

Freedom of Conscience

By Dr Joseph Bommer.

London Catholic Truth Society No. ctsdo395 (1967)

Introduction

On the plane of moral conduct the authority of the Church has a dual role: she is interpreter of divine law as it is contained in the natural law and in positive divine law, and she is creator of human law in her own discipline. In the former she is tied, in the latter she is free. She proclaims divine and human law and thus regulates the moral attitude of man. In the process she penetrates deep into man's personal life, and in doing so makes an encounter of the greatest importance, the encounter with man's *conscience*. Conscience stands for my personal freedom; the impersonal, objective great power of ecclesiastical authority encounters the personal, subjective great power of human conscience.

It is this encounter that we have to deal with here. How does the ecclesiastical authority fulfil its dual role in this encounter with the conscience of man? Or from the other side, what is the attitude of conscience to the moral standards and laws laid down for it by the Church? To what extent is there real freedom of conscience? To what extent is there real obligation? We shall first consider the *concept of conscience* and then its position and duty in contact with the Church as interpreter of divine law and creator of human law. In other words we shall deal first with the *nature* of conscience, what it is, and then with its *function*, what it does.

The Concept of Conscience

If we want to know what conscience is, we must ask ourselves, for conscience belongs to the 'eternally human', to what man experiences by himself and in the depths of himself. It is a part of our own nature which we bear within ourselves. Each one of us experiences conscience in his own entirely personal way. What does our own personal experience tell us? It tells me that there exists in me something in the nature of an inner voice which makes itself heard in my personal life and in my moral doings. We experience conscience in judging the moral worth or otherwise of our own freely willed actions and dispositions. It counsels us before we make a decision, accompanies us in our actions, and sits with us in judgment on them when they are completed. If I have a moral decision to make, I hear the warning voice. It impels me in one direction or another — I am subject to a certain pressure. My conscience judges the action in question and pronounces it good or evil. When action has been taken this same voice, this same conscience, will judge both myself and the action; the warning voice becomes the voice of judgment. If I have listened to the warning voice, I am praised; if I have gone against it, I am blamed. In the one case we feel an inner peace and joy; in the other we are uneasy — our conscience, we say, pricks us. Every spiritually and morally healthy person experiences this, for everyone has the apparatus of conscience as part of his nature. Let us try to clarify and *define* this experience.

This much is a clear fact of experience: there exists a conscience whereby a person perceives what he has to do here and now. Conscience consists first and foremost in the judgment of the human understanding on the moral quality of an action to be taken here and now. But where does my understanding get its knowledge of moral quality? What is the basis for the judgment which is my standard and guide for the decisions I have to make, a standard indeed which is absolutely and unconditionally binding upon me? For the judgment of conscience imposes an obligation upon me; I am responsible to it. But *responsibility* goes beyond myself; the term presupposes somebody else, somebody to whom I am responsible, somebody therefore who is above me, who has the right to make demands of me, who can oblige me to do this or that, and who can reward or punish me. I cannot be responsible to myself; there must be someone for me to be responsible to. I am not set above myself, I am not my own lawgiver. Conscience thus goes beyond itself, the personal judgment of conscience demands a higher authority from which it draws its compulsive, obligatory force. And this authority is God and his eternal law.

The Basis of Conscience

My conscience is the link between the general laws and norms set by God and my concrete personal life. Conscience is thus never the last instance, it is not autonomous. It has a mediatory character even though here and now in connection with something to be done or not done it represents for me a direct and absolutely binding obligation. All laws and norms are general. They cover and apply to every individual incident but are necessarily above these individual cases in their formulation and requirements. Who then is to tell me how to apply the general law, the objective, absolute norm to my case, to my entirely unique concrete situation, how I am to act, *here and now*, in these particular actual circumstances? This is the task of *conscience*. Based and directed on the ultimate highest law, conscience has the duty to tell me what I have to do here and now, how the general law applies to the unique present situation. Thus the judgment of conscience is always a practical judgment, valid in this form for this occasion alone. But it is the expression of a higher universal law and at the same time the application, the adaptation of the law to my present situation. From all this comes the close connection between *law and conscience*. For me, conscience is the direct and valid expression of the law. Conscience must therefore be based on the law, so that it is able to voice proper conscientious judgments in my life. Thus an encounter between conscience and law, between conscience and the authority which proclaims and propounds the law, is required by the nature and the task of conscience. And that brings us to the second problem: the encounter between conscience and ecclesiastical authority. The difficult part of the problem lies in the encounter with the Church as the divinely appointed interpreter of the natural law. The relationship between conscience and positive Church law is much easier to define.

Situation Ethics

The problem of conscience and ecclesiastical authority in relation to divine law has been the subject of considerable discussion in our times. This is because under the influence of existentialist philosophy a tendency is making itself felt even in Catholic circles that threatens the Catholic teaching about conscience. It is what is called *situation ethics*. In a significant address on 19 April 1952 Pope Pius XII himself expressed his opinion on it and spoke of a new conception of moral life which has attracted in particular young Catholic people. The Pope spoke of a 'new morality', of 'ethical existentialism' or simply 'situation ethics'.

The special *hallmarks* of this morality consist in the fact that it forgets the mediatory role of conscience, and does not start from universally applicable moral laws, such as the Ten Commandments, but places the concrete circumstances in which a man has to act in the centre of everything. Accordingly there can be cases – and in these turbulent times they will not be so rare – in which conscience as the final instance must on the basis of the practical conditions of the particular case come to a decision *contrary* to the universally valid law. The universal laws are not denied, but their absolute validity is prejudiced. They are relegated from the centre to the periphery. It may be that the decisions of conscience will be in conformity with them, but often they will not conform nor be able to conform. Thus the central point is no longer the effective moral law from which conscience has to draw its logical conclusions concerning the so-called 'special case'. It is now the *value* to be achieved by this unique person in this unique situation. It is not the binding norm that decides, but the individual case, which can fall outside the norm and even be contrary to it. Thus, for example, in the matter of faith the deciding value which is to be realized is the personal relationship binding us to God. So that, according to situation ethics, if the conscience decides that to give up the Catholic faith and join some other confession will bring one nearer to God, this step is justified even though it would normally be labelled apostasy.

Or in the matter of love, if the development of one's personality is taken to be the highest value to be realized, why should a married man not in certain circumstances have sexual relations with some other woman who suits his personality better than his wife does? In the ordinary way this would be adultery, but in this case, says situation ethics, it is allowed. On the same basis it is thought possible to leave it to the consciences of married people to decide whether in certain circumstances they may not practise forbidden birth-prevention in their particular situation which is, after all, quite unique. Such decisions by conscience do indeed contravene divine law but are supposed nonetheless to be valid in God's sight since in his eyes conscience is more important than laws and commandments. Such decisions do not just passively accept the divine law as promulgated by the Church; they have an active, creative attitude.

Obviously such situation ethics are decidedly *individualistic*. In such decisions of conscience, which are supposedly entirely personal undertakings, the individual meets his God directly, apparently without the intervention of any sort of law or authority. People talk about having an 'adult' conscience. The great cry is, 'I'll settle that with my conscience. What do I want with written laws and abstract norms? They only lead to hypocrisy and pharisaical legalism'. Even though situation ethics in its crassest form may be not very common among Catholics, the tendency is there. It shows up, for example, when a priest in the confessional, whether from ignorance, fear or indolence, deals with the often undoubtedly very confused questions of conscience put by his penitents by saying, 'That is something your conscience must decide. Do what your conscience tells you'.

It appears also when a Christian avoids confronting his behaviour in practice with the moral teaching of the Church because he is afraid the latter might condemn the former, whereas he can now say, 'My conscience is clear'. This he has already taken on his conscience, considering that the Church speaks in too general terms, that there is too much red tape, that she and her representatives 'have no idea', 'it's easy enough to talk', and so on in this vein.

All in all, situation ethics place the conscience above the law, and preach a false freedom of conscience in postulating a conscience free from all obligation.

Catholic Teaching

What is the *Catholic teaching* on this matter? From what we have already said about the concept of conscience, certain conclusions are easily drawn, which will give us a positive picture of the relationship between personal conscience and Church teaching on the moral law.

To start with, one thing is obvious: *man must obey his conscience*, for conscience is his most direct connection with moral commandments. Even when conscience is in fact in error, if this error is guiltless and invincible, it must be obeyed. It can never be ignored without guilt. Well-intentioned obedience to a wrong law is effectively an act of obedience to God. My conscience is and always will be the first and most direct standard by which I must guide my conduct. But it is equally axiomatic that conscience is not automatically infallible: it can be in error, often grievously. It is not easy to distinguish the voice of conscience from that of rashness, or passion, or self-will, or egoism. One has, therefore, the obligation to adapt one's conscience to the norms and standards of the higher moral order, to educate it, to allow it to be instructed, to keep it open to instruction by the Word of God through the teaching ministry of the Church. There is the serious obligation of *educating* one's conscience, for only a properly instructed conscience can be a reliable guide and can claim ultimate freedom of decision.

Universal Moral Law

The *basic condition* for an instructed conscience is the fundamental obligation to know and acknowledge the *universal moral law*. If we do not do this we arrive, under cover of freedom, at an unrestricted subjectivism, at the individualistic situation ethics described above. The honest Christian knows that there is the universal norm, the general law which embraces and governs every individual case. This law is proclaimed and interpreted by the teaching authority, the Church's magisterium. And I must be clear in my own mind that the law as promulgated by the Church, the universal norm, when it is properly understood and not interpreted by private judgment, does apply to this particular case, does apply to the concrete situation in which I find myself, and is, precisely here and now in this special case, binding. 'If, for example, the Church proclaims that every direct termination of pregnancy is morally unlawful, or that *no* sacramentally contracted and consummated marriage between baptized persons can be dissolved, then in fact every individual case is affected, quite regardless of what the concrete circumstances may be. In such cases there are no situation ethics whereby it must be considered in the light of circumstances, which everyone naturally thinks are unique and exceptional in his case, whether conscience cannot in this or that case justifiably decide otherwise' (K. Rahner). Conscience may never decide against the objective norm. And the Christian who knows that his Church proclaims this norm, knows too that it is meant for his case as well, however hard and complicated it may seem in application. In natural law and positive divine law there is no question of exceptions or dispensations; they are binding even in the most difficult situations, even at the price of one's life. A decision of conscience can bring us to the Cross, can place us in situations from which there is no way out but the loss of everything including life itself. Let us not forget the toll of martyrs who met their death for a decision of conscience. Divine law is inexorable, and the Church is inexorable when she proclaims it. The unbeliever will never understand that, but the believer knows that in certain circumstances he must sacrifice everything to save his soul; that one may never do evil so that good may come of it; that there can be an obligation to martyrdom. And so a Christian mother, even with five children at home, would rather die than allow the direct killing of her sixth unborn child, for she knows that such killing is at

all times and in all circumstances forbidden by divine law. The Christian businessman will go bankrupt rather than save his material existence by dishonest practices. God commands, the Church relays his commandments, and man has to obey these commandments and set his conscience by them however hard it may sometimes seem in practice. Such is the obedience and humility of the creature before his Creator. And it is simply not possible to fall back on conscience and say, 'I'll deal with this according to my conscience – priests are all theory'. Ultimately it is not with one's conscience one must reckon, but with God, and God speaks, particularly on obscure points, through his Church. Only when my conscience is set by God and the Church can I be sure that what I hear is the voice of conscience and not that of simple egoism.

But what has happened to *freedom*? Are we not back under the law?

Christian Freedom

One thing we must never forget: the freedom of God's children is in the spirit which rules where out of freely given love the commandments of God are kept. The Bible does not say that Christian freedom consists in contravening divine law, but that it consists in its loving fulfilment. If one does that, one is above the law. In addition, a man who obeys the law, who forms and informs his conscience according to the law and the teaching of the Church, is by no means thereby deprived of free choice. He will still need the courage to dare, to make his own decisions, for even a clear and good conscience will very often have to make decisions which cannot be put off. This requires a courageous willingness to make decisions, the virtue of prudence, the real adulthood of the Christian conscience.

There are also forms of conscience that remain unawakened, or at least do not achieve this forceful and healthy adult status, forms which the Church does not welcome: the timid conscience and the undeveloped conscience.

Personal Responsibility

The *timid* conscience is one which shrinks from any personal decision and prefers to pass the responsibility for every situation on to someone else, such as a confessor, which can never make a decision and is always having to be prodded. There are pathological versions of this which need psychiatric attention, but otherwise what such people need is to educate their consciences and to train themselves to a certain independence; they must realize quite clearly that when they have taken care to examine a given situation properly, they can go ahead and follow their conscience in peace, since even an erring conscience is a binding and certain guide. If I genuinely act conscientiously to the best of my knowledge and belief I have absolutely no grounds for uneasiness.

Another thing, surprisingly enough quite common among zealous Christians, is the *undeveloped* conscience. There are people who indeed have the proper attitude of conscience towards the objective norm and its subjective application, but whose conscience embraces only a limited number of subjects. Many people for example, only ask themselves, 'Is it a mortal sin?' 'Am I bound to do this under pain of grievous sin?' The question of sin is, of course, important. But it is not all. The properly developed conscience goes far beyond the question of guilt, and measures every action by a higher moral ideal.

Other examples are where only the physical action is subject to conscience, or where the action of conscience is restricted to a few areas of obligation, say in relation to the sixth commandment, while other matters such as social behaviour, standard of living, professional duties, and so on, are not considered to be matters of conscience. Conscience is concerned not only with present activity, but also with our omissions and with our inward attitude.

Thus the value or otherwise of a human being is determined by the degree of education of his conscience. In God's eyes we are as good as our conscience. In our conscience and its attitude we achieve the first and most important act of *obedience* to God and the Church. If we *freely* accept this necessary and strict bondage to the divine law, we have the possibility of developing our conscience, and thereby our personality, along the right lines, along the lines of truth and good. Everything else is a confusion between liberty and licence, is freedom from right order, is the abuse of freedom for evil.

Church Law

A few words now about decisions of conscience in relation to the purely human laws of the Church. Here, too, the principle applies that conscience must be based and oriented on the objective form, on the law as it exists. Any groundless departure from it is disobedience to the Church and her God-given authority in these matters. This applies to the rules for fasting, marriage laws, etc. Nevertheless, in comparison with the divine law, which the Church only interprets, whereas she creates her own laws, there arises more easily the possibility of adaptation on reasonable grounds to the particular case or situation. And this is necessary, for we are dealing with human law, with imperfect human workmanship.

The following principles thus apply:

- dispensation and privilege are possible; in other words exceptions can be asked for and will on reasonable grounds be allowed by the Church;
- purely ecclesiastical law does not apply in individual cases where serious hardship would result, for no one is obliged to do the impossible.
- the principle of equity (*epikeia*): there are occasions when I can safely say that the law was not intended to be binding in the particular circumstances and I would certainly be dispensed; if I cannot ask for a dispensation, I may assume it for this particular case. This, however, applies only to purely human law with its human imperfections. For divine law there is no *epikeia*. In addition, *epikeia* supposes a high degree of honesty and objectivity. Given that, it becomes the virtue of freedom of conscience. St Thomas has the following to say about it:

'It was not possible to lay down rules of law that would apply to every single case. Legislators in framing laws attend to what commonly happens: although if the law be applied to certain cases it will frustrate the equality of justice and be injurious to the common good which the law has in view ... In certain cases it is bad to follow the law, and it is good to set aside the letter of the law and to follow the dictates of justice and the common good. This is the object of *epikeia* which we call equity. Therefore it is evident that *epikeia* is a virtue.' (*Summa Theol.* II, II, 120, 1)

Conclusion

All this is anything but blind obedience to the Church and her laws. Here in fact the right of conscience in relation to the insufficiencies of human lawmaking is assured by the Church and her moral theologians. And here again the fundamental difference shows up: when *divine law* is in question, the Church is tied and therefore inexorable; when *man-made law* is in question, she is not tied, and is generous and adaptable. Only someone who cannot grasp this distinction, who cannot distinguish essentials from non-essentials, will reproach the Church with enslaving consciences and the lust for power in matters in which all she does is to speak in the name of a higher Authority. She herself must say with St Paul: 'It would go hard with me indeed if I did not preach the gospel' (1 Cor 9:16).

These few main ideas have served to outline the position of conscience within the Church. We are dealing here with a Catholic mean between bondage and freedom wherein the obligation towards God and his law is seen to be much stricter and more absolute than the obligations of purely Church law. This is in the very nature of things, in the essential difference between divine and human authority. God is absolute Lord and Creator of everything, including conscience, and has laid upon conscience his own beneficent orders. But in this world God works and speaks through his Church and normally exercises his authority and conscience through her. Withal, man retains the ultimate freedom of choice of conscience, which should be governed by love. Only where there is true, selfless love which lovingly recognizes God, his law and his Church can the frequently misused phrase of St Augustine be applied: *Ama et fac quod vis* – Love and do as you will.
