

Gaudium et spes and the Importance of Political Philosophy

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Abstract: *This essay explores the important lessons of political philosophy that may be derived from Gaudium et spes nos. 73-76. The conciliar document recommended that Catholic citizens be formed with a proper understanding of the “basic convictions as to the true nature of the political community and the aim, right exercise, and sphere of action of public authority.” By explicating the text and through the philosophical ideas of Maritain and Simon we develop the following six lessons in political philosophy: (i) The focus of contemporary politics: to protect the rights of the person; (ii) The centrality of the common good; (iii) The importance of democracy in the modern world; (iv) The need for a higher law: natural law and the Gospel; (v) The call to participation and the structure of subsidiarity; and (vi) The meaning of the “separation of Church and State.” The essay concludes with an explanation of how political action is a form of Christian witness and an opportunity for the new evangelization.*

Political philosophy should play an important role in of the education of the seminarian. The *Program for Priestly Formation* mentions political philosophy as a part of the the study of ethics: “Ethics also considers the common good and the virtue of solidarity as central to Christian social political philosophy.”¹ A careful reading of *Gaudium et spes* clearly reveals the importance of political philosophy for all members of the faithful. Political life, the document states, must be placed on a “truly human basis”—and this requires the dispositions of justice, kindness and service to the common good, but also a formation of the “basic convictions as to the true nature of the political community and the aim, right exercise, and sphere of action of public authority.” Such is the task of political philosophy, and we neglect it only to the peril of a fruitful and effective Christian witness in the world today. For we can not forget that the Council spoke of this grave error of our

1. *Program of Priestly Formation*, 5th edition (Washington D.C.: United States Conference of Catholic Bishops, 2006), no. 156; see also “The curriculum should also strive to take into consideration contemporary issues of the day in intellectual, cultural, social, economic, and political life as they pertain to moral and religious topics,” no. 150.

day: “[the] split between the faith which many profess and their daily lives deserves to be counted among the more serious errors of our age” (no. 43). The context of this recognition of the great challenge to work for the unity of faith and life is the deeper recognition that Christians are “citizens of two cities”:

This council exhorts Christians, as citizens of two cities, to strive to discharge their earthly duties conscientiously and in response to the Gospel spirit. They are mistaken who, knowing that we have here no abiding city but seek one which is to come, think that they may therefore shirk their earthly responsibilities. For they are forgetting that by the faith itself they are more obliged than ever to measure up to these duties, each according to his proper vocation. Nor, on the contrary, are they any less wide of the mark who think that religion consists in acts of worship alone and in the discharge of certain moral obligations, and who imagine they can plunge themselves into earthly affairs in such a way as to imply that these are altogether divorced from the religious life.

Cardinal Ratzinger, in his “Doctrinal Note on Some Questions Regarding the Participation of Catholics in Political Life,” stated that “the rightful autonomy of the political or civil sphere” is a value attained and recognized by the Catholic Church. Prior to Vatican II it had not been decisively attained nor fully recognized.² But the achievement is the fruition of centuries of development in Catholic doctrine and papal social teaching and the outcome of the important work of the prior fifty years in Catholic political thought by such thinkers as Maritain, Simon, Rommen, Sturzo, Murray and many others.³ Thus, it consolidates these gains and makes them available to Catholics as they face new conditions and circumstances in the modern world. Its urgency is also gathered from the very need to issue such a “Doctrinal Note” and it is stated explicitly that “the presentation of the fruits of the spiritual, intellectual and moral heritage of Catholicism in terms understandable to modern culture is a task of great urgency today, in order to avoid also a kind of Catholic cultural diaspora” (no. 7). While the “Doctrinal Note” explicitly confronts the widespread error of the denial of the place for morality in the political realm by liberal political ideology, its broad purpose is to encourage meaningful participation in the political sphere. A conservative cultural diaspora may be as fruitless as the liberal denial of Catholic conscience. Hence the urgency at the present time is clear. Catholics must engage the political challenge of the day but they must be formed and educated so as to un-

2. Congregation for the Doctrine of the Faith, November 24, 2002, Feast Day of Christ the King, no. 6.

3. See my article “Jacques Maritain and Yves R. Simon’s Use of Thomas Aquinas in Their Justification of Democracy,” in *Thomas Aquinas and His Legacy*, David Gallagher, editor (Washington, D.C.: Catholic University of America Press, 1994): 149-172. In John P. Hittinger, *Liberty, Wisdom, and Grace: Thomism and Modern Democratic Theory* (Lanham, Maryland: Lexington Books, 2002). I have borrowed freely from this book in writing this article.

derstand the “basic convictions as to the true nature of the political community and the aim, right exercise, and sphere of action of public authority.”

The section on political life in *Gaudium et spes* (nos. 73-76) is a good place to begin learning about political philosophy. A look at the place in the document may also bring to appreciate its special urgency today. This section of the document was not a part of the initial schema; it was added, almost as an after thought, between the sessions of the council.⁴ It is the shortest of the sections. The other sections devoted to “problems of special urgency” seemed to have in fact greater urgency. As we know, the section on family and marriage came out with a footnote promising that the most controversial issue of the time, artificial birth control, would be addressed by a special papal commission.⁵ Similarly, the chapter on peace and the community of nations received much attention because of the pressing issues surrounding wars in colonial areas, such as Vietnam or Algeria, the peace movement, as well as the special problems of deterrence and weapons of mass destruction. The chapter on economics has also had reasons for special attention, and the continuing theme of economic equity found synergy in the work of John XXIII, continued apace in the letters of Paul VI. Perhaps the section on culture has not had quite the same urgency, but nevertheless it has received due attention, especially in the issue of Catholic education. But what of chapter four, on the life of political community, the after-thought of the council’s session? Why was it ignored or obscured? Perhaps it was simply taken for granted. Perhaps it disappointed some others—it spelled out the living norm of most western nations, it affirms the role of nations, perhaps at the expense of internationalism.⁶ Even its terms have created some confusion, such as state, nation, political body.

But its achievement is now least three-fold: in addition to the acknowledgement of the importance of political democracy by the universal Church, it, secondly, lays out an agenda for the Church to encourage the renewal or restoration of political order along democratic lines and to “invigorate basic convictions about the true nature of politics: its proper end, right use, and limits” (*GS*, no. 73). And third, it establishes the crucial role of the Church as “the sign and safeguard of the transcen-

4. See Herbert Vorgrimler, editor, *Commentary on the Documents of Vatican II* (New York: Herder and Herder, 1967-69), five volumes. v. 5 on the Pastoral Constitution on the Church in the Modern World.

5. The Church and the world eagerly waited this finding, and *Humanae vitae*, issued in 1968, simply intensified and furthered the urgency of the issue which is debated to this day, if not simply ignored by many faithful, scorned by the secular world, and finessed with theological subtleties by the theologians. Of course, Pope John Paul II has done much to defend and amplify the teaching of *Humanae vitae*. He has shown its inner connection to *Gaudium et spes* and refuted the false alternatives in reflections upon *Humanae Vitae*; he has developed the theological anthropology of *Gaudium et spes* into a theology of the body revealing the essential humanity of a consistent respect for the virility and fertility of spousal partners; and finally, he has demonstrated the vital links between this openness to life and the Gospel of Life as well as those between the contraceptive mentality and the culture of death.

6. Oswald von Nell-Breuning considers *Gaudium et spes* to be a “lamentable retrograde step” compared to *Pacem in terris*; *Commentary on the Documents of Vatican II*, vol. 5, 315.

dence of the human person” in such an order (*GS*, no. 76).⁷ I would suggest that politics, properly understood, is a key to other chapters on family, culture, economics, and peace, all of which depend in important ways upon the political wisdom and will of a given nation, and indeed the world community. For the universality of politics, the pervasive influence of political life, the increasing role of Catholics in the political life of the modern state, it turns out to have been a truly prophetic chapter, establishing the principles for the vital participation of Catholics in secular life in the modern world and the efforts for the new evangelization. What is quite remarkable is the fact the original Schema left out the topic. Now that the attempts to achieve the goals in the other areas of special urgency have led to great setbacks/frustrations, the time is right to better understand the political nature of secular life. What follows are six lessons on political philosophy found in *Gaudium et spes*. For each lesson I will use blocks of text from the document and provide some commentary and explication for it in light of Thomistic philosophy.

Lesson 1: The Focus of Contemporary Politics—To Protect the Rights of the Person

Not surprisingly, the section on politics opens with an observation about the significant characteristics of politics in the modern world, which derives from the emphasis in modern political philosophy and practice upon human rights. A number of Catholic political philosophers have attempted to think through the profound change that occurs with the transition from an emphasis upon duty and natural law to an emphasis upon rights and the individual. The section on politics thus opens as follows:

In our day, profound changes are apparent also in the structure and institutions of peoples. These result from their cultural, economic and social evolution. Such changes have a great influence on the life of the political community, especially regarding the rights and duties of all in the exercise of civil freedom and in the attainment of the common good, and in organizing the relations of citizens among themselves and with respect to public authority. The present keener sense of human dignity has given rise in many parts of the world to attempts to bring about a politico-juridical order which will give better protection to the rights of the person in public life. These include the right freely to meet and form associations, the right to express one’s own opinion and to profess one’s religion both publicly and privately. The protection of the rights of a person is indeed a necessary condition so that citizens, individually or collectively, can take an active part in the life and government of the state. (*GS*, no. 73)

Appropriately the focus on rights highlights the “protection of rights of the person in public life.” The aspiration by individuals and groups for greater political

7. See Pope John Paul II, *Redemptor hominis* and *Centesimus Annus*.

participation is certainly one of the “signs of the times” that must be interpreted in light of the Gospel and the truth about human nature. The interest in political life is part of a larger movement for participation in “cultural, economic and social development.” As mentioned above, politics is but one of five areas of special concern, family, economics, and culture being those other areas treated prior to politics. The notion of right of participation has proven helpful for minorities to obtain greater recognition and to play a greater role in the common life of the city; and in addition the recognition of religious pluralism demands that protection be afforded to rights of conscience for both the peace of the city and for the dignity of the person. Finally, this section mentions the sad fact that many political systems “hamper civic or religious freedom, victimize large numbers through avarice and political crimes, and divert the exercise of authority from the service of the common good to the interests of one or another faction or of the rulers themselves.” Although the most proper approach to understanding and building legitimate political regimes derives from the respect for the common good, a teaching on rights serves well to establish limits and criterion precisely for articulating the reasons why we must “reprove” such repressive actions and the systems which facilitate such abuses.

This section does not explore the critical philosophical questions as to the foundation for rights and the list or classification of rights. For example, consider the claim by the US Catholic Bishops in *A Framework for Comprehensive Health Care Reform: Protecting Human Life, Promoting Human Dignity, Pursuing the Common Good* (June 18, 1993). They use the following formulation:

Every person has a right to adequate health care. This right flows from the sanctity of human life and the dignity that belongs to all human persons, who are made in the image of God. Health care is more than a commodity; it is a basic human right, an essential safeguard of human life and dignity. We believe our people’s health care should not depend on where they work, how much their parents earn, or where they live. Our constant teaching that each human life must be protected and human dignity promoted leads us to insist that all people have a right to health care.

It is clear that we need to define what a right is, why health care must be considered in this way, and what the process and expectation can be for realizing the right. And this of course for all such right claims.

Rights have an inherently moral basis. Alexis de Tocqueville claimed that “right is the idea of virtue applied to politics.” I will use a definition of right I learned from Joseph Evans, a translator for Jacques Maritain: “A right is an exigency or claim, emanating from a self for something as being his due, which exigency or claim other selves are morally obligated to recognize, respect, promote, not frustrate etc.”⁸ Right and duty are correlative. The moral claim takes embodiment in social and political

8. Notes from a class on “Basic Concepts of Social and Political Philosophy,” at The University of Notre Dame, Fall 1973.

recognitions and guarantees. A right is derived from natural law. We need to understand how moral law is derived from human flourishing.

We understand that life is good. Philosophers like Hobbes see the impulse for preservation as the ground of all right; it is a right because we desire our own life and see it as a good. In fact, he sometimes formulates the first law as “self-preservation.” The self is necessarily in radical conflict with other selves. One may negotiate and make a contract for mutual protection. A one cannot be blamed for acting to preserve oneself. It is necessary; one cannot do otherwise. But not so Aquinas. He states:

The rational creature is provident for itself and others; it has a share of eternal reason, whereby it has a natural inclination to its proper act and end; and this participation of the eternal law in rational creatures is called the natural law . . . The first principle in the practical reason is founded on the nature of the good; hence this is the first precept of law: good is to be done and promoted and evil is to be avoided. All other precepts of the natural law are based upon this; so that all the things which practical reason naturally apprehends as man’s good belong to the precepts of natural law under the form of things to be done or avoided; all those things to which man has a natural inclination are naturally apprehended by reason as being good, and objects of pursuit, and their contraries as evil, and objects of avoidance. (*ST-II q. 94.a2*)

Life is recognized as a human good open to many—we participate in this good. An individual affirms life as a good for all. A physician takes an oath to do no harm and always preserve life. Life is a common good. Participation in this good should flow back on all. In this sense, every one has a “right” to the good, it is due them, it is a moral claim they have. If a society denies the universality of the right to life and health care, on what basis does it do so? Does it deny this right because it makes a distinction between essentially unequal types of human beings, those deserving and those not deserving of care? Or do they say some are just fortunate, and some are not? Or some have jobs and others do not? But this approach is problematic. All human beings share a common nature, they are “equal” in their humanity as the locus for the moral claim. The notion of equality is derived from Thomas’s metaphysics and epistemology.⁹ Equality is founded on the real unity in nature of the essence of the human. By sharing the same nature all human beings are accorded the same fundamental rights. Consider the text of Aquinas’ *Being and Essence*.¹⁰

9. See Jacques Maritain, “Human Equality,” in *Ransoming the Time*, trans. Harry Lorin Binesse (New York: Scribner’s, 1941), 1-31; Yves R. Simon, “Democratic Equality,” in *Philosophy of Democratic Government* (Notre Dame: University of Notre Dame Press, 1993), 195-259. See my “Approaches to Democratic Equality,” in *Freedom in the Modern World: Jacques Maritain, Yves R. Simon Mortimer J. Adler*, edited by Michael D. Torre, American Maritain Association: Proceedings of the 1988 Annual Meeting held at the University of Notre Dame, 1989. This essay may be found in *Liberty, Wisdom, and Grace*.

10. *De ente et essentia* III.17-18. For the translation see Simon, *Philosophy of Democratic Government*, note 2, 198; *On Being and Essence*, trans. A. A. Maurer (Toronto: PIMS, 1949), 38-39.

Thomas explains that a nature or essence may be considered in two ways: one in individual things and one in the mind. In the former case it exists in an individual; in the later as a universal. The essence abstracts from individual differences but it is open to such individual determination; the nature considered absolutely is truly predicated of each individual. This nature includes all features that are essential to that nature; it abstracts from individual differences. Accordingly, the essence, human nature, is the same in each individual. Simon concludes therefore “It is highly proper that they should be described as created equal for in each of them the same system of intelligible features supplies individual reality with ability to exist.”¹¹ Further, this metaphysical explanation allows one, he says, to make sense of the notions of brotherhood, natural rights, and rights belonging to all men. Simon cites Maritain’s treatment of the notion of equality in which he explains the realistic interpretation of equality as opposed to the nominalist and the idealistic interpretations. Nominalism is blamed for the racist and fascist totalitarian ideologies; for on sheer empirical grounds it is possible to deny the equality of individuals or races. According to the nominalist, there exists no real foundation for unity in essence or nature. Both men claim that is a quirk of history that natural rights doctrines arose within a climate of nominalistic thought and they see nominalism tending towards denial of equality. They believe that the modern notion of rights can be purged of its nominalist trappings and put on the proper grounding of natural law and a realistic metaphysics. Thus, by the same token, Maritain rejects an idealist denial of factual inequality and their role in social order. Rather, the idea of equality as unity in nature establishes the social solidarity to include all within the good of the civic community. It is not as such a justification for democracy; it imposes an obligation upon all to respect the fundamental dignity and good of each human being. Here is the link to natural law:

There is no right unless a certain order is inviolably required by what things are in their intelligible type of essence, or by what the nature of man is, and is cut out for: an order by virtue of which certain things like life, work, freedom are due to the human person . . . such an order . . . imposes itself upon our minds to the point of binding us in conscience, exists in things in a certain way, as a requirement of their essence.¹²

Thus Maritain’s account of rights is different from the modern one, which is nominalist and based upon self-interest; and his is not simply a theological grounding in the brotherhood of men, God’s workmanship in all men, etc. Rights are demands to establish the legal recognition of and the promotion of the good human life. Maritain claims that all human beings possess certain rights; a minimum array of rights must be respected absolutely; but most rights are conditioned by the social and political conditions. That is, he says their fulfillment depends upon social conditions. He opposes the tendency to inflate and make “absolute and limitless” individual

11. *Philosophy of Democratic Government*, 201.

12. Jacques Maritain, *Man and the State* (Washington D.C.: The Catholic University of America Press, 1998), 96-97.

rights. Yet on the other hand, he sets a dynamic goal for human society which is properly democratic; that is, the failure to realize and have all men exercise their rights is a sign of an “inhuman element that remains in the social structure of each period.”¹³ Thus the metaphysical doctrine as a shared nature justifies the goal of liberal democracy. Modern democracy is the most progressive attempt to realize the latent rights of all human beings, which rights are implicit in the shared unity of human nature.

Yves R. Simon adopts a similar dynamic, but with his usual greater precision and political sobriety. He distinguishes the strict equality accorded to all by the minimum precepts such as do not kill and fairness in exchange. These are rights which must be respected and embodied at all times. But he says that many social goods are capable of a dynamic egalitarian tendency to be realized in time. Education, health and welfare are goods that society must aim at establishing in greater equality. The true notion of equality demands social progress. But then Simon says that the egalitarian dynamic is legitimately delayed when its claim would infringe upon real human goods and in particular when it destroys subsidiarity and the autonomy of persons and institutions like family: the drive for equality is a first class wrecker of institutions. But equality in nature establishes a dynamic or tendency towards greater and greater social progress. Health care is such a good, and the right to health care is a principle of any just policy.

In *Gaudium et spes*, there are some passages that begin to explain the foundation for rights and articulate their scope. The foundation for rights is the dignity of the human person as a rational and free person and a creature fashioned in the image of God. Both reason and faith contribute to a full understanding of human rights.

Since all men possess a rational soul and are created in God’s likeness, since they have the same nature and origin, have been redeemed by Christ and enjoy the same divine calling and destiny, the basic equality of all must receive increasingly greater recognition. True, all men are not alike from the point of view of varying physical power and the diversity of intellectual and moral resources. Nevertheless, with respect to the fundamental rights of the person, every type of discrimination, whether social or cultural, whether based on sex, race, color, social condition, language or religion, is to be overcome and eradicated as contrary to God’s intent (*GS*, no. 29).

The passage continues with the judgment that:

fundamental personal rights are still not being universally honored. Such is the case of a woman who is denied the right to choose a husband freely, to embrace a state of life or to acquire an education or cultural benefits equal to those recognized for men. Therefore, although rightful differences exist between men, the equal dignity of persons demands that a more humane and just condition of life be brought about. For excessive economic and social differences between the members of the one human family or population groups cause scandal, and militate against social justice, equity, the dignity of the human

13. *Ibid.*, 102-103.

person, as well as social and international peace. Human institutions, both private and public, must labor to minister to the dignity and purpose of man. At the same time let them put up a stubborn fight against any kind of slavery, whether social or political, and safeguard the basic rights of man under every political system.

Human rights are anchored in human dignity, and their purpose is not to unleash unlimited self assertion but rather to cultivate human flourishing, which is the life of virtue in its many aspects. In a previous section, the connection between rights and duties, and the purpose of human flourishing is made more explicit:

there is a growing awareness of the exalted dignity proper to the human person, since he stands above all things, and his rights and duties are universal and inviolable. Therefore, there must be made available to all men everything necessary for leading a life truly human, such as food, clothing, and shelter; the right to choose a state of life freely and to found a family, the right to education, to employment, to a good reputation, to respect, to appropriate information, to activity in accord with the upright norm of one's own conscience, to protection of privacy and to rightful freedom, even in matters religious. Hence, the social order and its development must invariably work to the benefit of the human person if the disposition of affairs is to be subordinate to the personal realm and not contrariwise, as the Lord indicated when He said that the Sabbath was made for man, and not man for the Sabbath. (*GS*, no. 26)

Jacques Maritain also used the Lord's statement about Sabbath being made for man to explain the subordination of the state and political power to the flourishing of the human person. But for that proper understanding of human flourishing, as well as the nature of the political community, we must next come to appreciate the deep social propensity of the human being and the priority of the common good in political life. Indeed the previous section discussing rights opened with statement concerning the common good: "the common good, that is, the sum of those conditions of social life which allow social groups and their individual members relatively thorough and ready access to their own fulfillment, today takes on an increasingly universal complexion" (*GS*, no. 26). The nature of the common good, as both an instrumental or facilitating good, and as an intrinsic or honest good is the next great lesson we learn from the political philosophy of *Gaudium et spes*.

Lesson 2: The Centrality of The Common Good

The second section of *Gaudium et spes* (no. 74) opens with a statement of the theme of the common good, as if to balance the previous section's emphasis upon rights. It states:

Men, families and the various groups which make up the civil community are aware that they cannot achieve a truly human life by their own unaided efforts. They see the need for a wider community, within which each one makes his specific contribution every day toward an ever broader realization of the common good. For this purpose they set up a political community according to various forms. The political community exists, consequently, for the sake of the common good, in which it finds its full justification and significance, and the source of its inherent legitimacy. Indeed, the common good embraces the sum of those conditions of the social life whereby men, families and associations more adequately and readily may attain their own perfection.

The classic account of political life states that human beings are social and political by nature. The lack of self sufficiency or “neediness” is a fundamental reason for social life, but as we shall see there is another root for social life in generosity or “perfection.” There is a repetition of the notion of the common good as a “sum of conditions” for realizing human perfection. This notion of the political good as an instrumental one is widespread—we talk about the government as a provider of goods and services, and that is what citizens seem to ask of their government and their political leaders. Oxford philosopher John Finnis states that the political community is a “community cooperating in the service of a common good which is instrumental, not itself basic.” He sees political community as the “great facilitator” for other communities; the common good is defined as “the securing of a whole ensemble of material and other conditions, including forms of collaboration, that tend to favour, facilitate and foster the realization, by each individual in the community, of his or her personal development.”¹⁴ Finnis heavily emphasizes the principles of subsidiarity to point that the political community is purely instrumental—that is, its function is simply to assist other communities or forms of association in the flourishing of individuals. Participation in the political community itself, therefore, does not seem to be a form of flourishing, a perfection of human nature, as such.

Although these passages from *Gaudium et spes* no. 12 and no. 74 may be construed in an instrumentalist fashion—i.e., that the political common good merely serves the ends of other pre-political “social” groups. But it may also be interpreted in another context; in a previous section, (*GS*, no. 12), we read—“[f]or by his innermost nature man is a social being, and unless he relates himself to others he can neither live nor develop his potential.” In addition, the document states that the social ties of “family and political community relate with greater immediacy to his innermost nature” while other communities are more relative and conditioned by choice (*GS*, no. 25).¹⁵ Here we find the Aristotelian view that politics, and family, pertain to the

14. See John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980), 154. See also *Natural Law, Liberalism, and Morality: Contemporary Essays*, ed. Robert P. George (Oxford: Oxford University Press, 2001).

15. This is a fairly standard Catholic view, borrowing as it does from Aquinas and Aristotle; see Heinrich A. Rommen, *The State in Catholic Thought: A Treatise in Political Philosophy* (St. Louis: B. Herder, 1947). See chapter ten, “The State as a Perfect Society” in which Rommen argues that the family and the state are the two communities necessary for the

core nature of human beings. Therefore, they constitute an essential form of flourishing. Further, the stress upon freedom in the modern world and the importance of participation in political decision-making point towards the political as perfecting the innermost nature. Rights are noted in particular as necessary conditions for citizens to participate actively in the life and government of the state (*GS*, no. 73). The passage quoted above states that the common good is that in which the political community “finds its full justification and significance, and the source of its inherent legitimacy.” Thus, human political activity is a form of fulfillment of our rational and communal nature. Humans attain a perfection by way of completion in political community, not just by way of facilitation of attaining other non-political goods.

There are obviously two aspects to the political good, according to *Gaudium et spes*.¹⁶ One aspect concerns the facilitation of the well functioning of other associations. The second aspect concerns participation of the citizen in the political order as a good in itself. The key question here is whether the political community is more than the sum of its parts—that is, whether the political community is a distinct association with its own proper good. The document contains two ideas—which I may describe as the public welfare view of political association on the one hand, and the republican view on the other. According to the public welfare view, the common good is no more than the sum of its parts and its role is simply to facilitate the good order and the conditions for the well functioning of the other associations. It could well involve active state intervention but for the sake of redistribution and the like. On the republican view of political association, the political community is a unique form of association; participation in it is an end or good in itself; this is because it allows for the exercise of man’s noble faculties.¹⁷ Political prudence, the capacity for and the exercise of rule, is one of the noblest human activities. The document refers to the “noble art of politics” which is a clear allusion to a more republican view of politics. It states that citizens should cultivate a “generous and loyal spirit of patriotism,” and that “great care must be taken about civic and political formation” so as to ensure active participation in politics (*GS*, no. 75). Why encourage active participation in political affairs? The direct involvement does help the state to achieve a greater sense of fairness and better distribute benefits and burdens when the citizens are active. But the concern for generosity and loyalty go beyond insuring mere technical and instrumental devices for facilitating the good of all. Obviously the participation is perfective and is itself a form of flourishing. The notion of “generous patriotism”

development of man’s social nature. The family stands to the political community as the imperfect and incomplete to the more perfect and complete.

16. See the discussion of the common good in these two aspects by Alasdair MacIntyre in “Politics, Philosophy and the Common Good,” in *The MacIntyre Reader*, ed. Kelvin Knight (Notre Dame: University of Notre Dame Press, 1999), 235-52 and Thomas Hibbs, “MacIntyre, Aquinas and Politics,” *The Review of Politics*, Vol. 66, No. 3 (Summer, 2004), 357-383.
17. “The full actualization of humanity would then seem to consist, not in some sort of passive membership in civil society, but in the properly directed activity of the statesman, the legislator or the founder. . . . Politics is the field on which human excellence can show itself in its full growth and whose proper cultivation every form of excellence is in a way dependent.” Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953), 133-134.

could not be derived from a purely instrumental view of the political good. Who would die for an instrument? Men and women take risks and sacrifice for a beloved object, an intrinsic good. Rawlsian liberalism and its variations continue to falter on the issue of self-sacrifice and patriotic duty. As George Grant so well put it: “Why should anyone choose to be a soldier or a policeman, if Lockean contractualism is the truth about justice?”¹⁸ While Finnis’s natural law liberalism is not contractualism, its instrumentalist view of political order bears an affinity to it. How can his view account for “generous patriotism” and the ultimate sacrifice it may entail?

The common good, in all its ramifications as both instrumental and intrinsic, sets the true standard for a good political regime and it grounds the legitimacy of political authority. *Gaudium et spes* follows the lead of classical political philosophy when insists upon this standard of the common good and entertains the possibility of a variety of good political regimes. According to Aristotle’s classification, monarchy (rule by one), aristocracy (rule by the few best) and a polity (rule by the many in a mixed regime) are capable of sustaining a common good; whereas oligarchy, democracy defined as mob rule, and tyranny are the bad forms of regimes because each turns the power of the political society towards a private and partial interest. Authority is legitimated by the common good—a common good requires an authority to make a decision and to will the common good in its detail. By the same token, the common good is a limit that authority must always observe:

Yet the people who come together in the political community are many and diverse, and they have every right to prefer divergent solutions. If the political community is not to be torn apart while everyone follows his own opinion, there must be an authority to direct the energies of all citizens toward the common good, not in a mechanical or despotic fashion, but by acting above all as a moral force which appeals to each one’s freedom and sense of responsibility. It is clear, therefore, that the political community and public authority are founded on human nature and hence belong to the order designed by God, even though the choice of a political regime and the appointment of rulers are left to the free will of citizens. It follows also that political authority, both in the community as such and in the representative bodies of the state, must always be exercised within the limits of the moral order and directed toward the common good—with a dynamic concept of that good—according to the juridical order legitimately established or due to be established. When authority is so exercised, citizens are bound in conscience to obey. Accordingly, the responsibility, dignity and importance of leaders are indeed clear. (*GS*, no. 74)

Authority, justified by the common good, is so easily abused and diverted from the common good. For this reason, the checks and balances provided by democratic regimes provides the best means in the modern world for keeping authority within

18. George Parkin Grant, *English Speaking Justice*, (Notre Dame: University of Notre Dame Press, 2005), 61-62.

its limits and for its proper purpose. But it has its own problems as well. So we must consider the third lesson of *Gaudium et spes*, the highlighting of the aspirations of the person to participation and consequently of democratic means of politics.

Lesson 3: The Importance of Democracy in The Modern World

Gaudium et spes by invoking the standard of the common good, admits that each human community may “set up a political community according to various forms” (no. 74). There are presumably a variety of legitimate forms of political association. In addition, the Church is not directly associated with the political association—“The Church, by reason of her role and competence, is not identified in any way with the political community nor bound to any political system” (no. 76). Nevertheless, the document recognizes some reasons that would incline the temporal association of today towards democracy. The recognition and endorsement of human rights, as based upon the equal dignity and humanity of all indicates the need for a form of government democratic in some respect. So too, the encouragement of participation of all in political life would favor democracy:

It is in full conformity with human nature that there should be juridico-political structures providing all citizens in an ever better fashion and without any discrimination the practical possibility of freely and actively taking part in the establishment of the juridical foundations of the political community and in the direction of public affairs, in fixing the terms of reference of the various public bodies and in the election of political leaders. All citizens, therefore, should be mindful of the right and also the duty to use their free vote to further the common good. . . . Great care must be taken about civic and political formation, which is of the utmost necessity today for the population as a whole, and especially for youth, so that all citizens can play their part in the life of the political community.

The third lesson of the political philosophy of the document, the democratic imperative, i.e., the participation of all citizens in the political life of the community, emerges against the backdrop of the warning against despotism and tyranny whereby the rights of the many are violated: one “must take action against any form of injustice and tyranny, against arbitrary domination by an individual or a political party and any intolerance” (*GS*, no. 75). On the contrary, politicians “should dedicate themselves to the service of all with sincerity and fairness, indeed, with the charity and fortitude demanded by political life.” Service to all, indicates the common good; participation of all, favors democracy or what is called by Aristotle a “mixed regime.”

As classically defined, democracy as rule by the many, is not the best regime according to Aristotle and St. Thomas because it veers from the common good for the partial interest of one group at the expense of the other parts. In his treatise *On Kingship* Thomas outlines the major problems with democracy. As the rule of a part over the whole, it is an unjust regime, i.e., “an unjust government exercised

by the many is called a democracy, that is, 'rule by the people,' which occurs when the common people use the force of numbers to oppress the rich. In this case, the whole people acts like a tyrant."¹⁹ Thomas believes, following Aristotle, that the majority are not capable of a high or perfect virtue; accordingly law must seek a moderate goal.²⁰ If possession of virtue constitutes the major qualification for rule, then it would follow that democracy is not the best form of government.

In favor of monarchy, government by one person is better than government by many because one can better promote "unity in peace." From experience he argues we may learn that "provinces and cities that are not ruled by one person are torn by dissension." Continual dissension leads to civil war, as was evident in the Roman Republic. The argument for the best regime follow along these lines. Monarchy is best from the standpoint of unity in peace. This is an empirical fact, Thomas believes. Thomas argues that a multitude is not a flat multitude, an egalitarian sameness; there is diversity of achievement, virtue and function. Fr. Gilby explains that "this does not mean the multitude, the masses, the populace, but the entire people, the whole body of citizens."²¹ Similarly, Strauss points out that multitude does not necessarily designate a "democratically ordered multitude."²² Indeed, Thomas at other times indicates that a multitude, by definition, must have an order of rule, and that rule must be by the best element in the whole.²³ The best should rule; and such a principle could justify monarchy, aristocracy or polity if rulers of character and virtue are brought into office. Outstanding virtue and character are an additional justification for kingly rule. Thomas acknowledged the need for some limit on the power of the king lest it become tyrannical. He recommends legal constraints, and therefore something like constitutional monarchy and participation of the various parts of the community. This leads to his notion of a mixed regime.

One of the most succinct and comprehensive statements of Aquinas' political philosophy may be found in the *Treatise on Law* in conjunction with his analysis of the judicial precepts of the old law. "Whether the Old Law Enjoined Fitting Precepts Concerning Rulers?" is the query of *ST IaIIae*, q. 105, a. 1.²⁴ Thomas here argues that divine law provided for a mixed regime, combining monarchy, aristocracy and

19. This argument and the following three are from St. Thomas Aquinas, *On Kingship*, trans. Gerald B. Phelan (Toronto: PIMS, 1949), 11-13.

20. *ST IaIIae*, q. 96, a. 2.

21. Saint Thomas Aquinas, *Summa Theologiae*, Law and Political Theory (IaIIae. 90-97), ed. and trans. Thomas Gilby, Blackfriars Vol. 28, (New York: McGraw-Hill, 1966), 14.

22. Leo Strauss, *What is Political Philosophy? And Other Studies* (Chicago: University Of Chicago Press, 1988), 308.

23. "Wherefore also in all things that are ordained towards one end, one thing is found to rule the rest. Thus in the corporeal universe, by the first body, i.e., the celestial body, the other bodies are regulated according to the order of divine providence; and all bodies are ruled by a rational creature. So, too, in the individual man, the soul rules the body; and among the parts of the soul, the irascible and the concupiscible are ruled by reason. Likewise among the members of a body, one such as the heart or the head, is the principal and moves all the others. Therefore, in every multitude there must be some governing power." Aquinas, *On Kingship*, 6.

24. See John R. Kayser, "Aquinas's 'Regimen Bene Commixtum' and the Medieval Critique of Classical Republicanism," *Thomist* 46 (April 1982): 195-220.

democracy. Combining unity, rarity of virtue, and popular consent is the great challenge of political form. The mixed regime does it best.

It is the presence of universal suffrage that defines democracy. It serves as an important means of resistance to despotism and to develop the full perfection of the person. On what basis can this feature of democracy be justified from within the legacy of St. Thomas? Simon makes a very interesting case for universal suffrage on the basis of a classic distinction between despotic and political rule; it is a distinction that Thomas derives from Aristotle's *Politics*.²⁵ In his treatment of the sensual powers of human beings, Thomas queries whether the appetites obey reason (*ST* Ia, q. 81, a. 3, ad. 2). It is objected that the appetites resist reason, and therefore they are not subject to reason. Thomas replies to the objection as follows:

For a power is called despotic whereby a man rules his slaves, who have not the right to resist in any way the orders of the one that commands them, since they have nothing of their own. But that power is called political or royal by which a man rules over free subjects, who, though subject to the government of the ruler, have nevertheless something of their own, by reason of which they can resist the orders of him who commands.²⁶

Thomas concludes that reason rules the body despotically, but that reason rules the appetites with a royal or political rule because the appetites can resist the rule of reason. In a similar text, Thomas queries whether in the state of innocence man would have been master over man (*ST* Ia, q. 96, a. 4).²⁷ Thomas explains a two fold meaning of the term master: the first meaning entails mastery of slaves, the second, entails rule over free men. The essential difference, Thomas points out, between a slave and a free man, is that a free man has "disposal of himself" whereas "a slave is ordered to another." Thomas concludes that in a state of innocence there would be no rule of master over slave; however there would be rule of one over others on the basis of acting for the unity of the common good and on the basis of superior knowledge and virtue.

Now Simon understands that political rule, and the presence of resistance, does not warrant democracy alone; democracy is one form of political rule, exercising its peculiar form of resistance to unjust rule, but there are other means available to other types of regimes. Democracy, therefore, insofar as it helps to establish conditions of political rule, and avoids tyranny, is a regime justified by the Thomistic text. However, Simon seeks to go beyond this legitimation to a recommendation of democracy as the best regime available. What is the feature that goes beyond political rule and what is its warrant? Simon defines that feature as follows:

25. Aristotle, *Politics*, I.2. (Indianapolis/Cambridge: Hackett Publishing Company, 1998), 2-4.

26. See James M. Blythe, "The Mixed Constitution and the Distinction Between Regal and Political Power in the Work of Thomas Aquinas," *Journal of the History of Ideas* 47 (October/December 1986): 547-565.

27. "Utrum homo in statu innocentiae homini dominabatur?" Thomas says "Cuius ratio est, quia servus in hoc differt a libero, quod liber est causa sui . . . servus autem ordinatur ad alium."

When the political idea assumes the democratic form, the people asserts, over and above its freedom from abusive power, its freedom to govern itself. Keeping the government confined within a definite field is no longer held sufficient; the government has been taken over by the people. Such is democratic freedom, the defining feature of democracy.²⁸

In order to justify this feature of democratic government Simon recapitulates the partisan dialogue of Aristotle's *Politics*, Book III, chapters 9-13. Simon weighs very carefully the arguments for and against the practice of universal suffrage. He classifies these arguments into three types, 1. the statistical; 2. the sociological; and 3. the romantic. Thus, the objections to universal suffrage (the many) and in favor of aristocracy (the few) are first, the statistical fact that the qualifications for good government cannot be expected by a very great number of people: "good government is the work of excellent wisdom; it demands unusual virtue, intelligence, some education, a great deal of experience, and many other qualifications which cannot be expected to be possessed by any great number of men."²⁹ Second, the rule of the few is preferred because of the sociological fact that the upper class of society produces a "comparatively high rate of excellence." Third, an argument is sometimes made based upon the romantic conception that the upper class is capable of a lofty pursuits and disinterested service of society. On the other hand, Simon makes a case for what he calls democratic "optimism." First, from a statistical perspective there is less evil in a large group: "evil may have a selective affinity for this minority and saturate it, while remaining infrequent in mankind at large."³⁰ Similar arguments are made in favor of rule by a larger group rather than a smaller group by Aristotle and Madison.³¹ A second reason for democratic optimism is the sociological consideration that the many people can produce an aggregate virtue and wisdom through the pooling of their many talents and perspectives. Aristotle again makes a similar argument in the *Politics* III.11 with respect to the feast and the drama critic; in addition he mentions the judgment of the patient over the physician. Finally, the romantic conception of the many deems the poor as intrinsically good. Surprisingly, Simon finally recommends none of the three arguments for democratic optimism. Universal suffrage he says is rooted in pessimism and the requirement in the present age for political rule. Simply put, the common man "will be crushed unless the constitution of society attaches some power to the only distinction that he certainly possesses, viz., that of having numbers on his side." It is protection of the people from despotism then that finally justifies universal suffrage; it is the Thomistic distinction between despotic and political rule that provides Simon's warrant for democracy. But what is it about

28. *Philosophy of Democratic Government*, 76.

29. *Ibid.*, 78, 81.

30. *Ibid.*, 94, 93, 79.

31. Aristotle, *Politics* III.15 1286a30ff—a large volume dilutes poison; James Madison, *Federalist* #10—a large republic is more likely to frustrate evil schemes; Cf. Alexis de Tocqueville, *Democracy in America*, "Corruption and Vices of the Rulers in a Democracy and Consequent Effect on Public Morality." Translated, edited, and with an Introduction by Harvey C. Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2002).

the present conditions that does so? Simon asserts that an elite cannot be trusted with rule: “there was a time when it was possible to believe that the destiny of the common man was safely intrusted to the wisdom of the upper class. That time is apparently gone forever.”³² It is the conditions of contemporary society, at least in the menace posed by elites, which justify democracy, not the intrinsic claims of the many to rule.

In an important article entitled “The Doctrinal Issues Between the Church and Democracy,” Yves R. Simon outlines three issues of major significance: the general relation between the state and religion; freedom of belief and expression; and the origin and ultimate meaning of temporal power.³³ The third issue is the most important because it is most specific to democracy; and further, Church leaders had singled out an interpretation of democracy as inconsistent with Church doctrine and sound political principles. Both Leo XIII and Pius X condemned a theory that asserts men are bound only by laws to which they consent. Simon believes that democracy does not in fact rest upon such a view; but the problem is real in terms of giving an interpretation of the fact of obedience and the role of consent in the political order. To get at this issue Simon constructs his famous typology of theories of authority: the “coach driver” theory, the “divine right” theory, and the “transmission” theory of authority.

The coach driver theory accords no authority to the statesman or officials of government. The rulers are but “pure instruments” of prior decisions of the people. This theory seems to justify the democratic practices whereby representatives are seen as hired servants, public opinion and lobby groups form decisions of these representatives, and it honors the autonomy of the individual. Simon argues that this theory is a “masked anarchy.” His proof is that a majority must rule the minority lest there be chaos and inability to act. Real authority is required by the need for united action. The coach driver theory mistakes the final cause (for the good of the whole) and the efficient cause (by the whole). This is the doctrine condemned.

In reaction to the coach driver theory, some have resorted to the divine right theory; God gives authority to the ruler. In part, this theory arose as a 17th century problematic concerning the Christian prince. The disturbing implications of the theory are that the ruler holds a power with no accountability. Maritain describes the same position as the theory of absolute sovereignty, which he rightly rejects. It places the ruler as separate from the political body and without limit or accountability.³⁴

As a solution to the extremes, Maritain and Simon propose to develop the “transmission theory” of authority. According to this theory authority resides in the people, in the civil community as a whole, and not in distinct persons. The civil community designates its rulers and thereby transmits power to the ruler. There are many ways in which such power is transmitted, but the clearest form is universal

32. *Philosophy of Democratic Government*, 98-99.

33. Yves R. Simon, “The Doctrinal Issue Between the Church and Democracy,” in *The Catholic Church in World Affairs*, ed. Waldemar Gurian and M. A. Fitzsimons (Notre Dame: University of Notre Dame Press, 1954), 87-114. This was recently republished with an introduction by Walter Nicgorski, in *Logos: A Journal of Catholic Thought and Culture*, Vol. 14, No. 1, Winter 2011, 132-164.

34. *Man and The State*, 28-53.

suffrage. It is argued that there is a genuine transmission, and therefore real authority and integrity of rule in the governing officials. The ruler must be granted the power of judgment and decision.

The Thomistic warrant for this theory is quite slim; there is an intriguing but ambiguous passage in the *Treatise on Law*. In response to the query “whether the reason of any man is competent to make laws,” St. Thomas states that:

A law properly speaking, regards first and foremost the order to the common good. Now to order anything to the common good, belongs either to the whole people, or to someone who is the viceregent of the whole people. And therefore the making of a law belongs either to the whole people or to a public personage who has care of the whole people: since in all other matters the directing of anything to the end concerns him to whom the end belongs.³⁵

This text is construed to mean that authority resides in the civil community and not in distinct persons; and that the governing person would rule as a substitute or representative of the people. Simon and Maritain both compare the spiritual authority of the pope as the vicar of Christ and the temporal authorities who serve as vicars of the people. The temporal ruler is said by Maritain to be the “image and deputy of the people.” He represents the “majesty of the people”³⁶ in their collective life. Now Simon admits that the text itself warrants nothing like a full justification of democracy; at most it points out the role of consent in political order and perhaps does grant a power to depose in extreme circumstances. It is a development from the text of Thomas to make it serve the purpose of democratic theory.

Thomas says that either the people or the representative may make laws. This is not a strict exclusive alternative. The representative may legitimately make laws; the text does not imply that he must consult with the people through election, referendum, or that he derives power through transmission. He is said to represent and to care for the whole community. Thomas Gilby provides some interesting commentary on this text. First, he points out that the term “vice gerent” derives from “gerere vicem,” to act on behalf of: hence the term designates “the public personage, the figure who personifies the community, and is its guardian and, in the fullest sense, its caretaker, ‘qui curam habet.’”³⁷ This description or explication does not point to a hypothesis about the origin of temporal power; the implications for the meaning of temporal power are simply that it must serve the common good. Again it does not exclusively endorse one or the other (multitude or ruler), or derive one from the other, but affirms both as legitimate when commensurate to the common good.³⁸

35. *ST IaIIae*, q. 90, a. 3: “Dicendum quod lex proprie primo et principaliter respicit ordinem ad bonum commune. Ordinare autem aliquid in bonum commune est vel totius multitudinis vel alicujus gerentis vicem totius multitudinis.”

36. Cf. *Man and The State*, 132-5.

37. *Summa Theologiae*, Law and Political Theory, (IaIIae. 90-97) ed. and trans. Thomas Gilby, Blackfriars Vol. 28, 13, note c.

38. “He does not touch on the hypothesis of a legal act by the people transferring the power of governing and legislating to the ruler, but leaves the matter as a general principle, that

Accordingly, as part of democratic theory, Simon continues in this vein: the power of rule may not be transmitted and then we have direct democracy; when the power is transmitted this is done through periodic exercise of consent through election; power is never completely transmitted, thus in some way every democracy is a direct democracy or a deliberative assembly. Elections, referenda, and public opinion are the means whereby such authority is exercised and transmitted. As mentioned above Simon insists that the transmission is genuine, which vouchsafes the integrity and judgment of the designated personnel in command.

Thus from the debate on temporal and spiritual powers that gave rise to the transmission theory of temporal authority Simon develops a very rich analysis of the various meanings of the phrase “consent of the governed.” He carefully distinguishes and elaborates on seven meanings; this passage provides a nice summary of the issue and its significance for political philosophy.³⁹ For example, the consent of the people reflects the fact that politics should be an act of reason and will and not instinct or blind force; or that persuasion is a better instrument of rule than is coercion. These are propositions pertaining to political order in general. The phrase may mean that the rulers are not self-appointed nor do they receive their power directly from God; rather, the people designate their rulers at least through popular approval and thereby “transmit” the authority to the rulers. This is the “transmission theory”: on this reading of consent, a regime need not be democratic as such; but the rulers must acknowledge their limited claim to rule and the proper end of rule. The transmission theory demands at least a properly political regime, but it is surely implicitly democratic. The other meanings of “consent of the governed” are explicitly democratic. It may “imply a demand for periodic exercise of popular consent” such as through elections of representatives. Even more specifically democratic meaning Simon calls the “incomplete transmission” of authority which is proper to democracy: the people retain the character of a deliberative body. The final meaning of “consent of the governed,” Simon emphatically rejects as the real error of some democratic theories, is that the people are bound only laws to which they give their consent. With this analysis, Simon hopes to have settled the doctrinal dispute between the Church and democracy and to develop Thomas’s implicit concern with the role and consent of the people into an explicit defense of democratic principles. The work done by Yves Simon and Jacques Maritain help us to understand the role of democracy in the political philosophy found in *Gaudium et spes*, namely the importance of participation and the protection of rights.

Lesson 4: The Need for a Higher Law—Natural Law and The Gospel

“When authority is so exercised, citizens are bound in conscience to obey,” according to *Gaudium et spes*. However, “it is legitimate for them to defend their own rights and the rights of their fellow citizens against the abuse of this authority,

the people or their guardian are the only power under God commensurate with the common good.” Ibid. 175.

39. *Philosophy of Democratic Government*, 190-194.

while keeping within those limits drawn by the natural law and the Gospels” (no. 74). This brief reference to natural law and the Gospels points to the moral limit and form for political society. Thomas distinguishes various types of law: Eternal Law, Natural Law, Divine Law, Human Law. Divine Law is divided into the Old Law and the New Law. Natural law is the participation of a rational creature in the eternal law. We must understand how the fundamental principles of moral law are derived and how they can be a touchstone for the legislator. If the purpose of the *polis* is that of human flourishing then the law maker must know what are the elements of human flourishing. Thomas identifies the fundamental goods of human flourishing from the various inclinations of the human being and the intelligible good which is achieved through such activity. The natural law type of ethical inquiry proceeds from a notion of an “integral human good” or “human wholeness” from which specific norms, both laws and character traits, for conduct are educed. Aquinas listed health and life, generativity, good social relations, and knowledge and wisdom as fundamental goods. Specific precepts for actions are intelligible in the pursuit of these goods; that is, human beings ought to do whatever promotes the full human good and to avoid that which detracts from it. Murder, lying, infidelity for example are clear violations of the human good. But in addition to such laws, personal virtues are encouraged to live out life to its fullest. Thus, natural law theory is not concerned with a few universals prohibitions alone. The moral order is protected on its borders by negative precepts, but in the interior positive precepts suggest the inexhaustible openness of the human good. The strength of the natural ethic is its comprehensiveness; it incorporates specific precepts and natural virtues and it is open to the context of divine commands and grace. Thus, although the natural law ethic has come to be identified with religious ethics it includes an appeal to rationality and natural perspective of virtue, thus not depending solely on the faith of believers or the commands of God.⁴⁰

The political relevance of this teaching of natural law as a higher law can be readily appreciated in the American experience. Our founders appealed to “Nature and nature’s God” as the foundation for the rights which government ought to secure. Martin Luther King Jr.’s *Letter from a Birmingham Jail* contains references to Aquinas and Augustine. The positive or human laws in the South maintaining racial segregation he rightly judged to be unjust laws. So too our present abortion laws must be judged unjust because of the gross violation of the fundamental tenets of natural law. The natural law is a key to understanding the foundation of political authority. Yves Simon explains that we must move from positive law to natural law anytime we consider the foundation of law and the establishment of a fundamental constitution (e.g., *The Declaration*); similarly any significant change to the positive law must make an appeal to a higher good and principle.⁴¹ We could also add judgment of international crimes against humanity (Nuremberg trials). Positive law ultimately derives its authority from the foundation of what is right by nature.

40. On the relation of natural law, divine law, and civil law see the *Catechism of the Catholic Church*, nos. 1975-1985.

41. Yves R. Simon, *Natural Law Tradition: A Philosopher’s Reflections* (New York: Fordham University Press, 1999), 112-116.

There is an ideology that prevails today insisting that law is to be morally neutral, and that any effort to see that civil law conform to a higher moral law is an imposition of religion upon others. Cardinal Ratzinger said in his “Doctrinal Note On Some Questions Regarding The Participation Of Catholics In Political Life”—“For Catholic moral doctrine, the rightful autonomy of the political or civil sphere from that of religion and the Church—*but not from that of morality*—is a value that has been attained and recognized by the Catholic Church and belongs to inheritance of contemporary civilization.” Yes, we affirm the separation of Church and State, but we do not support the separation of morality and state. Indeed, the very foundation of the modern state and its legitimacy to protect the rights of the person rests upon moral principles. Relativism is a dangerous way to explain toleration, a way that would undermine human dignity and the very principles of free government. Very often democratic regimes are tempted to think that majority rule legitimates attacks on human rights especially of the vulnerable. Saint John Paul II warned of a sinister development in modern democracy—the alliance of relativism and majoritarianism: “The appearance of the strictest respect for legality is maintained, at least when the laws permitting abortion and euthanasia are the result of a ballot in accordance with what are generally seen as the rules of democracy. Really, what we have here is only the tragic caricature of legality; the democratic ideal, which is only truly such when it acknowledges and safeguards the dignity of every human person, is betrayed in its very foundation” (*Evangelium Vitae*, no. 20). The alliance between an ideology of relativism and democracy will spell the end of true democracy, which must stand upon the truth of human dignity. Modern democracy particularly emphasizes human freedom. This leads to two diametrically opposed tendencies in our democratic culture:

As a result we have what appear to be two diametrically opposed tendencies. On the one hand, individuals claim for themselves in the moral sphere the most complete freedom of choice and demand that the State should not adopt or impose any ethical position but limit itself to guaranteeing maximum space for the freedom of each individual, with the sole limitation of not infringing on the freedom and rights of any other citizen. On the other hand, it is held that, in the exercise of public and professional duties, respect for other people’s freedom of choice requires that each one should set aside his or her own convictions in order to satisfy every demand of the citizens which is recognized and guaranteed by law; in carrying out one’s duties the only moral criterion should be what is laid down by the law itself. Individual responsibility is thus turned over to the civil law, with a renouncing of personal conscience, at least in the public sphere. (*EV*, no. 69)

The civil law in its turn is decided by a “parliamentary or social majority.” If such a majority “decrees that it is legal, at least under certain conditions, to kill unborn human life,” this shows a tyrannical character because weak are subject to the stronger. Thus, Saint John Paul II warns that “[d]emocracy cannot be idolized to the point of making it a substitute for morality or a panacea for immorality” (*EV*, no.

70). He says that democracy is a “system” and as such is “a means and not an end.” It must be measured by a moral norm. Hence, as *Gaudium et spes* significantly points out, we need the higher law, natural law and the Gospel.

The danger with any political party or political movement is that the temptation to power leads one to identify the right with might; that is, the very legitimacy and authority of the law is attributed to the power of the law-maker. Socrates encountered this opinion in Thrasymachus early in *The Republic*. Justice is identified simply with law; and law is attributed to the stronger party who makes such laws as will serve the interest of the those in power. Socrates reasons that there must be something above power or force which gives a content to the notion of justice. There is such a thing as “natural right.” The notion of natural right in turn suggests that there is a higher law or a natural law by which the positive law of the city is to be measured and judged.

Lesson 5: The Call to Participation and The Structure of Subsidiarity

Gaudium et spes is emphatic in using the principle of subsidiarity: “Rulers must be careful not to hamper the development of family, social or cultural groups, nor that of intermediate bodies or organizations, and not to deprive them of opportunities for legitimate and constructive activity; they should willingly seek rather to promote the orderly pursuit of such activity” (no. 75). The political association must encourage and protect the free initiative of citizens and groups. So they too get a warning: “Citizens, for their part, either individually or collectively, must be careful not to attribute excessive power to public authority, not to make exaggerated and untimely demands upon it in their own interests, lessening in this way the responsible role of persons, families and social groups” (GS, no. 75). Yves R. Simon explains the notion of subsidiarity as the “principle of autonomy” which he states as follows:

no task which can be satisfactorily fulfilled by the smaller unit should ever be assumed by the larger unit. . . . It is perfectly obvious that there is more life and unqualifiedly greater perfection in a community whose parts are full of initiative than in a community whose parts act merely as instruments transmitting the initiative as the whole.⁴²

Maritain, who cites Simon’s work on this principle, formulates the “principle of pluralism” which he states as follows: everything in the body politic which can be brought about by particular organs or societies inferior in degree to the state and born out of the free initiative of the people should be brought about by those particular organs or society.⁴³

The Thomistic warrants for this principle of subsidiarity are found in unlikely places. The texts are from the *Summa Theologiae*. Thomas queries “whether it be necessary for the human will in order to be good to be conformed to the Divine

42. *Philosophy of Democratic Government*, 129-130.

43. *Man and the State*, 67.

will as regards the thing willed?” and again “whether all things are governed immediately by God?”⁴⁴ In the former text, Thomas argues that the wife of a thief condemned to death rightly wills that he be spared, whereas the judge rightly wills that he be punished. The wife wills a private good, the judge wills a good for the whole, a common good. Thomas explains that not everyone must will the common good, or even the divine will, in a material way; they must will the divine good formally, but they do not always perceive the universal good to be willed materially.⁴⁵ In the latter text Thomas explains that “[a]s to the design of government, God governs all things immediately; whereas in its execution, He governs some things by means of others. . . . God so governs things that He makes some of them to be causes of others in government; as a master, who not only imparts knowledge to his pupils, but gives also the faculty of teaching others.”⁴⁶

The first text is said by Yves R. Simon to be “the most profound thing ever written on the foundation of authority” and “the most precise exposition ever made of the principle commanding the theory of government.”⁴⁷ With these texts Simon builds a very intricate theory of authority. Authority is required, as we have seen, for unity of action, but also for the direction of the community to the common good materially willed. And the same argument for authority establishes the principle of autonomy; that is, insofar as the authorities will the material good of the common good, it is up to particular people and particular groups to will the material good of the particular person or group. Simon states that “that particular goods be properly defended by particular persons matters greatly for the common good.” Simon sees himself making common cause with Aristotle against the excessive unity of the state posited by Plato in *The Republic*. Accordingly, it is the modern democratic state that protects and encourages particular groups as opposed to the totalitarian attempts to control all sectors and activities of the citizens.

The principle of autonomy is also invoked to justify those institutions and practices which check the power of the state. Simon says that it is our duty to keep the state confined within its function and hold in check its threatening tendency to trespass.⁴⁸ Therefore he says that the salvation of society depends upon an array of institutions provided with “the power of resistance”—private property, churches, press, private schools, labor unions, and free economic enterprise. In effect then Simon now combines the principle of political rule with the principle of autonomy to defend the structural pluralism of modern democracy.⁴⁹

44. “Utrum necessarium sit voluntatem humanam conformari voluntati divinae in voluto ad hoc quod sit bona.” *ST IaIIae*. q.19, a.10. “Utrum omnia immediate gubernentur a Deo.” *ST Ia*. q.103, a.6.

45. “Voluntas igitur humana tenetur conformari divinae voluntati in voluto formaliter (tenetur enim velle bonum divinum et commune), sed non materialiter.” *ST IaIIae.*, q.19, a.10.

46. “Quantum autem pertinet ad executionem gubernationis, Deus gubernat quaedam medi-antibus aliis. . . Et ideo sic Deus gubernat res ut quasdam aliarum in gubernando causas instituat; sicut si aliquis magister discipulos suos non solum scientes faceret, sed etiam aliorum doctores.” *ST Ia*, q.103, a.6.

47. “The Doctrinal Issue,” 104; *Philosophy of Democratic Government*, 40.

48. *Philosophy of Democratic Government*, 134.

49. See David T. Koyzis, “Yves R. Simon’s Contribution to a Structural Political Pluralism,” in *Freedom in the Modern World*, 131-140.

Maritain similarly applies his principle of pluralism to defend the existence of intermediate groups: the body politic must include a “multiplicity of particular societies which proceed from the free initiative of citizens and they should be as autonomous as possible” and be granted institutional recognition.⁵⁰ The state, he observes, is “inevitably dull and awkward—and as a result, easily oppressive and injudicious” in the fields of industry, culture, science and the like. He concludes that the pluralist principle is even more vital to democracy than is universal suffrage: “vital energy should unendingly rise from the people within the body politic. In other words the program of the people should not be offered from above to the people . . . it should be the work of the people.” Maritain bases his argument more in the second text cited above, concerning God’s governance through intermediates or secondary causes. The pluralist principle demands a democratic regime if the people are to be free to exercise initiative.

Lesson 6: The Meaning of The “Separation of Church and State”

The final lesson we must draw from *Gaudium et spes* pertains to the very relationship of Church and State. “The Church and the political community in their own fields are autonomous and independent from each other.” As we noted at the outset of this article, Cardinal Ratzinger, in his “Doctrinal Note on Some Questions Regarding the Participation of Catholics in Political Life,” stated that “the rightful autonomy of the political or civil sphere” is a value attained and recognized by the Catholic Church. Yet autonomy does not entail separation or antagonism between Church and State. They must cooperate.⁵¹ The Note thus continues: “Yet both, under different titles, are devoted to the personal and social vocation of the same men. The more that both foster sounder cooperation between themselves with due consideration for the circumstances of time and place, the more effective will their service be exercised for the good of all” (no. 76). The council fathers emphasize the need for cooperation based upon the unity of the human person; both are devoted to the good of the “same man.” Both must therefore foster sounder cooperation between themselves for the good of all.

In one of the key sections the council addresses itself to the objection whether “a closer bond between human activity and religion will work against the independence of men, of societies, or of the sciences.” In order to properly answer that fear various meanings of autonomy are explored. The proper meaning of autonomy comports with the Christian notion of creation:

If by the autonomy of earthly affairs we mean that created things and societies themselves enjoy their own laws and values which must be

50. *Man and the State* 11, 23. See Joseph W. Evans, “Jacques Maritain and the Problem of Pluralism in Political Life,” in *Jacques Maritain: The Man and His Achievement*, ed. Joseph W. Evans (New York: Sheed and Ward, 1963), 215-236.

51. See my article “Maritain on the Cooperation of Church and State,” in *Wisdom, Liberty and Grace*, 275-301.

gradually deciphered, put to use, and regulated by men, then it is entirely right to demand that autonomy. Such is not merely required by modern man, but harmonizes also with the will of the Creator. For by the very circumstance of their having been created, all things are endowed with their own stability, truth, goodness, proper laws and order. Man must respect these as he isolates them by the appropriate methods of the individual sciences or arts. (*GS*, no. 36)

Politics and economics therefore have their own proper autonomy—i.e., their own fundamental laws and intelligibility. The political community achieves its proper differentiation from the religious association, the Church or any other religious association. Political life has its proper excellence; its own proper dynamism; and its own proper role to play in the development of human beings. But by this same token, the political sphere is not the ultimate; it must not claim the mantle of religion for itself. It is not divine. One manner of claiming divinity or ultimacy for itself would be through self-sufficiency. That is if the State recognizes no power higher than itself, then it will verge towards idolatry of its own proper purpose and thereby distort it. Thus the council fathers rightly describe the “false” sense of autonomy:

But if the expression, the independence of temporal affairs, is taken to mean that created things do not depend on God, and that man can use them without any reference to their Creator, anyone who acknowledges God will see how false such a meaning is. For without the Creator the creature would disappear. For their part, however, all believers of whatever religion always hear His revealing voice in the discourse of creatures. When God is forgotten, however, the creature itself grows unintelligible. (*GS*, no. 36)

Echoing the Thomistic notion of the “exitus et reditus,” the coming forth from God and the return of creatures to God, the council fathers point out that the origin and end of human life transcend the political order, for which a due reverence and respect must be acknowledged.⁵² In fact, a great theme of this council is that the denial of this higher origin and destiny leads to the very assault upon human dignity with which the modern world is so concerned. The loss of the Creator entails the loss of the creature. The Church is therefore a “sign and safeguard of the transcendent character of the human person” (*GS*, no. 76). By fostering and elevating all that is true, good and beautiful, the Church has a great role to play in developing the

52. “Only God is great. God alone is the beginning and end. God alone is the source of your authority and the foundation of your laws.” Paul VI, “Closing Statement to Rulers,” in *Pope Paul VI, Closing Speeches Vatican Council II* (Boston: Daughters of St. Paul, 1965), 4-25; also in http://w2.vatican.va/content/paul-vi/en/speeches/1965/documents/hf_p-vi_spe_19651208_epilogo-concilio-governanti.html. See *GS*, no. 13: “Often refusing to acknowledge God as his beginning, man has disrupted also his proper relationship to his own ultimate goal as well as his whole relationship toward himself and others and all created things.”

modern world and the temporal and political community. It must be said that she uses her own proper methods—"the ways and means proper to the Gospel" which are different from those of the earthly city. In her turn the Church asks for freedom "to preach the faith, to teach her social doctrine." In a final statement to rulers Paul VI said "She asks of you only liberty."⁵³ Similarly in *Gaudium et spes* it says:

She, for her part, does not place her trust in the privileges offered by civil authority. She will even give up the exercise of certain rights which have been legitimately acquired, if it becomes clear that their use will cast doubt on the sincerity of her witness or that new ways of life demand new methods. It is only right, however, that at all times and in all places, the Church should have true freedom to preach the faith, to teach her social doctrine, to exercise her role freely among men, and also to pass moral judgment in those matters which regard public order when the fundamental rights of a person or the salvation of souls require it. (*GS*, no. 76)

The Church does not threaten the temporal order but seeks "to heal everything human of its fatal weakness, transfigure it and fill it with hope, truth and beauty."⁵⁴ The section on politics concludes with this statement: "While faithfully adhering to the Gospel and fulfilling her mission to the world, the Church, whose duty it is to foster and elevate all that is found to be true, good and beautiful in the human community, strengthens peace among men for the glory of God."

In addition to this relativism and false understanding of autonomy, Catholic citizens encounter a hostile and "disingenuous" use of the rhetoric of toleration which seeks to ban Christian conviction or even moral conviction from having an impact on public reason and public action. But the Catholic appeal to conscience is not an act of sectarian or confessional politics because conscience has a source in rational moral law and deliberation. The basic principles of good government derive from natural law and can be discerned by men and women of good will. Also, citizens must understand that the realm for legitimate freedom of opinion concerns means and technical solutions to the end of justice and human flourishing. There can exist a plurality of parties and opinions based on the development of different strategies for achieving our goals. But one cannot compromise principle of the fundamental dignity of the person. This threatens the foundation of free government and democratic regimes; it also jeopardizes the integrity and unity of Catholic life.

The unity of faith and life is the deepest challenge to Catholic citizens in the modern world. It is too easy to leave our faith to the Sunday pew. In the documents of Vatican II we read: "This split between the faith which many profess and their daily lives deserves to be counted among the more serious errors of our age" (*GS*, no. 43). A Christian may not claim a warrant to neglect or to shirk their earthly duties because of a concern with the otherworldly. In fact such a Christian "jeopardizes his eternal salvation." Catholics are living a lie when they profess the faith on Sun-

53. Pope Paul VI, *Closing Speeches*, 25.

54. *Closing Speeches*, 25.

day and act in direct opposition to it in the political arena. As former Cardinal Ratzinger said in the “Doctrinal Note” (no. 6): “There cannot be two parallel lives in their existence: on the one hand, the so-called ‘spiritual’ life, with its values and demands; and on the other, the so-called ‘secular’ life, that is, life in a family, at work, in social relationships, in the responsibilities of public life and in culture.” The laity can become the source for the renewal of the social and political order only through the achievement of unity of life. There is no doubt a tension between faith and life, but it is the same person who is a member of the Church and who is also a member of the political community. The burden of unity falls upon the individual person, the individual Christian, who is a member of both societies. But it will not come without effort and spiritual growth. The council fathers call for the Christian laity to gather into a “vital synthesis with religious values” (GS, no. 43) all their earthly activities—humane, domestic, professional, social and technical enterprises.

This unity of life is an exciting challenge and an exacting call, it is a means of sanctifying everyday secular life: “Even by their secular activity they must aid one another to greater holiness of life, so that the world may be filled with the spirit of Christ and may the more effectively attain its destiny in justice, in love and in peace.” “Secularity” is the very mark of the laity—“secular duties and activities belong properly to the laity” (GS, no. 43). The laity must work according to the “laws proper to each discipline” and yet seek to inscribe the divine law into the very life of the earthly city—by way of their own conscientious action. Thus, the very secular work of the layman is a spiritual vocation. For good reason then did Paul VI remark in his message to rulers that the freedom of the Church will first of all benefit “your peoples” since the Church “forms for you loyal citizens, friends of social peace and progress.”⁵⁵

Political action is a form of Christian witness if it is based upon a way of living that is consistent with the faith and coherent in its witness. So in a way, we must say that political success is not the primary issue here at all; the failure of Catholic political action is a failure of personal integrity and a failure to show forth the faith. The life and death of St. Thomas More shows us that unity of life and witness to faith are the primary values at stake in political action. It is a mode of evangelization, by which the Catholic citizen gives witness to fundamental truths concerning the dignity of the human person and the goodness, justice and mercy of the Triune God.

Pope John Paul II said that evangelization, as the reason for being of any ecclesial community, would not be complete “if it did not keep in mind the relations existing between the Gospel and man’s personal and social life.”⁵⁶ He follows the approach of Vatican II by encouraging all Catholics to participate in political affairs—“to combat concrete situations of injustice and to establish justice and peace.”⁵⁷ Catholics are called to take an active role in shaping the political sphere and they are

55. *Closing Speeches*, 54.

56. The passages refer to the Apostolic Exhortation of Pope Paul VI, *On Evangelization in the Modern World*, December 8, 1975, nos. 29 and 31. Pope John Paul II develops the notions in *On Social Concerns*, 1987 (nos. 39 and 41) and *On The Hundredth Anniversary of Rerum Novarum*, 1991, nos. 5 and 54.

57. See also the *Compendium of the Social Doctrine of the Catholic Church* (2005), nos. 60-68.

called to work tirelessly for the common good. The Church does not seek to assume temporal power or to use the means proper to the earthly city such as power and coercion. Rather, the Church will use the very means proper to the Gospel, through the inspiration of conscience and through a sacramental formation of life. By this interior formation combined with the development of secular knowledge and expertise, the Catholic laity can exercise a positive influence upon the social and political order. The laity are encouraged to use the normal or regular means of government and to use the privileges and rights afforded to any citizen. Within such means they must do the right thing and thereby embody their conscience in political form in policy and law. ■