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2012]

RESPONSE TO CANDACE VOGLER,
"IN SUPPORT OF MORAL ABSOLUTES"

MICHAEL P. MORELAND*

WE were already in debt to Candace Vogler for her splendid 2002 book *Reasonably Vicious*, which argued for the importance of Elizabeth Anscombe and Aquinas for an adequate account of practical reason. I say that because, while we are honoring John Finnis today in a law school and preeminently for his towering achievements in the philosophy of law, he is also the bearer of a tradition in English Catholic philosophy that begins with Anscombe's 1957 paper, *Mr. Truman's Degree*, condemning the indiscriminate bombing of innocent civilians during the Second World War, and Anscombe's 1958 landmark essay, *Modern Moral Philosophy*. Central to Anscombe's argument in those papers was the topic of Professor Vogler's paper here today, namely the importance of exceptionless moral norms and the rejection of consequentialism. Anscombe wrote in *Modern Moral Philosophy*:

[I]t has been characteristic of the Hebrew-Christian ethic to teach that there are certain things forbidden whatever *consequences* threaten The prohibition of certain things simply in virtue of their description as such-and-such identifiable kinds of action, regardless of any further consequences, is certainly not the whole of the Hebrew-Christian ethic; but it is a noteworthy feature of it.¹

Professor Vogler's stated problem in this paper is whether one can ground absolute moral prohibitions without theology. Suffice to say that this is a large question, which neither Professor Vogler's paper nor my brief response can hope to address in a comprehensive way. But let me make two comments in response to her provocative and profound paper.

First, it seems to me that there is at least the potential for some confusion in the use of the verb "grounded" (or "defended," "rationally vindicated," "made sense of," and so on) in the question of whether absolute moral prohibitions can be "grounded" without, or apart from, theology. Professor Finnis and the New Natural Law theory with which he is associated are often taken to have marginalized the place of God (religion, theology, or revelation) in their account of natural law and its requirements because religion is reduced to merely one of the basic goods in the theory. But I wonder if critics—not Professor Vogler, but those looming in the background of her paper—sometimes misread Professor Finnis on this

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1. G.E.M. Anscombe, *Modern Moral Philosophy*, PHIL. Jan. 1958, at 33.

point. In *Natural Law and Natural Rights*, for example, Professor Finnis responds to an objection formulated by Kai Nielsen that (this is Nielsen) “traditional concepts of natural law are completely dependent for their viability on the soundness of such claims [as that natural theology is intelligible, let alone true, and that God exists].”² Finnis responds that he will, in Part II of the book, refute the Nielsen charge by “offer[ing] a rather elaborate sketch of a theory of natural law without needing to advert to the question of God’s existence or nature or will.”³ But Professor Finnis goes on in the very next paragraph to write:

[T]he fact that natural law can be understood, assented to, applied, and reflectively analysed without adverting to the question of the existence of God does not of itself entail either (i) that no further explanation is *required* for the fact that there are objective standards of good and bad and principles of reasonableness (right and wrong), or (ii) that no such further explanation is available, or (iii) that the existence and nature of God is not that explanation.⁴

And so perhaps the “requirement” of a further explanation for principles of reasonableness (and the place of exceptionless moral norms in an overall account of practical reason’s demands) shows how the charge of setting aside or marginalizing of theology is perhaps something of a caricature.

My second comment is simply to highlight the significance of this topic to the overall importance of the rejection of consequentialism in the work of Professor Finnis. As Philippa Foot once noted, “No decision is more important for practical ethics than that by which we come to embrace or reject utilitarianism.” The frustration that Anscombe voiced in *Modern Moral Philosophy* with the morass of post-Sidgwickian English moral philosophy has been continued, deepened, and clarified in Professor Finnis’s work, notable in the McGivney Lectures that were the focus of Professor Vogler’s paper and were published as the book *Moral Absolutes* but also, say, in the sections of *Natural Law and Natural Rights* on the incommensurability of the basic goods. More recently, in a 1997 lecture at Notre Dame on secularism, published as *Secularism’s Practical Meaning* in Volume III of the *Collected Essays of John Finnis*, Professor Finnis writes that:

[W]hen one reflects on the phenomenon of consequentialism, one comes, I think, to see it as, wittingly or otherwise, an attempt to replace divine with human providence, not in retail (as with the differentiation of secular from sacred that comes with all par-

2. KAI NIELSON, *GOD AND THE GROUNDING OF MORALITY* 75 (1991).

3. JOHN FINNIS, *NATURAL LAW AND NATURAL RIGHTS* 49 (1980).

4. *Id.* (emphasis added).

ticular technical competences, as in agriculture, sewerage, or medicine) but wholesale, across the board.⁵

So also Bernard Williams, not otherwise concerned with the denial of divine providence or the defense of absolute moral norms but similarly scathing about the costs and the sly appeal of consequentialism in his famous reply to Professor Finnis's countryman J.J.C. Smart, wrote:

If people do not regard certain things as "absolutely out," then they are prepared to start thinking about extreme situations in which what would otherwise be out might, exceptionally, be justified. They will, if they are to get clear about what they believe, be prepared to compare different extreme situations and ask what action would be justified in them. But once they have got used to that, their inhibitions about thinking of everything in consequential terms disappear: the difference between the extreme situations and the less extreme, presents itself no longer as a difference between the exceptional and the usual, but between the greater and the less—and the consequential thoughts one was prepared to deploy in the greater it may seem quite irrational to deploy in the less.⁶

In conclusion, Professor Vogler has given us a provocative and insightful paper about merely one aspect of the moral philosophical work of John Finnis and has artfully raised the importance of the common Anscombian project that animates much of the work both of Professor Finnis and Professor Vogler. Writing just two years ago in 2009 about Elizabeth Anscombe in the context of a review of two books of Anscombe's collected essays and relevant here to the topic of Professor Vogler's paper on the relation of theology to moral philosophy, Professor Finnis wrote:

Since the faith has realities, not myth, for its object, and since everything that can be inquired into is what it is by virtue of God's actuality, one's inquiries and every other element in one's intellectual life—whether elements on which faith bears or elements remote from the faith—can be pursued with confidence that they will not contradict faith and if successful will have brought one a little closer to understanding what is really so. That is the free and diligent way in which Anscombe carried out

5. 5 John Finnis, *Secularism's Practical Meaning*, in *RELIGION AND PUBLIC REASONS*, COLLECTED ESSAYS 56, 76–77 (2011).

6. J.J.C. & BERNARD WILLIAMS, *UTILITARIANISM: FOR & AGAINST* 91 (1973).

the work that is widely and reasonably judged the twentieth century's outstanding English Catholic philosophical achievement.⁷

So also that is the free and diligent way in which John Finnis has carried out his work, which we rightly gather to celebrate today.

7. 2 JOHN FINNIS, *Anscombe on Spirit and Intention*, in INTENTION AND IDENTITY, COLLECTED ESSAYS 69 (2011).