued a statement saying, "After long and prayerful consideration, we determined that following the Archdiocese's directive would not only violate our informed conscience on this particular matter, but also set a concerning precedent for future interference in the school's operations and other governance matters that Brebeuf Jesuit leadership has historically had the sole right and privilege to address and decide." Jesuit Father Brian Paulson, head of the Jesuits' Midwest Province, stated that Brebeuf Jesuit "respects the primacy of an informed conscience of members of its community when making moral decisions."⁷

The word “we” in the statement either means the school as a corporate entity – which can’t have a conscience in the strict sense – or the “we” means the school leaders as a collective of individuals. But if it means the leaders as a collective of individuals, they should have used the plural, “our consciences,” rather than some sort of collective conscience among a group of people!

The Catholic News Agency report of this case further says, “While the Code of Canon Law establishes that religious orders, like the Jesuits, ‘retain their autonomy in the internal management of their schools,’ it also says that the diocesan bishop has ‘the right to issue directives concerning the general regulation of Catholic schools’ including those administered by religious orders.”⁸

Here we should note the use of the reference to “autonomy in the internal management of their schools.” This “autonomy” is used in a constructive sense when referring to such schools’ self-governance, but it is canonically inapposite here since the reference to “their schools” would be understood canonically to refer to Jesuit schools where all of the students were Jesuits. In this case, the students at Brebeuf Jesuit Preparatory School are not Jesuits, but are members of the Christian faithful from across the Archdiocese of Indianapolis, which gives the Archbishop of Indianapolis jurisdiction over that school as an apostolic work of the Society of Jesus under his authority. Canon law clearly states, “Religious are subject to the authority of bishops, whom they are obliged to follow with devoted humility and respect, in those matters which involve the care of souls, the public exercise of divine worship and other works of the apostolate.”⁹

If the leaders of this school are following their informed consciences, one must ask: informed by whom or what? Certainly not informed by the teaching of the Catholic Church, which teaches that homosexual activity is seriously sinful. If they reject that teaching, then they are heretical. If they reject the authority of their diocesan bishop, they are schismatic.¹⁰ If they are heretical and schismatic, then they are truly not a Catholic school. In the end, it is not sufficient for one's conscience simply to be *informed*, it must also be *well-formed*, and not *under-formed* or *malformed*.¹¹

Conscience in the Catholic understanding is an application of principles to facts, an operation of the intellect. Conscience does not act like some inner voice pulling morality out of nowhere; conscience, particularly as described in the *Catechism of the Catholic Church* and as taught so well by St. Thomas Aquinas, utilizes principles that the intellect grasps in a social context. Our intellect stores these principles as we grasp or learn them, and then applies them to specific facts and circumstances each time we make moral judgments. The important point is that there must be principles we point to in "listening to our conscience" and not just a gut feeling. What those principles are that the person accepts and applies is vital to how a person makes a moral judgment.

In the case of Governor Quinn as cited earlier, as well as other like-minded politicians who support legislation that promotes abortion and other evils contrary to church teaching, "following their conscience" means that they have chosen not to think in accord with the Catholic Church, but rather to follow the thinking of the abortion lobbyists, or the thinking of their political party, or the thinking of secular atheism, or simply to do as they please. In those circumstances "following their conscience" means

they have accepted some set of principles, whether because of deeply erroneous beliefs or as the result of pressure or political payment, and applied those principles to facts to make a judgment. It is true that if a person seriously misunderstands and is confused about the moral law, then their conscience might lead them to an erroneous conclusion which they must follow even if they are wrong — but that goes only to their personal moral culpability and not to the objective rightness or wrongness of a moral judgment. In fact, grievous erroneous moral judgment is all the more reason to call attention to the erroneous principles a person may be using.

Pope St. John Paul II expressed this quite cogently in his encyclical letter, *Veritatis splendor*:

Conscience *is not an infallible judge*; it can make mistakes. . . . In any event, it is always from the truth that the dignity of conscience derives. In the case of the correct conscience, it is a question of the *objective truth* received by man; in the case of the erroneous conscience, it is a question of what man, mistakenly, *subjectively* considers to be true. It is never acceptable to confuse a “subjective” error about moral good with the “objective” truth rationally proposed to man in virtue of his end, or to make the moral value of an act performed with a true and correct conscience equivalent to the moral value of an act performed by following the judgment of an erroneous conscience. It is possible that the evil done as the result of invincible ignorance or a non-culpable error of judgment may not be imputable to the agent; but even in this case it does not cease to be an evil, a disorder in relation to the truth about the good.¹²

In other words, Pope St. John Paul II is saying that Catholic teaching rejects the mistaken claim to the primacy of conscience and clearly asserts the primacy of truth.

The classical biblical text on conscience is Romans 2:14-16:

For when the Gentiles who do not have the law by nature observe the prescriptions of the law, they are a law for themselves even though they do not have the law. They show that the demands of the law are written in their hearts, while their conscience also bears witness and their conflicting thoughts accuse or even defend them on the day when, according to my gospel, God will judge people's hidden works through Christ Jesus.

Contemporary discussions of "conscience" seem to follow a line of thought that conscience is isolated and, by calling into question the principles a person uses in making a judgment, is in some way to violate that person. Indeed, that might be what we would be doing by questioning the principles a conscience rests on if we lived in a reality that corresponded to Justice Kennedy's hyper-subjectivist mystery passage – but that is not reality. There is no such thing as law unto an individual; law is social; it is communal; moral judgment rests on a shared natural law. To deny this and hide behind unarticulated principles in a vague notion of conscience as a "feeling" is destructive autonomy. When this is done by individuals who have care of a community, it also has significant trickle-down bad effects. When a parent does not teach moral principles, the child is in danger of poor character formation. When a political leader uses gravely erroneous principles – or refuses to articulate his principles – this is a danger that corrupts the body politic

and engenders destructive autonomy. For those of us who are equally charged with the care of souls, it becomes imperative to clarify and educate the public on right principles and call attention to a proper understanding of the moral law. Destructive autonomy and erroneous understanding of conscience are impediments to forming good character and virtuous lives.

Melanie Susan Barrett, Chairperson and Professor of the Department of Moral Theology at the University of Saint Mary of the Lake/Mundelein Seminary, argues that we need to possess moral virtues so that we can make good moral choices rather than bad ones. She writes,

To possess a “good conscience” thus means to be able to judge situations correctly: to assess them from the standpoint of objective morality. But this requires sustained effort. We cannot be too hurried to think through situations carefully. We cannot be too prideful to ask for help: to consult the relevant authorities. We also cannot possess any vices that impede our ability to judge, choose, and act correctly.”¹³

Citing Saint Thomas Aquinas (*ST* I-II 12-17; II-II 47-56; and I-II 74-78), Professor Barrett describes four steps involved in good decision-making:

First, I have to want to do the right thing. If I am a good person; if I possess all the moral virtues—if I am chaste, sober, and just rather than lustful, drunk, and selfish—then I naturally will seek to accomplish good things. Second, I need to consult the relevant authorities—experts who know more than I do—about how best to accomplish my good end. Third, I must decide what to do by considering any relevant moral principles, and then applying them to my situation. Finally, I must execute the good decision that I made.

The intellectual virtue of prudence empowers us to reason well in steps two through four.¹⁴

Archbishop Alexander Sample, the Archbishop of Portland in Oregon, in his Pastoral Letter on the reading of *Amoris Laetitia* in light of Church teaching, entitled, “A True and Living Icon,” offers a helpful reminder that there is always hope for redemption from a sinful situation, saying, “Because persons are free, conscience can develop and mature. No one is trapped within a permanently erroneous conscience, and by God’s grace and moral education can cooperate in attaining a well-formed conscience.”¹⁵

The Second Vatican Council gave an apt description of the way one can attain a well-formed conscience in the Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes*:

In the depths of his own conscience man detects a law which he does not impose on himself, but which holds him to obedience. Always summoning him to love good and avoid evil, the voice of conscience can when necessary speak to his heart more specifically: “Do this, shun that.” For man has in his heart a law written by God. To obey it is the very dignity of man; according to it he will be judged.¹⁶

Freedom

The relationship between conscience and freedom as properly understood can be seen in this quote from Michael Polanyi, the great philosopher of science, who wrote, “The freedom of the subjective person to do as he pleases is overruled by the freedom of the responsible person to act as he must.”¹⁷

Citing the necessary relationship between freedom and truth as taught by the Second Vatican Council (*Gaudium et Spes* 17) and Pope St. John Paul II (*Veritatis Splendor* 21), the late Avery Cardinal Dulles argues that we possess authentic freedom

only when we go beyond individual and collective selfishness and reach out to that which reason perceives as objectively good and true. Our freedom is not diminished but expanded and fulfilled when we employ it to bring about a true good. . . . Because the moral law, as known by reason, does not constrain us, it leaves us physically and psychologically free either to obey or to violate it. But if we reject the true good, we inevitably yield to the passions and instincts of our lower nature and thereby undermine our authentic freedom. To act freely against the truth is to erode freedom itself.¹⁸

Thus, to do as we please, rather than act according to the truth that God has established and reason correctly apprehends, is to be enslaved to our passions. This is not authentic freedom; it is servitude. In his homily at Baltimore during his 1995 visit to the United States, Pope St. John Paul II challenged all of us to a nobler notion of freedom when he said (echoing Lord Acton), that “freedom is not a matter of doing what we like, but having the right to do what we ought.”

Obligation

Blessed John Henry Cardinal Newman, most illustriously identified with Oxford, eloquently clarified the relationship between conscience and God. In his Letter to the Duke of Norfolk, Newman writes: “Conscience is the aboriginal Vicar of Christ, a prophet

in its information, a monarch in its peremptoriness, a priest in its blessings and anathemas.”¹⁹

In his *Grammar of Assent*, Newman speaks of conscience as “our great internal teacher of religion.” It “teaches us not only that God is but what He is; it provides for the mind a real image of Him, as a medium of worship.” Newman contrasts this true and traditional conception of conscience with what he calls its modern counterfeit. While some see conscience as “a license to take up any or no religion,” Newman asserts, “Conscience has rights because it has duties.”²⁰

The close connection and necessary relationship between obligations and rights is emphasized in the 1983 *Code of Canon Law*, by always situating rights in light of concomitant duties and obligations, where rights and obligations are seen as flip sides of the same coin. The right to receive the sacraments, for example, involves a duty on the recipient of the sacraments to be properly prepared to receive them. It also implies a correlative duty on the sacramental minister to provide the sacraments to those who are properly prepared.²¹ This illustration of the necessary co-existence of rights and duties is yet another reason why the permeation of Justice Kennedy’s mystery passage is so emblematic and despairing for today’s culture: his so-called right to define one’s own existence is inherently duty-less. Perhaps someone could define their own existence in which rights exist with duties – this may be what John Rawls contemplates would happen in his book, *A Theory of Justice*, when he proposes that a moral framework should be done behind a “veil of ignorance” not knowing how any of us would stand in the world, but Rawls and Kennedy stand in a long line of social contract theorists which

depart from reality. We cannot choose what our existence means any more than we can choose whether or not we are social by nature. A moral vision that is so rights-oriented that it denigrates or even denies duties is a vision that can justify atrocities that we may not be able to imagine.

In this quest to better form consciences and correct erroneous principles – and, I would say, steer us away from destructive autonomy – there has been severe criticism about whether the Church has a role in speaking out to society about error. In fact, there seems to be a dichotomy that if the Church teaches that we should respect the environment as God’s creation there is applause, but if the Church teaches that we should respect the dignity of an unborn child as a uniquely created person, then there is a hue and cry of interfering in society. But what really has happened is that, by reminding society of the basic principles of the dignity of all life, the Church disturbs people’s defining their own existence. This is a disruption that may be resented by some; but it is a disturbance that ultimately serves the common good.

Newman eloquently explains the obligation to consider the role of the Church in forming one’s conscience, and implicitly the deference an individual must give to Church teaching. Again in his Letter to the Duke of Norfolk he writes:

All sciences, except the science of Religion, have their certainty in themselves; as far as they are sciences, they consist of necessary conclusions from undeniable premises, or of phenomena manipulated into general truths by an irresistible deduction. But the sense of right and wrong, which is the first element in religion, is so delicate, so fitful, so easily puzzled, obscured, perverted, so subtle in its argumentative methods, so impressive

by education, so biased by pride and passion, so unsteady in its flight, that, in the struggle for existence amid the various exercises and triumphs of the human intellect, this sense is at once the highest of all teachers, yet the least luminous; and the Church, the Pope, the Hierarchy are, in the Divine purpose, the supply of an urgent demand.²²

Blueprint for a Constructive Autonomy: Law (those wise restraints that make us free)

At the outset, I contrasted a destructive autonomy with a constructive autonomy. While I have been critical of societal trends that validate and applaud individuals thinking of themselves as laws unto themselves, there is also the reality that we are individuals who must make choices. We are social by nature and every activity is formed in the context of being in community with others, but when we apply principles to facts and our intellect presents judgment to our will, it is an individual who acts, not society. Human acts are built up from a lifetime of social interaction, but, in the end, it is a *single individual* who acts. In this way we can say there is a type of autonomy that we have; but virtue requires *constructive autonomy*. Autonomy is constructive when a person comports himself or herself or a state governs itself in a way that serves the common good and not just self-interest. Autonomy is constructive when a choice is oriented to that human's final end, which must always be an action that is in accord with the natural law and human nature. Autonomy is destructive when it becomes self-serving for hedonistic reasons. It is constructive when it is self-regulating for altruistic purposes. Perhaps it is divine irony that we exist as individuals who can only find personal happiness when we cease to make decisions that are self-oriented.

In order to foster a constructive autonomy, I argue for the rule of law, based on a sound moral foundation. In this regard, Aristotle wrote, “He who bids the law to rule seems to bid God and intelligence alone to rule, but he who bids that man rule puts forth a beast as well; for that is the sort of thing desire is, and spiritedness twists rulers even when they are the best of men” (*Politics*, III, 1287a, 29-34). The rule of law also seeks to inculcate the well-known definition of Saint Thomas Aquinas that law is “an ordinance of reason for the common good, promulgated by him who has care of the community” (ST, I-II, 90, 4). Staying further with St. Thomas, he argues that just law *binds in conscience*. Law provides a foundation for constructive autonomy as it gives guidance to the moral principles that the act of conscience uses in judging facts. In searching for the law that binds in conscience and engenders constructive autonomy, it is not enough to look to the positive law, we must also look to the natural law. The natural law is inherently just and binds us all in conscience. This is what makes it right, and for some of us a moral duty, to speak clearly on moral principles that are derived from the natural law.

The great anglophone democracies once knew these things: they were the cultural patrimony bequeathed to those who built societies of ordered liberty here in the United Kingdom, and in English-speaking countries around the world. We must learn the truth about conscience, freedom, law and obligation again, if the democratic project is to survive and flourish — and if each of us, as individuals and citizens, is to live the nobility to which our God-given nature calls us.

May God give us this grace. Amen.

¹ Cf. Galatians 4:4-5 and Romans 8:14-17.

² Robert Bolt, *A Man for All Seasons* (New York: Vintage Books, A Division of Random House, 1960), pp. 11 and 13.

³ *Planned Parenthood v. Casey*, 505 U.S. 833 (June 29, 1992).

⁴ John Byrne, "Quinn defends himself against Catholic criticism," *Chicago Tribune*, November 3, 2011, accessed online at <https://www.chicagotribune.com/politics/chi-quinn-defends-himself-against-catholic-criticism-20111103-story.html>.

⁵ Cardinal Thomas Collins, "Letters from the Synod," (Number 19), October 21, 2015, at <https://www.firstthings.com/web-exclusives/2015/10/letter-number-nineteen>.

⁶ "Archdiocese of Indianapolis, Brebeuf to split over teacher's same-sex marriage," WISH-TV.COM, June 20, 2019, accessed online at <https://www.wishtv.com/news/local-news/archdiocese-of-indianapolis-brebeuf-to-split/2088178334>.

⁷ Catholic News Agency, "Indianapolis Archbishop Revokes Jesuit Prep School's Catholic Identity," *National Catholic Register*, June 21, 2019, accessed online at <http://www.ncregister.com/daily-news/indianapolis-archbishop-revokes-jesuit-prep-schools-catholic-identity>.

⁸ *Ibid.*

⁹ *Code of Canon Law*, canon 678, §1.

¹⁰ Cf. *Code of Canon Law*, canon 751.

¹¹ George Cardinal Pell, "The Inconvenient Conscience," *First Things*, May 2005, accessed online at <https://www.firstthings.com/article/2005/05/the-inconvenient-conscience>.

¹² Pope St. John Paul II, Encyclical Letter *Veritatis splendor*, August 6, 1993, nn. 62-63, accessed online at http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor.html.

¹³ Melanie Susan Barrett, "Pilate's Question in a Post-Truth Context," *Church Life Journal*, A Journal of the McGrath Institute for Church Life at the University of Notre Dame, April 18, 2019, accessed online at <https://churchlifejournal.nd.edu/articles/pilates-question-in-a-post-truth-context/>.

¹⁴ *Ibid.*

¹⁵ Archbishop Alexander Sample, Pastoral Letter on the Reading of *Amoris Laetitia* in Light of Church Teaching, "A True and Living Icon," October 7, 2016, at <https://archdpx.org/documents/2016/10/PASTORAL%20LETTER%20A%20True%20and%20Living%20Icon%20FINAL%20-%20Updated%20101016-2.pdf>.

¹⁶ Vatican Council II, "Pastoral Constitution on the Church in the Modern World," *Gaudium et Spes*, 16.

¹⁷ Michael Polanyi, *Personal Knowledge: Toward a Post-Critical Philosophy* (Chicago: University of Chicago Press, 1974), p. 309.

¹⁸ Avery Cardinal Dulles, "John Paul II and the Truth About Freedom," *First Things*, August 1995, accessed online at <https://www.firstthings.com/article/1995/08/004-john-paul-ii-and-the-truth-about-freedom>.

¹⁹ Newman, Letter to the Duke of Norfolk, quoted in Dulles, "John Paul II and the Truth About Freedom," *First Things*, August 1995 (see endnote 10, above).

²⁰ Newman, *Grammar of Assent*, quoted in Dulles, "John Paul II and the Truth About Freedom," *First Things*, August 1995 (see endnote 10, above).

²¹ Cf. *Code of Canon Law*, canons 213 and 843.

²² Newman, Letter to the Duke of Norfolk, quoted in Dulles, "John Paul II and the Truth About Freedom," *First Things*, August 1995 (see endnote 10, above).