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## The Central Tradition—Its Value and Limits

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### 1. The ‘perfectionism’ of the central tradition

Alasdair MacIntyre has defined a ‘tradition’ of thought and enquiry regarding justice and political morality as

an argument extended through time in which certain fundamental agreements are defined and redefined in terms of two kinds of conflict: those with critics and enemies external to the tradition who reject all or at least key parts of those fundamental agreements, and those internal, interpretative debates through which the meaning and rationale of the fundamental agreements come to be expressed and by whose progress a tradition is constituted.<sup>1</sup>

This definition certainly makes sense of what Sir Isaiah Berlin refers to as ‘the central tradition of western thought’ about morality, politics, and law (and their interrelationships).<sup>2</sup> This tradition is indeed ‘an argument extended through time’ whose ‘fundamental agreements’ have been defined and redefined by internal debate as well as by disputation with external critics. Among these ‘fundamental agreements’ is the belief that sound politics and good law aspire not only to help make people safe, comfortable, and prosperous, but also to help make them virtuous. It is, above all, the belief that law and politics are rightly concerned with the moral well-being of members of political communities that distinguishes the central tradition from its principal rivals.

Mainstream contemporary liberalism (which, after the demise of Marxism, is surely *the* principal rival), challenges the ‘perfectionism’ of the central tradition as inconsistent with a due regard for human liberty. It rejects the central tradition’s aspirations to help ‘make men moral’ on

the ground that perfectionist laws and policies violate fundamental principles of justice and human rights. Orthodox liberals maintain that the moral perfection of human beings, while in itself desirable, is not a valid reason for *political* action. Hence, they advance ‘anti-perfectionist’ theories of justice and political morality that rule out ‘morals laws’ and other perfectionist policies as a matter of moral principle.

In *Making Men Moral* I defend the perfectionism of the central tradition. I shall argue that sound politics and good law *are* concerned with helping people to lead morally upright and valuable lives, and, indeed, that a good political society may justly bring to bear the coercive power of public authority to provide people with some protection from the corrupting influences of vice.<sup>3</sup> I am not prepared, however, to endorse everything that the principal architects of the central tradition have said regarding the legitimacy of political action undertaken for the sake of leading people to virtue. So in this chapter I shall lay out what I accept, and what I reject, and say why.

I shall focus on the perfectionism of Aristotle and Aquinas, the two thinkers who have most profoundly influenced the tradition. Although the tradition, as embodied in actual laws and policies as well as in the thinking of later philosophers, has not followed their teachings in every respect, it is imbued with their perfectionist understandings of justice and political morality. In rejecting perfectionism, orthodox liberals deny the validity of essential tenets of Aristotelian and Thomistic political theory. I concede that liberalism is rightly critical of important elements of the political teachings of Aristotle and Aquinas, but shall argue that, stripped of these mistaken ideas, their perfectionism is sound and defensible.

## 2. Aristotle on the role of the *polis* in making men moral

No one deserves more credit (or blame) than Aristotle for shaping the central tradition’s ideas about justice and political morality. Centuries before the liberal assault on the tradition got into full swing, Aristotle himself anticipated, criticized, and firmly rejected what has become the defining doctrine of mainstream contemporary liberalism, namely, the belief that the law of a political community (*polis*) should be merely ‘(in the phrase of the Sophist Lycophron) “a guarantor of men’s rights against one another”—instead of being as it should be, a

rule of life such as will make the members of a polis good and just'.<sup>4</sup> Aristotle's argument in his *Politics* was that:

any polis which is truly so called, and is not merely one in name, must devote itself to the end of encouraging goodness. Otherwise a political association sinks into a mere alliance, which only differs in space [i.e. in the contiguity of its members] from other forms of alliance where the members live at a distance from one another . . . a polis is not an association for residence on a common site, or for the sake of preventing mutual injustice and easing exchange. There are indeed conditions which must be present before a polis can exist; but the presence of all these conditions is not enough, in itself, to constitute a polis. What constitutes a polis is an association of households and clans in a good life, for the sake of attaining a perfect and self-sufficing existence . . . . It is therefore for the sake of good actions, and not for the sake of social life, that political associations must be considered to exist.<sup>5</sup>

Making men moral, Aristotle supposed, is a—if not *the*—central purpose of any genuine political community. Why?

To answer this question, we must turn to Aristotle's writing on moral goodness and virtue. Near the end of the *Nicomachean Ethics*, he pointedly asks why sound moral arguments are not in and of themselves sufficient to lead men away from vice and toward virtue. Having provided, at least in outline, a philosophical account of 'the virtues, and also friendship and pleasure', Aristotle suggests the need for the project he undertakes in his *Politics*, observing that:

while [moral arguments] seem to have power to encourage and stimulate the generous-minded among our youth, and to make a character which is gently born, and a true lover of what is noble, ready to be possessed by virtue, they are not able to encourage the *many* to nobility and goodness.<sup>6</sup>

Why not? Are 'the many' too stupid to understand moral arguments? People obviously differ in native intelligence; and it is plausible to think that only a minority of people have the intellectual capacity to follow the most subtle and complex philosophical arguments. Is it the case that, when it comes to the power of moral arguments to encourage and stimulate people to nobility and goodness, the difference between 'the many' for whom the arguments are insufficient, and the few for whom they are virtually all that is needed, is one of native intelligence?

No. While Aristotle suggests that ‘the many’ and ‘the few’ differ by nature, the relevant difference, as he sees it, is not, or at least not fundamentally, a difference in raw intellectual capacity to follow philosophical argumentation. Rather, it is from the start a difference in *character*. The problem with ‘the many’ is that:

these do not by nature obey the sense of shame, but only fear, and do not abstain from bad acts because of their baseness but through fear of punishment; living by passion they pursue their own pleasures and the means to them, and avoid the opposite pains, and have not even a conception of what is noble and truly pleasant, since they have never tasted it.<sup>7</sup>

Is virtue, then, unattainable by ‘the many’? Is the average person, ‘living by passion’, and lacking ‘a character which is gently born, and a true lover of what is noble’, simply incapable of living virtuously? Aristotle indeed concludes that moral argument is futile with such people. It is pointless to argue with them. Argument can merely inform people of the right thing to do; it cannot motivate them to do it. Thus argument is sufficient only for the already ‘generous-minded’ few who have been blessed by nature with a character ‘ready to be possessed by virtue’. Nevertheless, Aristotle holds that other means may dispose those whose character is not ‘gently born’ to attain some measure of moral goodness:

It is hard if not impossible, to remove by argument the traits that have long since been incorporated in the character; and perhaps we must be content if, when all the influences by which we are thought to become good are present, we get some tincture of virtue.<sup>8</sup>

What are these ‘influences by which we are thought to become good’? How can ‘the many’ be brought under them? Plainly Aristotle supposes that character is, by and large, given by nature. Of nature’s part in making men good, he says that it ‘evidently does not depend on us, but as a result of some divine causes is present in those who are truly fortunate’. Nevertheless, he maintains that the character of the average person is not completely fixed by nature; it can be improved, if only slightly, by good influences. These influences can supply a bit (though apparently not much) of what nature has left out of the character of the average person, thus making it possible for him to ‘get some tincture of virtue’.

Inasmuch, however, as the average person is moved by passion and not by reason, what is needed to prepare him for virtue is not argument, but coercion. 'In general', Aristotle says, 'passion seems to yield not to argument but to force.'<sup>9</sup> Therefore, if 'the many' are to have even the small measure of moral goodness of which they are capable, they must be forbidden from doing what is morally wrong and required to do what morality requires; and these commands must be backed by threats of punishment. If people have passionate motives (e.g. love of pleasure) for doing what is morally bad, they must be presented with more powerful countervailing passionate motives (e.g. fear of pain) not to do it. While people motivated by love of what is morally good can be expected to do the right thing *because* it is the right thing (once they understand it to be the right thing), people motivated by passion cannot be expected to do the right thing when they have a passionate motive not to do it and no more powerful countervailing passionate motive to do it. They can be expected to do what is right only when their passionate motives for doing so are more powerful than any competing passionate motives for not doing so. A lively fear of a sufficient punishment typically provides the countervailing motive needed to get the average person to do what is right and avoid doing what is wrong.

Building thus on an analysis of character and its formation, Aristotle develops his view of the role of law in providing the influences necessary to make men moral. Here again I shall let Aristotle speak for himself:

But it is difficult to get from youth up a right training for virtue if one has not been brought up under right laws; for to live temperately and hardily is not pleasant to most people, especially when they are young. For this reason their nurture and occupations should be fixed by law; for they will not be painful when they have become customary. But it is surely not enough that when they are young they should get the right nurture and attention; since they must, even when they are grown up, practise and be habituated to them, we shall need laws for this as well, and generally speaking to cover the whole of life; for most people obey necessity rather than argument, and punishments rather than the sense of what is noble.<sup>10</sup>

Apparently referring to the teaching of Plato, he goes on to observe that:

This is why some think that legislators ought to stimulate men to virtue and urge them forward by the motive of the noble, on

the assumption that those who have been well advanced by the formation of habits will attend to such influences; and that punishments and penalties should be imposed on those who disobey and are of inferior nature, while the incurably bad should be completely banished. A good man . . . will submit to argument, while a bad man, whose desire is for pleasure, is corrected by pain like a beast of burden. This is, too, why they say the pains inflicted should be those that are most opposed to the pleasures men love.<sup>11</sup>

It may seem from these passages that Aristotle has missed an elementary point about moral goodness, namely, that coercing people to do the right thing, even when it is successful, does not make them morally better; it does nothing more than produce external conformity to moral norms. Morality, however, is above all an internal matter, a matter of rectitude in choosing: one becomes morally good precisely, and only, by doing the right thing *for the right reason*. In other words, morality, unlike knowledge, or beauty, or even skillful performance, is a reflexive good, namely, a good that is (and can only be) realized in *choosing* uprightly, reasonably, well; a good into whose very definition *choice* enters.<sup>12</sup> A coerced choice, however, does not adopt the good and the reason which might have shaped the chosen option; instead one adopts that option for the sake of avoiding pain, harm, or loss to oneself. So, someone is not 'just and noble' for doing merely out of fear of punishment something that would truly be just and noble if done for the sake of what is good and right. If the legal enforcement of moral obligations does nothing more for the masses than present them with subrational motives for outward conformity with what morality requires, it does nothing toward making men moral.

Aristotle's point, however, is not that moral good is realized whenever the law produces in people outward behavior that conforms with what morality requires, even if that behavior is purely the product of fear of punishment. Rather, his point is that, given the natural tendency of the majority of people to act on passionate motives in preference to reason (i.e. love of the good), the law must first settle people down if it is to help them to gain some appreciation of the good, some grasp of the intrinsic value of morally upright choosing, some control by their reason of their passions. Mere arguments will not do the job, 'for he who lives as passion directs will not hear argument that dissuades him, nor understand it if he does'.<sup>13</sup> It is precisely inasmuch as the average man is given to passions that, 'like a beast of burden', he must be governed by fear of punishment. The law must combat his emotional motives

for wrongdoing with countervailing emotional motives. Once the law is successful in calming his passions and habituating him to doing what is right and avoiding what is wrong, he—unlike a brute animal—may gain some intelligent, reasonable, and reflective control of his passion. Even the average person may then learn to appreciate the good a little, and, in choosing for the sake of the good, become morally better.<sup>14</sup>

Someone might object to Aristotle's claim that legal coercion can help put people into shape to appreciate the value of moral uprightness by settling them down and habituating them to virtue, on the ground that the more likely effect of such coercion is to instill resentment in people, and even incline them to rebellion. Here, too, Aristotle has an answer: 'While people hate *men* who oppose their impulses, even if they oppose them rightly, the law in its ordaining of what is good is not burdensome'.<sup>15</sup> What he appears to have in mind here is that, while resentment and rebellion can be expected where one person brings coercion to bear against another in an effort to prevent him from doing something morally wrong, people will accept coercion more readily when an immoral act is prohibited *generally*, that is, throughout a society, and by the *impersonal* force of the law.

Why, though, does Aristotle suppose that immoral acts must be prohibited by *public* authority as opposed to the authority of the head of the household or family? His argument is that:

the paternal command... has not the required force or compulsive power (nor in general has the command of one man, unless he be king or something similar), but the law has compulsive power, while it is at the same time a rule proceeding from a sort of practical wisdom and reason.<sup>16</sup>

It is, once again, the generality of legal prohibition that makes the difference. People, notably including children, are formed not only in households, but in neighborhoods, and wider communities. Parents can prohibit a certain act, but their likelihood of success in enforcing the prohibition, and transmitting to their children a genuine grasp of the wrongness of the prohibited act, will be lessened to the extent that others more or less freely perform the act.

For example, parents can forbid their teenage sons to look at pornographic magazines; if, however, other boys with whom they have contact are freely circulating such material, it will be difficult for the parents to enforce their prohibition. Moreover, the boys whose parents have forbidden them to have pornography are likely to experience that

prohibition as more onerous to the extent of their knowledge that other boys are free to indulge their taste for pornography. They are more likely to feel resentment, and to rebel, when they are being deprived of a freedom that others enjoy. Whatever authority parents have over their own children, they lack the authority to deprive other people in the community, or other people's children, of the legal liberty to perform immoral acts; only public officials possess authority of that kind. If, however, public authorities fail to combat certain vices, the impact of widespread immorality on the community's moral environment is likely to make the task of parents who rightly forbid their own children from, say, indulging in pornography, extremely difficult.

Nevertheless, Aristotle argues that where the *polis* is failing to do its job, other institutions, including households, should do what they can to prevent immorality.

Now it is best that there should be a public and proper care for such matters; but if they are neglected by the community it would seem right for each man to help his children and friends towards virtue, and that they should have the power, or at least the will, to do this.<sup>17</sup>

Indeed, he seems to recognize that the kind of moral formation that goes on in families, whatever its limitations, has certain advantages in the formation of moral character.

For as in cities laws and prevailing types of character have force, so in households do the injunctions and habits of the father, and these have even more because of the tie of blood and the benefits he confers; for the children start with a natural affection and disposition to obey. Further, private education has an advantage over public; for while in general rest and abstinence from food are good for a man in a fever, for a particular man they may not be . . . . It would seem, then, that the detail is worked out with more precision if the control is private; for each person is more likely to get what suits his case.<sup>18</sup>

In short, families, unlike political authorities, can deal with individuals as individuals, taking into account their distinctive needs and circumstances. So, Aristotle finally implies, making men moral is not a task for the *polis* alone: political communities should do what they can to encourage virtue and prevent vice, while other institutions should do what they can to complement the work of the *polis*.<sup>19</sup>



### 3. Aquinas on the moral aims of law and government

More than fifteen hundred years after Aristotle's death, his greatest Christian disciple, St Thomas Aquinas, made his own enquiry into the point and purposes of human law in his *Summa Theologiae*, and reached similar conclusions about the need for law to concern itself with making men moral.<sup>20</sup> While Aquinas certainly seems more optimistic, as, perhaps, a Christian should be, about the universality of what he calls man's 'natural aptitude for virtue', he agrees with Aristotle that 'the perfection of virtue must be acquired by man by means of some kind of training'.<sup>21</sup> Moreover, he shares Aristotle's doubts that 'man could suffice for himself in the matter of this training, since the perfection of virtue consists chiefly in withdrawing man from undue pleasures, to which above all man is inclined, and especially the young who are more capable of being trained'.<sup>22</sup> With Aristotle, Aquinas acknowledges that there are some people 'who are inclined to acts of virtue by their good natural disposition, or by custom, or rather by the gift of God'; as for these, 'paternal training suffices, which is by admonitions'.<sup>23</sup> At the same time, however:

since some are found to be dissolute and prone to vice, and not easily amenable to words, it was necessary for such to be restrained from evil by force and fear, in order that, at least, they might desist from evildoing, and leave others in peace, and that they themselves, by being habituated in this way, might be brought to do willingly what hitherto they did from fear, and thus become virtuous. Now this kind of training, which compels through fear of punishment, is the discipline of laws. Therefore, in order that man might have peace and virtue, it was necessary for laws to be framed.<sup>24</sup>

When Aquinas comments on the *Nicomachean Ethics*, he expounds what Aristotle says there without demurrer, suggesting that he is generally in agreement with it. In his advice to a Christian king, entitled *De Regno*, however, he gives a different (though not necessarily incompatible) rationale for the legal enforcement of morality, a peculiarly Christian rationale which, of course, never would have occurred to Aristotle.

Aquinas's basic premiss in *De Regno* is that what is good for everybody, in the end, is getting to heaven. The attainment of heavenly beatitude is the central common good of the people. The realization of this good (or goal) is not only what the Church is there for, it is the ultimate reason for the existence of public authority as well. The king serves the

common good by getting the community into shape so that people are meeting their obligations to love their neighbors, thus fulfilling the second table of the Decalogue, and, through the redemption effected by Christ, getting themselves into heaven.

Therefore since the beatitude of heaven is the end of that virtuous life which we live at present, it pertains to the king's office to promote the good life of the multitude in such a way as to make it suitable for the attainment of heavenly happiness, that is to say, he should command those things which lead to the happiness of Heaven and, as far as possible, forbid the contrary.<sup>25</sup>

How is the king to determine what leads to heavenly happiness? Aquinas says that 'What conduces to true beatitude and what hinders it are learned from the law of God, the teaching of which belongs to the office of the priest'.<sup>26</sup> Having been instructed by the priest as to the law of God, the king 'should have for his principal concern the means by which the multitude subject to him shall live well'.<sup>27</sup> The task of the king is to lead people to virtue by a gradual process: 'first of all, to establish a virtuous life in the multitude subject to him; second, to preserve it once established; and third, having preserved it, to promote its greater perfection'.<sup>28</sup>

Aquinas recognizes that a king who wishes to fulfill his duty to lead the people to virtue must establish and maintain the conditions for people to lead virtuous lives. These conditions are material as well as moral. First, he says, it is necessary for 'the multitude [to] be established in the unity of peace'. Second, the multitude, thus united, must be 'directed to acting well'. And third, 'it is necessary that there be at hand a sufficient supply of the things required for proper living, procured by the ruler's efforts'.<sup>29</sup> The material conditions, that is, 'a sufficiency of those bodily goods whose use is necessary for a virtuous life', while 'secondary and instrumental' to a man's living in a virtuous manner, must be secured if the ruler is to fulfill his duty.<sup>30</sup> Without the unity of peace, and other material goods, the political order will lack the stability it needs to function for the common good of its members. Indeed, security as well as stability, is needed; hence, the king must 'keep the multitude entrusted to him safe from the enemy, for it would be useless to prevent internal dangers if the multitude could not be defended from external dangers'.<sup>31</sup>

In *De Regno* Aquinas declares that the king should 'by his laws and orders, punishments and rewards...restrain the men subject to him from wickedness and induce them to virtuous deeds'.<sup>32</sup> Recognizing,

however, that there are limits to what can be effectively and prudently commanded by public authority, he holds that evil-doing should be forbidden 'as far as possible'. In the *Summa Theologiae*, he explains these limits in reply to the famous question of 'whether it belongs to human law to repress all vices'.<sup>33</sup> His answer is that 'human law rightly allows some vices, by not repressing them'. His reasoning begins from the premiss that law should fit the condition of the people, many of whom will be quite imperfect in virtue and therefore incapable of living up to the highest standards of morality. 'Many things', he says, 'are permissible to men not perfect in virtue, which would be intolerable in a virtuous man'.

Now human law is framed for the multitude of human beings, the majority of whom are not perfect in virtue. Therefore human laws do not forbid all vices, from which the virtuous abstain, but only the more grievous vices, from which it is possible for the majority to abstain; and chiefly those that are injurious to others, without the prohibition of which human society could not be maintained. Thus the law prohibits murder, theft and the like.

Aquinas is not here opposing in principle, as Joel Feinberg supposes he is,<sup>34</sup> the criminalization of victimless immoralities. Rather, he is acknowledging the need for any legislator to tailor the criminal law to fit the character and state of his particular society. Of course, Aquinas recognizes that some things must be forbidden in every society, for the simple reason that social life is impossible unless they are prohibited. Thus, no society can afford to leave its members generally free to kill or steal from each other. According to Aquinas, the law can and should go beyond the prohibition of these evils, however, to prohibit other serious wrongs that average people in the society can generally abstain from committing. Aquinas does not in the least deviate from Aristotle's view that the lawgiver should try to lead men to virtue. He merely notes the fact that the legal prohibition of their immoral acts cannot suddenly make men moral.

The purpose of human law is to lead men to virtue, not suddenly, but gradually. Therefore it does not lay upon the multitude of imperfect men the burdens of those who are already virtuous, viz., that they should abstain from all evil. Otherwise these imperfect ones, being unable to bear such precepts, would break out into yet greater evils...

the precepts are despised, and those men, from contempt, break out into evils worse still.<sup>35</sup>

The limits of legal prohibition of vice, for Aquinas, are not based on any supposed moral right of those whose actions might otherwise be prohibited. He does not suppose that people have a moral right to the legal liberty to perform immoral acts. He cites no principle of political morality which is transgressed by legislators who bring the coercive force of the law to bear against, say, putatively victimless immoralities. Rather, he judges it morally right to refrain from legally prohibiting vice where, given the condition of the people, the prohibition is likely to be futile or, worse yet, productive of more serious vices or wrongs. Citing Isidore, he holds that laws, if they are to serve the common good of leading the people to virtue, must be 'according to the customs of the country',<sup>36</sup> and 'adapted to place and time'.<sup>37</sup>

What Aquinas appears to have in mind is that laws which the multitude of a people generally find too difficult to comply with will produce a negative attitude toward the law in general, and lead to resentment and hardening of hearts, and possibly even rebellion. If, as Aristotle thought, the project of leading people to virtue requires that the law 'calm them down', and habituate them to doing the right thing, then the laws imposed on them toward these ends must be laws that they can bear. If a law provokes resentment and rebelliousness, then, far from calming passion-driven people so that they can become virtuous, the law will enflame their passions and make them less virtuous.<sup>38</sup> Hence, the prudent legislator will be careful to make the law fit the condition of the people, and not to make legal prohibitions too onerous.

Such reasoning might reasonably be described as prudential, and I will so describe it hereinafter. But its fundamentally moral character is made clear enough when later in the *Summa Theologiae* Aquinas discusses whether Christian rulers should tolerate the rites of Jews and infidels.<sup>39</sup> Such rites, he thinks, should be tolerated when not doing so will either lead to worse things or interfere with the achievement of better things. He cites an example from St Augustine's writings of the need sometimes to tolerate prostitution 'so that men do not break out in worse lusts'.<sup>40</sup>

On the precise question whether Christian political authorities ought to prohibit non-Christian worship, Aquinas holds that the rites of Jews should be legally tolerated, despite his belief that all Jews should now be Christians. He argues that there is still value in Jewish worship, which foreshadows and prefigures the full truth, despite its imperfection in

failing to acknowledge Christ. To forbid such worship would be to lose that genuine, if incomplete, good.

He has no such irenic view toward the rites of infidels, however; he sees nothing of value in their worship. Nevertheless, he argues that they can rightly be tolerated, not to preserve any good, but to avoid greater evils. Which evils? Aquinas seems to be concerned first of all with the disruption and division that would be caused when infidels violate laws that suppress their rites. Moreover, he suggests, forbidding their rites would tend to harden them toward Christianity, thus closing their ears to the Gospel and making the task of evangelization more difficult. In other words, coercing them to avoid what is wrong might have the effect of impeding them from eventually doing what is right, that is, becoming Christians and accepting the divine offer of eternal life. This consequence is worse, he says, than tolerating their valueless worship.

When he turns to the crucial question of compelling *belief*, Aquinas holds that, since belief is by nature voluntary, it is useless to attempt to compel people who are not believers to believe or make the commitment of faith.<sup>41</sup> Nevertheless, he maintains that public authorities may rightly, and indeed should, compel Christians to hold to the religious commitments that they have made and to renounce heresy and apostasy.<sup>42</sup> Apparently he supposes that, while belief cannot be compelled, fidelity to a commitment based on belief can be. He argues that to hold the faith is a matter of moral obligation. His view of the matter is undoubtedly influenced by the norms according to which medieval society functioned: having made a commitment of fealty, one is bound by it; and people to whom one has made the commitment can hold one strictly to it.

Plainly, Aquinas is not thinking of religion as people do today (or as his own Church has come to understand it),<sup>43</sup> that is, as a matter of belief which, as such, must be and remain fully voluntary, and, therefore, uncoerced, if it is to be authentic and have any value. Rather, he is thinking of it as a commitment one has made to God, to which one is bound, and can be held bound by ecclesiastical and civil authority. Indeed, Aquinas goes so far as to defend the executing of heretics on the ground that tolerating heresy permits a cancer to spread in the body politic of political communities ordered and integrated around a religious faith;<sup>44</sup> inasmuch as what heretics do is more damaging to society (whose ultimate goal, after all, is to get people to heaven) than what counterfeiters do, he approves of the harsh way that medieval society dealt with them.

At the same time, he makes a justice-based (or as we would nowadays say, rights-based) argument as to why Christians, and the Christian state, should refrain from requiring baptism of non-Christian children. Recall that the whole point of political society is to help people to fulfill the moral law so that they can get to heaven. The saving of souls is the whole reason for the law. Now, Aquinas believed that, without baptism, people could not attain heavenly beatitude. Nevertheless, he held strictly to the principle that it is wrong to baptize Jewish children, for example, against their parents' wishes, even if doing so is indispensable to their salvation.

His objection to this practice, which many in his day apparently supported, is not merely that 'it would be detrimental to the [Christian] faith', because the forcibly baptized children, once they attain the age of reason, 'might easily be persuaded by their parents to renounce what they had unknowingly embraced'. More importantly, he maintains, the practice 'is against natural justice'. In *Summa Theologiae*, II-II, q. 10, a. 12, he sets out five arguments—more than the two or three he usually offers—for the proposition he means to reject. The number of these arguments, their seriousness, and the quality of the authorities he cites for them (including Augustine and Jerome) make it plain that he intends to take a strong stand on a live issue. His answer begins by putting forward the authority of the Church herself, whose traditions had rejected the idea of baptizing children against their parents' wishes, against her most esteemed theologians. He then argues that 'the parents' duty to look after the salvation of their children', who are, in a sense, 'a part of [them]' entails that 'it would be contrary to natural justice, if a child, before coming to the use of reason, were to be taken away from its parents' custody, or baptized against its parents' wishes'.

#### 4. A Critique of Aristotle and Aquinas

While Aquinas does not say so explicitly, his view of the need for political authorities to uphold public morality by forbidding serious vice is undoubtedly reinforced by the Christian picture of pre-Christian Rome. The idea of what it was like, and what a horrible alternative it is, was spelled out vividly by Augustine:

The worshippers... of those gods, whom they delighted to imitate in their criminal wickedness, are unconcerned about the utter corruption of their country. 'So long as...it enjoys material prosperity [they say], and the glory of victorious war, or, better, the security of

peace, why should we worry? What concerns us is that we should get richer all the time, to have enough for extravagant spending every day, enough to keep our inferiors in their place. It is all right if the poor serve the rich, so as to get enough to eat and to enjoy a lazy life under their patronage; while the rich make use of the poor to ensure a crowd of hangers-on to minister to their pride; if the people applaud those who supply them with pleasures rather than those who offer salutary advice; if no one imposes disagreeable duties, or forbids perverted delights; if kings are interested not in the morality but the docility of their subjects; if provinces are under rulers who are regarded not as directors of conduct but as controllers of material things and providers of material satisfactions, and are treated with servile fear instead of sincere respect. The laws should punish offences against another's property, not offences against a man's own personal character. No one should be brought to trial except for an offence, or threat of offence, against another's property, house, or person; but anyone should be free to do as he likes about his own, or with his own, or with others, if they consent. There should be a plentiful supply of public prostitutes, for the benefit of all those who prefer them, and especially for those who cannot keep private mistresses. It is a good thing to have imposing houses luxuriously furnished, where lavish banquets can be held, where people can, if they like, spend night and day in debauchery, and eat and drink till they are sick: to have the din of dancing everywhere, and theatres full of fevered shouts of degenerate pleasure and of every kind of cruel and degraded indulgence. Anyone who disapproves of this kind of happiness should rank as a public enemy: anyone who attempts to change it or get rid of it should be hustled out of hearing by the freedom-loving majority.<sup>145</sup>

In these passages, Augustine depicts the kind of public life that can be expected when the law prescind from questions of 'private' virtue and seeks only to protect one man from another as each struggles to achieve his own satisfactions. His view is that the law cannot be morally neutral in the way that orthodox contemporary liberalism supposes: either it will promote virtue, or it will facilitate vice.

Perhaps every generation must learn for itself that 'private' immoralities have public consequences. In our own time, we have ample reason to doubt that orthodox liberalism's distinction between private and public immorality can be maintained, at least with respect to the types of immoral acts that the central tradition has proposed to forbid or restrict by law. It is plain that moral decay has profoundly damaged the morally

valuable institutions of marriage and the family,<sup>46</sup> and has, indeed, largely undercut the understandings of the human person, marriage, and the family that are presupposed by the very idea of sexual immorality and by the ideals of chastity and fidelity which give family life its full sense and viability. It is one thing for radicals or relativists who believe that traditional marriage and family life are oppressive, or merely ‘one option among equally valid alternatives’, to condemn laws premised on the idea of sexual vice; it is quite another thing, though, for liberals to maintain that even adherents of traditional moral views should accept their critique of moral laws on the ground that the legal prohibition of ‘private’ immorality serves no public good.<sup>47</sup>

The idea that public morality is a public good, and that immoral acts—even between consenting adults—can therefore do public harm, has not been refuted by liberal critics of the central tradition. On the contrary, the idea is vindicated by the experiences of modern cultures which have premised their law on its denial. The institutions of marriage and the family have plainly been weakened in cultures in which large numbers of people have come to understand themselves as ‘satisfaction seekers’ who, if they happen to desire it, may resort more or less freely to promiscuity, pornographic fantasies, prostitution, and drugs. Of course, recognition of the public consequences of putatively private vice does not mean that liberalism is wrong to be critical of moral legislation. For, as we shall see in later chapters, contemporary liberals make a variety of moral arguments against such legislation that do not depend on the propositions that public morality is not a public good or that private immorality cannot do public harm. It does mean, however, that a crucial premiss of the tradition’s case against moral *laissez-faire* remains unshaken: societies have reason to care about what might be called their ‘moral ecology’.

The tradition, as embodied in the sorts of laws and public policies to which orthodox liberalism objects, has not followed Aristotle and Aquinas in every detail. It has come to give greater room to freedom, and to be more circumspect in the use of the law’s coercive power, than Aristotle and Aquinas would have thought necessary or appropriate. I shall argue that, where the tradition has developed in these ways, it has been right to do so. Although Aristotle and Aquinas were correct in supposing that the law may justly and appropriately seek to combat vice and encourage virtue, and while the whole tradition, including Aristotle and Aquinas, is superior to liberalism in allowing, in principle at least, for the quasi-paternalistic (and, in some cases, even the paternalistic) and educative use of the law to forbid certain immoralities, their analyses of these questions were flawed in various ways. And,



indeed, there are certain respects, especially those touching upon religious liberty, in which the influence of liberalism on the tradition has been salutary.

While ancient and medieval life was not without diversity, Isaiah Berlin is probably correct to criticize the tradition for failing to understand the diversity of basic forms of good and the range of valid pluralism.<sup>48</sup> Aristotle, for example, plainly failed to allow room in his ethical and political theory for the diversity of irreducible human goods which, considered as providing basic reasons for action and options for choice, are the bases for a vast range of valuable, but mutually incompatible, choices, commitments, and plans and ways of life. And he lacked anything like a good argument for his view that there must be a single superior way of life, or a uniquely highest life for those capable of it; nor did he provide anything approaching a plausible theory of where those not capable of what he believed to be the highest life fit into a society that treats that way of life as the best.

Without adopting the relativistic view which sees the good as so radically diverse that whatever people happen to want is good, we can and should recognize a multiplicity of basic human goods and a multiplicity of ways that different people (and communities) can pursue and organize instantiations of those goods in living valuable and morally upright lives. Our recognition of (non-relativistic) value pluralism opens up something that Aristotle never clearly saw: people are not simply disposed by nature (and/or culture) well or badly; they dispose themselves, and can dispose themselves, well or badly, in a vast variety of ways. Human beings put their lives together in different ways by making different choices and commitments based on different values that provide different reasons for choice and action. There is no single pattern anyone can identify as the proper model of a human life, not because there is no such thing as good and bad, but because there are many goods. Moreover, people are fulfilled in part by deliberating and choosing for themselves a pattern of their own. Practical reasoning is not merely a human capacity; it is itself a fundamental aspect of human well-being and fulfillment: a basic dimension of the human good consists precisely in bringing reason to bear in deliberating and choosing among competing valuable possibilities, commitments, and ways of life.<sup>49</sup>

Lacking an appreciation of the diversity of basic human goods, and thus the diversity of valuable ways of life ordinarily available to people, Aristotle wrongly supposed that people have preordained stations in life, and that the wise legislator who is concerned to promote virtue will therefore have the job of slotting people into their proper stations and seeing to

it that each person fulfills the duties of his particular station. Working from an implausibly limited and hierarchical view of human good, Aristotle failed to perceive that persons, as loci of human goods and of rational capacity for self-determination by free choices, are *equal in dignity*, however unequal they are in ability, intelligence, and other gifts: hence his élitism, not to mention his notorious doctrine of ‘natural slaves’.<sup>50</sup>

Aristotelian élitism is a fundamental and gross error, which is itself rooted in a failure to appreciate the diversity of basic human goods that fulfill the persons in and by whom they are instantiated and realized. It is this diversity that confounds every attempt to identify a ‘highest’ or ‘best’ life to which those who are by nature suited to that life (and are thus the ‘highest’ or ‘best’ examples of human beings) should aspire. In any event, whatever may have been the case in Aristotle’s Athens, legislators in modern representative democracies are unlikely to be morally superior to the people who elect them. One might even argue that, given what it takes to achieve public office, the average legislator today is likely to be generally less strict in the observance of certain moral norms than the average voter.

At the same time, there is in normal circumstances no reason to suppose, as Aristotle did, that the great mass of people are incapable of being reasonable and need to be governed by fear. Nor is there any reason to believe in the existence of a moral élite whose members need only understand moral truth in order to live up to its demands. The fact is that all rational human beings are capable of understanding moral reasons; yet all require guidance, support, and assistance from others. All are susceptible to moral failure, even serious moral failure; and all are capable of benefiting from a milieu which is more or less free from powerful inducements to vice. All require freedom if they are to flourish; but unlimited freedom is the enemy, not the friend, of everyone’s well-being.

Once we have brought into focus the diversity of human goods, it becomes clear that legislators concerned to uphold morality cannot prohibit all that much. At most, they can legitimately proscribe only the fairly small number of acts and practices that are incompatible with any morally good life. Paternalism is strictly limited by the diversity of goods whose recognition makes nonsense of the idea of assigning people to ‘natural’ or ‘appropriate’ stations in life. Of course, there are morally valuable institutions, such as marriage, which, while not morally obligatory for everyone, are nevertheless worthy of protection. To defend such institutions from forces and developments in a society that may threaten them, legislators will need to understand their nature, value, and

vulnerability. It will be complicated, then, for legislators to design laws that protect institutions such as marriage. To ban an act such as adultery on the ground of its intrinsic immorality is fairly straightforward (if difficult to enforce); to design just and good laws pertaining to marital break-up, divorce, and the care of children, however, is not so simple.

Of course, even where intrinsic immorality is not a question, political authorities can rightly regulate the pursuit of certain plans of life, and even forbid them to certain persons because of their lack of ability or appropriate training, in order to protect the public from, say, incompetent physicians, lawyers, accountants, or teachers. In any event, the recognition of a variegated human good, and the consequence of a multiplicity of possible good plans of life, will both limit the scope of the legislation validly aimed at encouraging virtue and discouraging vice, and render the job of legislators concerned to uphold public morality a task more complicated than Aristotle imagined.

Turning to Aquinas, the fundamental and (to the modern reader) obvious problem with his view is that it assumes the propriety of legislating not only morals, but also faith, and indeed of legislating morals precisely in so far as they are accepted on religious authority and are the means to an end (i.e. heavenly beatitude) that religious faith puts forward but reason by itself cannot identify. Aquinas makes the first principle of politics a matter of religious belief, thus proposing a radical establishment of religion that is utterly inconsistent with a due regard for religious liberty. I shall later argue that religion, considered as a basic human good within the grasp of practical reason, can indeed provide a reason for political action. It cannot, however, provide a reason for compelling or forbidding religious belief or practice. Aquinas's approach, in so far as it imperils religious freedom, jeopardizes the value of religion itself.

Aquinas himself, as we saw, perceives that justice, as well as prudence, requires respect for some measure of religious freedom: hence his willingness to tolerate the rites of non-Christians and his principled opposition to requiring the baptism of children against their parents' wishes. He fails, however, to see that the reasons for civil authorities to respect religious liberty extend to everybody, including heretics and apostates. Recognition of the moral grounds of the right to freedom of religion renders unacceptable Aquinas's semi-theocratic (or sacral/consecrational) view of political community and authority.

As we have seen, Aquinas does recognize important prudential limits to the political pursuit of beatitude. He astutely suggests that prudent legislators will tailor the criminal law to the character of the people

and the moral state of their society in order to avoid the likely bad consequences of imposing on people burdens that they cannot bear. This point remains valid even when we consider laws to uphold public morality for the sake of virtue as such, rather than as means to getting people to heaven. Taking a cue from Aquinas, we can identify other prudential (and, as such, morally significant) considerations which might militate in favor of a policy of tolerating certain moral evils: for example, (1) the need to avoid placing dangerous powers in the hands of governments that are likely to abuse them; (2) the danger that criminalization of certain vices may have the effect of placing monopolies in the hands of organized criminals who will market and spread the vices more efficiently; (3) the risk of producing secondary crimes against innocent parties; (4) the risk of diverting police and judicial resources away from the prevention and prosecution of more serious crimes; (5) the concern that the power to enforce moral obligations will be exploited by puritanical, prudish, or disciplinarian elements in society to repress morally legitimate activities and ways of life whose genuine value these elements fail to appreciate; (6) the danger of establishing too much authority and creating a situation in which people relate primarily to a central authority whom they must constantly work to avoid offending, thus discouraging them from building genuine relationships with each other to the point of true friendships and valuable communities.

## **5. The value and limits of perfectionist law and policy**

Aquinas is right to say that immorality must sometimes be tolerated in order to avoid morally worse evils, or because, in certain circumstances, the failure to tolerate a certain vice will impede the realization of important goods. These considerations have more extensive implications, however, than Aquinas works out or that people who agree with him in principle commonly suppose. Virtue is instantiated, and virtuous characters are established, by (and only by) choosing right against choosing wrong. Thus any tightly disciplinary regime of law, even if it succeeds in producing outward conformity to moral rules, will tend, as a result of overly aggressive efforts to combat some vices, to create a milieu in which other vices flourish. Wise legislators whose goal is to encourage true moral goodness, and not merely the outward behavior that mimics true virtue, will therefore seek to secure and maintain a moral ecology that is inhospitable not only to such vices as pornography, prostitution, and drug abuse, but also to the vices of moral infantilism, conformism, servility, mindless obedience to authority, and hypocrisy.

Commenting on the situation in Catholic colleges and universities in the United States in the late 1950s, Germain Grisez has remarked on the dangers posed to the moral and spiritual life by approaches to personal formation that fail to take full cognizance of the difference between mere outward conformity to moral rules and genuine moral action.

This formation involved outward conformity to a detailed set of rules and practices, but it did not guarantee any inward acceptance or conversion. The freedom of the student was not elicited to make a commitment to values which might have grounded the practices he was expected to enact.<sup>51</sup>

Any legislator who understands the human good well enough to be trusted to legislate for any community—political, religious, or even familial—will recognize that there are many important goods that people ought to realize in their lives whose realization is possible only if people freely choose to do ‘the right thing’—more exactly, to adopt a morally upright option in situations where at least one option that they are rejecting would be to do the morally wrong thing. Moral goods are ‘reflexive’ in that they are reasons to choose which include choice in their very meaning; one *cannot* participate in these goods otherwise than by acts of choice, that is, internal acts of will, and the internal disposition established by such choices. As internal acts, they are beyond legal compulsion. Such goods get instantiated precisely in people’s choices to do things that they should do when they could willfully fail to do them, or to refrain from doing things that they should not do when they could choose to do them. In light of the reflexivity of moral goods, there would be a compelling reason not to even try to eliminate every opportunity for immorality. Even if, *per impossibile*, a government could do so without damaging people’s participation in important non-moral human goods, such an attempt necessarily involves an effort to eliminate choice and directly impede people’s participation in the reflexive good. It would therefore be unjust or, as we now say, a violation of a human right.<sup>52</sup>

Moreover, governments have conclusive reasons not to attempt to enforce certain obligations which are essential to valuable social practices whose meaningfulness depends on the parties fulfilling their obligations freely. For example, compelling the expressing of gratitude, or the giving of gifts, or the acknowledging of achievements, where people ought to express gratitude, give gifts, or acknowledge achievements, would have the effect of robbing these important practices of their

meaning and value in social life. The reasons for not bringing coercion to bear with respect to such practices do not depend on the circumstances; they are not merely prudential. And they place significant ranges of morality beyond the reach of legislation as a matter of principle.

Nevertheless, the existence of justice- or rights-based grounds, as well as prudential reasons, for 'not repressing every vice', does not entail that there are never valid reasons to legally prohibit *any* vice on the ground of its immorality. The legal prohibition of a vice may be warranted precisely to protect people from the *moral* harm it does to them and their communities. I have already observed that people do not become morally good by merely conforming their outward behavior to moral rules. Someone who refrains from a vice merely to avoid being caught and punished under a law prohibiting the vice realizes no moral good (though he may avoid further moral harm). Laws can compel outward behavior, not internal acts of the will; therefore, they cannot compel people to realize moral goods. They cannot, in any direct sense, 'make men moral'. Their contribution to making men moral must be indirect.

People become morally bad by yielding to vice; and they can be protected from the corrupting influence of powerfully seductive vices by laws that prohibit them (in so far as they are manifest in outward behavior) and prevent them from flourishing in the community. By suppressing industries and institutions that cater to moral weakness, and whose presence in the moral environment makes it difficult for people to choose uprightly, such laws can protect people from strong temptations and inducements to vice. To the extent that moral laws help to preserve the quality of the moral environment, they protect people from moral harm.

Any social environment will be constituted, in part, by a framework of understandings and expectations which will tend, sometimes profoundly, to influence the choices people actually make. People's choices, in turn, shape that framework. The significance of common understandings and expectations with respect to sex, marriage, and family life is obvious. The point extends well beyond these matters, however: the moral environment as constituted, in part, by the framework of understandings and expectations which exists in a particular society will affect everything from people's tendency to abuse drugs, to their driving habits on the highways, to their honesty or dishonesty in filling out their tax returns. If people's moral understandings are more or less sound, and if these understandings inform their expectations of one another, the moral environment thus constituted will be conducive to virtue. In contrast, if human relations are constituted according to

morally defective understandings and expectations, the moral environment will seduce people into vice. In neither case will the moral environment eliminate the possibility of moral goodness and badness, for people can be good in bad moral environments and bad in good moral environments. The point remains, however, that a good moral ecology benefits people by encouraging and supporting their efforts to be good; a bad moral ecology harms people by offering them opportunities and inducements to do things that are wicked.

A physical environment marred by pollution jeopardizes people's physical health; a social environment abounding in vice threatens their moral well-being and integrity. A social environment in which vice abounds (and vice might, of course, abound in subtle ways) tends to damage people's moral understandings and weaken their characters as it bombards them with temptations to immorality. People who sincerely desire to avoid acts and dispositions which they know to be wrong may nevertheless find themselves giving in to prevalent vices and more or less gradually being corrupted by them. Even people who themselves stand fast in the face of powerful temptations may find their best efforts to instill in their children a sense of decency and moral integrity thwarted by a moral environment filled with activities and images or representations which, in the unfashionable but accurate phrase of the common law, 'tend to corrupt and deprave'.

Moreover, even people who wish to perform immoral acts but fear doing so lest they be caught and punished, or who would wish to perform them if their opportunities to do so had not been eliminated by the effective enforcement of a morals law, can be protected by effective laws from the (further) moral harm that they would do to themselves. A morals law may prevent moral harm, thus benefiting a potential wrongdoer, simply by protecting him from the (further) corrupting impact of acting out the vice. It is not that the person deterred solely by the law from wrongdoing realizes a moral good by not engaging in the vice. Moral goods cannot be realized by direct paternalism. Rather, it is that he avoids, albeit unwillingly, the bad impact of (further) involvement in the vice on his character.

Of course, it is a mistake to suppose that laws by themselves are sufficient to establish and maintain a healthy moral ecology. It is equally a mistake to suppose, however, that laws have nothing to contribute to that goal. Even apart from their more direct effects in discouraging particular vices or eliminating occasions for people to commit them, morals laws can help to shape the framework of understandings and expectations that helps to constitute the moral environment of any

community. As Aristotle and Augustine rightly held, a community's laws will inevitably play an important educative role in the life of the community. They can powerfully reinforce, or fail to reinforce, the teachings of parents and families, teachers and schools, religious leaders and communities, and other persons and institutions who have the leading roles in the moral formation of each new generation.

Although Aristotle was correct in observing that parents sometimes require the assistance of the general and impersonal force of the law to provide their children with a sound moral upbringing, he was wrong to ascribe to the law the role of primary moral educator. As he himself seemed to perceive, sound moral education requires close attention to the moral development of persons who, as individual moral agents, instantiate moral goodness and badness in their choices and actions. Parents, teachers, and pastors can attend to, understand, and work with individual persons in ways that the law simply cannot. Law, as a more or less impersonal guide, must aspire to nothing more than a supporting or secondary role.

At the same time, inasmuch as vice itself often damages and weakens families, schools, and religious institutions, the contribution of law to upholding public morality may be crucial to enabling these institutions to flourish and fulfill their roles as primary moral educators. As modern exponents of the central tradition have carefully explained, however, law goes wrong—it weakens these valuable ‘subsidiary’<sup>53</sup> institutions and damages people’s moral well-being—when it usurps their role and sets itself up as the primary moral teacher.

Critics of morals legislation often point out that law is a ‘blunt instrument’. There is truth in this claim: law really is poorly suited to dealing with the complexities and details of individual’s moral lives. Laws can forbid the grosser forms of vice, but certainly cannot prescribe the finer points of virtue. Nevertheless, laws that effectively uphold public morality may contribute significantly to the common good of any community by helping to preserve the moral ecology which will help to shape, for better or worse, the morally self-constituting choices by which people form their character, and in turn affect the milieu in which they *and others* will in future have to make such choices.

## Notes

1. *Whose Justice? Which Rationality?* (Notre Dame, Ind.: University of Notre Dame Press, 1988), 12.
2. Isaiah Berlin, *The Crooked Timber of Humanity: Chapters in the History of Ideas* (New York: Alfred A. Knopf, 1991). Writing from the perspective of a forceful



critic of this tradition, it is plain that Berlin does not mean to confer some mark of moral approval upon it by describing it as 'central'. And, while I am considerably more sympathetic to this tradition, I do not make the claim—which would, in any event, be merely tendentious—that this tradition is today more 'central' to Western legal and political institutions than is the tradition of liberalism; hence, I referred to in the Introduction to *Making Men Moral* as the central *pre-liberal* tradition in the West. Nevertheless, liberalism has not simply displaced this tradition. The situation is too complicated to be summed up so neatly. Our institutions are, I think, informed by elements of both traditions, coexisting sometimes in harmony and other times in varying degrees of tension.

3. Certain influential contemporary thinkers have mounted a challenge from within the tradition of liberalism to the mainstream or orthodox view that excludes perfectionism from political theory. Joseph Raz, for example, has severely criticized anti-perfectionist liberalism, and proposed, as an alternative, a perfectionist theory of political morality, according to which 'it is the goal of all political action to enable individuals to pursue valid conceptions of the good and to discourage evil or empty ones' (*The Morality of Freedom* (Oxford: Clarendon Press, 1986), 133). Raz stands with contemporary liberalism, and against the central tradition, however, in his view that 'victimless immoralities' may not legitimately be forbidden by law. I consider Raz's perfectionist liberalism in Ch. 6 of *Making Men Moral*.
4. *Pol.* iii. 5. 1280<sup>b</sup>; quotations are from the translation by Ernest Barker, in *The Politics of Aristotle* (Oxford: Clarendon Press, 1946). Barker's use of the term 'rights' here is somewhat anachronistic; the modern use of the term is foreign to Greek and Roman thought, and Aristotle's quotation from Lycophron would be more exactly rendered 'guarantor of reciprocal justice'.
5. *Ibid.*
6. *Nic. Eth.* x. 9. 1179<sup>b</sup>; quotations are from the translation by W. D. Ross in *The Basic Works of Aristotle* (New York: Random House, 1941).
7. *Ibid.*
8. *Ibid.*
9. *Ibid.*
10. *Ibid.* x. 9. 1179<sup>b</sup>–1180<sup>a</sup>.
11. *Ibid.* x. 9. 1180<sup>a</sup>. Cf. Plato's analyses in *Laws*, 722 D ff., and *Protagoras*, 325 A.
12. By such a choice, one *adopts* the good inherent in the right reasons that shaped the option one thus chooses. One determines and integrates one's character, to a greater or lesser degree, around that good and that reason for acting.
13. *Nic. Eth.* x. 9. 1179<sup>b</sup>.
14. Much later in the tradition, Aristotle's view is echoed by Kant: 'Man must be trained, so as to become domesticated and virtuous later on. The coercion of government and education make him supple, flexible and obedient to the laws; then reason will rule' *Gesammelte Schriften*, xv. 522–3 (Prussian Academy edn., 1923); quoted from the translation by G. Kelly, in *Idealism, Politics and History* (London: Cambridge University Press, 1969).
15. *Nic. Eth.* x. 9. 1180<sup>a</sup>.
16. *Ibid.*
17. *Ibid.*

18. *Nic. Eth.* x. 9. 1180<sup>b</sup>.
19. Aristotle's view of the matter appears to be unstable, however, for in *Pol.* i. 1. 1252<sup>b</sup> 13–30 he assumes that the household or family is merely an association for the sake of life, while the *polis* is an association for the sake of the good life; and, in *Pol.* viii. 1. 1337<sup>a</sup> 23–32, he concludes that education is the responsibility of the *polis* and not (or at least not primarily) the responsibility of parents.
20. *Summa Theologiae*, I-II, q. 95, a. 1; quotations are from the translation by the Fathers of the English Dominican Province, in *The 'Summa Theologica' of St. Thomas Aquinas* (London: Burns, Oates & Washburn, 1915).
21. *Ibid.*
22. *Ibid.*
23. *Ibid.*
24. *Ibid.*
25. *De Regno*, iv (i. 15) [115]; quotations are from the translation by Gerald B. Phelan, in *St. Thomas Aquinas On Kingship* (Toronto: The Pontifical Institute of Mediaeval Studies, 1949).
26. *Ibid.*, iv (i. 15) [116].
27. *Ibid.*
28. *Ibid.* [117].
29. *Ibid.* [118].
30. *Ibid.*
31. *Ibid.* [120].
32. *Ibid.*
33. I-II, q. 96, a. 2.
34. See Joel Feinberg, *Harmless Wrongdoing* (New York: Oxford University Press, 1988), 341–2. For a critique of Feinberg's reading of Aquinas on this point, see Robert P. George, 'Moralistic Liberalism and Legal Moralism' *Michigan Law Review*, 88 (1990), 1415–29, at 1421–2.
35. *Summa Theologiae*, I-II, q. 95, a. 1.
36. *Ibid.* q. 96, a. 2.
37. *Ibid.* q. 95, a. 3.
38. Here Aquinas, as a Christian thinker, had the advantage of St. Paul's reflections in Ch. 7 of the *Letter to the Romans* on the tendency of the law to make people rebellious.
39. II-II, q. 10, a. 11.
40. Citing Augustine, *De Ordine*, ii. 4. Whatever Augustine's view of the matter, one should not conclude that Aquinas is here endorsing the legalization of prostitution. Whether prostitution ought to be legally prohibited or tolerated is not the issue. He is simply exemplifying the prudential consideration that he has just laid down, and citing Augustine as an authority for it.
41. *Summa Theologiae*, II-II, q. 10, a. 8.
42. *Ibid.* q. 11, a. 3.
43. See the Declaration on Religious Liberty of the Second Vatican Council, *Dignitatis Humanae*.
44. On the 'sacral' or 'consecrational' nature of medieval political communities, see Jacques Maritain, *True Humanism* (London: Geoffrey Bles, 1941), 135–51.
45. *De Civitate Dei*, ii. 20; quoted from the translation by Henry Bettenson, in *The City of God* (Harmondsworth: Penguin Books, 1972), 71.

46. See William A. Galston, *Liberal Purposes* (Cambridge: Cambridge University Press, 1991), 283–7.
47. In light of the data he considers regarding family break-up, out-of-wedlock births, and the tragic consequences of these phenomena for family life in contemporary America, Galston urges his fellow liberals to reject both ‘the proposition that different family structures represent nothing more than “alternative lifestyles”’, and ‘the thesis that questions of family structure are purely private matters not appropriate for public discussion and response’ (ibid. 285).
48. This theme runs through Berlin’s essays in *The Crooked Timber of Humanity*.
49. See John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980), 88–9.
50. For a proper understanding of this doctrine, see W. W. Fortenbaugh, ‘Aristotle on Slaves and Women’, in J. Barnes, M. Schofield, and R. Sorabji (eds.), *Articles on Aristotle*, ii (London: Duckworth, 1975). Also see Daniel N. Robinson’s exceptionally valuable analysis in *Aristotle’s Psychology* (New York: Columbia University Press, 1989). It is worth noting here that Professor Robinson, whose penetrating and meticulous scholarship I greatly admire, has proposed an interpretation of Aristotle’s eudaimonism that goes far toward the sort of *pluralistic* perfectionism that I myself defend. Interpreted in this way, I find Aristotle’s practical philosophy considerably less objectionable. As Professor Robinson points out, however, there are certain ‘unavoidable differences in the interpretation of Aristotle’s subtle and sometimes inconsistent treatises’ (ibid., p. xi).
51. ‘American Catholic Higher Education: The Experience Evaluated’, in George A. Kelly (ed.), *Why Should the Catholic University Survive?* (New York: St John’s University Press, 1973), 44.
52. Mark Twain’s *The Man That Corrupted Hadleyburg* calls attention to the dangers to *the moral life* inherent in the effort to ensure that people never make immoral choices.
53. ‘Subsidiary’ here again means not merely secondary, but assistance-giving: *subsidium* translates into English as ‘helpful’.