

ARE THERE ABSOLUTELY BINDING MORAL NORMS?

Today teachers of moral theology pay much attention to the problem, how the validity of moral norms can be proved. The question does not only mean how generally acknowledged norms can be made understandable, but also whether or not and how far a pretended norm can claim to be binding at all. Therefore the problem is not only to make it understandable, why the commandment 'Thou shalt not kill' is valid, but also whether or not it is valid in fact, or at least, whether it is valid to that extent, as it has been supposed hitherto.

What is the way, in which the validity of norms can be established? Why is the commandment 'Thou shalt not kill' to be obeyed? Frequently the answer runs: It is God's commandment, and we are obliged to fulfill God's will. The German Bible scholar Josef Schreiner¹ points to the fact, that in the Old Testament frequently the argument for moral demands is: 'I am the Lord (Lev 19, 12-18). 'You are a people sacred to the Lord, your God' (Dt 14, 21). 'That would be an abomination to the Lord, your God' (Dt 17, 1; 22, 5; 23, 19; 25, 16).

These demands are to be fulfilled, because they are words of God, the unique Lord, whom Israel has to serve. Today such a way of establishing the validity of moral norms is termed as *deontological* (derived from the Greek δέω to bind).

But even in the Old Testament man is told in another way, why he has to obey moral norms: He is told that they are necessary, meaningful, useful, helpful.² The so-called Sapiential Literature of the Old Testament often describes behaviour patterns which by human experience have proved fitting.³ When in order to establish moral norms we point to the good or bad experiences, which man has undergone by these behaviour patterns, we could summarize this way of establishing also in the proposition: Consider the con-

¹ J. Schreiner, Die bleibende Bedeutung der sittlichen Forderungen des Alten Testaments, in: G. Teichtweier-W. Dreier, Herausforderung und Kritik der Moraltheologie. Würzburg 1971, p. 151-171, 158f.

² cf. J. Schreiner l.c.

³ cf. J. Schreiner l.c. 169.

sequences of your activities; consider the *τέλος* (finis, effect)! Hence the term 'teleological' way of establishing norms.

During the last few years the German moral theologian Bruno Schüller has represented in detail both ways of establishing moral norms, the deontological and the teleological one.⁴ He shows, that moral theologians argue either teleologically or deontologically; teleologically, i.e. they judge whether or not the consequences of a behaviour are defensible; or deontologically, they insist on the obligation of certain moral norms, whatever the consequences may be; e.g. Schüller is of the opinion, that a person deliberating teleologically possibly can come to the result, that, in order to prevent certain unfavourable consequences, it could be morally lawful directly (i.e. on purpose) to kill an innocent person, whilst a person thinking deontologically is of the opinion that such killing is not lawful in any case.⁵ Schüller himself has a clear tendency to prefer the teleological argumentation. Another German moral theologian, Franz Böckle,⁶ thinks, that an increasing number of Catholic moral theologians favours the conviction: 'Moral norms for the relations between human persons cannot be established without having regard to all the foreseeable consequences of the action'. In a recent essay⁷ Schüller states correctly, that teleological thinking is much more than the deontological one referred to experience, and he conjectures, that the claim today sometimes emphatical of a more solid foundation of moral norms in experience in fact means a criticism of the traditional deontological norms themselves. We have to pay attention to Schüller's warning: Who adheres to one of these ways of establishing norms, must not reproach the adherents of the other one with evil will, i.e. mark simply on the one hand the deontologists as adorers of the law or on the other hand the teleologists as opportunists or laxists.⁸

Bernhard Häring⁹ acknowledges, that there are everlasting es-

⁴ B. Schüller, *Die Begründung sittlicher Urteile. Typen ethischer Argumentation in der katholischen Moraltheologie*. Düsseldorf 1973.

⁵ cf. l.c. 197f.

⁶ F. Böckle, *Fundamental-moral*. München 1977, 306.

⁷ B. Schüller, *Die Bedeutung der Erfahrung für die Rechtfertigung sittlicher Verhaltensregeln*, in: K. Demmer-B. Schüller, *Christlich glauben und handeln. Fragen einer fundamentalen Moraltheologie in der Diskussion*. Düsseldorf 1977, 261-286, 283.

⁸ *ibid.* 271.

⁹ B. Häring, *Norm und Freiheit*, in: K. Demmer-B. Schüller, *Christlich glauben und handeln* 171-194, 182.

sential truths, which coincide with the fundamental principles of natural moral law. 'But from them you cannot conclude by mere deduction (merely deontologically) the solution of complicated new problems. At all events you need also a teleological proceeding, which by common experience and deliberation thoroughly takes account of the foreseeable consequences.' Pretended natural moral norms cannot stand against the knowledge found by teleological proceeding. Häring is of the opinion, that possibly the prohibition of some concrete actions is valid without exception (e.g. violence done to a woman, or torture), because these actions in all thinkable circumstances contain that moral disorder, which makes the act simply unlawful; but he inclines to admitting this absolute unlawfulness only to a few concrete prohibitions.¹⁰

St. Thomas Aquinas, when discussing the moral judging of a behaviour, already pointed to the necessity of considering the result; that to which the action according to its quality leads;¹¹ its natural effect¹² or the end, to which the action is directed by its nature,¹³ the natural end,¹⁴ the 'finis operis'.¹⁵ Because of the importance of the finis operis for the Opus, it is possible, from the moral point of view, to conceive both of them as a unit, though physically they differ from one another. Thomas Aquinas, as to the moral judgment, repeatedly identifies the action with its natural end or effect.¹⁶ The acting person, who conscious of the natural direction of an action decides to do it, in a certain degree is willing also its natural end.¹⁷

Helmut Weber,¹⁸ another German moral theologian, proves, that ethics (the philosophers of the antiquity, the Bible, Christian theologians) at all times have argued by utility, i.e. for the evalua-

¹⁰ *ibid.* 190-193.

¹¹ 'quid fecit' S.Th. 1, 2 q. 7 a. 4 c.

¹² 'effectus per se' *ibid.* q. 20 a. 5.

¹³ 'in quem tendit naturaliter' Sent. 2 d. 1 q. 2 a. 3 c.

¹⁴ 'finis naturalis' S.Th. 1, 2 q. 1 a. 3 ad 3.

¹⁵ 'finis operis' S.Th. 2, 2 q. 141 a. 6 ad 1; cf. Sent. 2 d. 1 q. 1 a. 1 c; 4 d. 16 q. 3 a. 1; a. 2 ad 3.

¹⁶ 'Finis proximus est idem quod obiectum' Sent. 2 d. 36 q. 1 a. 5 ad 5; S.Th. 2, 2 q. 11 a. 1 ad 2.

¹⁷ cf. K. Hörmann, Die Bedeutung der konkreten Wirklichkeit für das sittliche Tun nach Thomas von Aquin, Theologisch-praktische Quartalschrift (Linz) 123 (1975) 118-129, 124f.

¹⁸ H. Weber, Historisches zum Utilitarismus, in: K. Demmer-B. Schüller, Christlich glauben und handeln 223-242.

tion of an action they wondered, what is the effect, to what is it useful.

For my behaviour, therefore, I have to consider, what is the consequence. Whether or not my action (behaviour) is defensible, depends on that, whether or not its effects or consequences are defensible. Unavoidably, therefore, I meet with the question, what kind of effect ought to arise, and what not. As H. Weber¹⁹ points to, it is not sufficient to know the consequences of an action; decisively it depends on the end, to which the consequences are referred and by which they are measured. Whether or not the consequences of an action, and with them the action itself, which leads to them, are defensible, is decided by the anthropology, by the conception of man, by that, namely, for what man is destined, by the end of man. Everything depends on that, whether or not man is destined for an end, to which he has to direct his behaviour.

If there is not such an end, considering the consequences of an action cannot give complete security, whether or not an action is defensible. A few years ago, a biography of the Russian revolutionary Trotzki has been published;²⁰ from which it results, that Trotzki thought to be innocent many persons, whom Stalin had declared guilty and made them to be killed; what were the criteria used by the former and by the latter? Just as Stalin, Trotzki did not acknowledge any absolute moral principle, any absolute moral norm, because he was feeling, that with it he would have had to acknowledge God. When declining Stalin's proceeding, he appealed to the utility for the socialist revolution on the progress of mankind or the progress of the working class. Stalin however appealed for his proceeding even to the same 'moral principles', which, indeed, are so vague, that they admit, according to one's pleasure, this or that conclusion. For the rest, Trotzki himself justified by them the merciless treatment of White-Guardists.²¹

Moral theology cannot forgo teleological thinking. In order to judge the lawfulness and the defensibility of an action, moral theologians have always to wonder, whether or not the action has such effects, that it leads to the end. To what kind of end? All considering the consequences of an action does not answer the question, whether or not I may cause these consequences. I can

¹⁹ l.c. 241f.

²⁰ I. Deutscher, Naoruzani prorok. Razoruzani prorok. Prognani prorok. Biografija Lava Davidovica Trockog, Zagreb 1976.

²¹ cf. the review of Frane Franic, Crkva u svijetu (Split) 13 (1978) 279-282.

find the answer only by referring the action with its consequences to the end, which I learn to know by another way and with regard to which I have to decide my behaviour.²² 'One has to decide, whether one considers financial' safety or sexuality as the supreme value in life, from which everything is to be judged, or whether one prefers a higher esteem of man, and beyond it accepts also an existence, which transcends the world. The Christian believer possesses by far another conception of man than the usual representatives of the utilitarianism of the last centuries, and from that necessarily results another opinion and judgment of what is useful.'²³

The conception of man or the end, to which all the teleological considerations must be referred, for its part cannot be found by teleological considerations. It is ordered to man and is to be acknowledged by him, in other words it has deontological character.

What does result from there for the judgment of a concrete behaviour? If all kinds of behaviour are to be put into the light of the ultimate consequences, i.e. into the light of the destination of man, into the light of the end, it must be possible to distinguish between such kinds of behaviour, which according to their quality lead man to the end, and otherones, which prevent him from attaining the end. The question is, whether or not there are kinds of behaviour, that with regard to the end of man shown by Christian moral doctrine have the one or the other character; or, viceversa, whether or not one can justify every action by the fact, that one wants to direct it to an end to be attained, as Stalin the same actions, which Trotzki condemned in him, tried to justify by the appeal to ends to be attained, ends acknowledged also by Trotzki; or whether or not always the moral quality of every behaviour depends only on the circumstances, which make it good or evil, as Trotzki the same treatment which he condemned with regard to other persons, wanted to be applied to White-Guardists. Some moral theologians have started the question, whether or not there are actions, which at any case contradict the orientation of man to his ultimate end and in this sense are intrinsically evil and therefore absolutely forbidden.

B. Häring says: 'A prohibition without exception can be stated only, when an action in any thinkable case shows forth that moral disorder, which causes the act to be simply unlawful. I am ab-

²² cf. H. Weber l.c. 241.

²³ H. Weber l.c. 241f.

solutely of the opinion, that this is cogently possible with regard to the prohibition of some actions.' As instances he quotes violence done to a woman and torture, whilst he is not so resolute, e.g. with regard to direct killing of an innocent person.²⁴

As Böckle declares, for those, who establish norms exclusively teleologically, there cannot be actions, which independently of any conditions (circumstances, motives) can be said evil a priori in themselves always and without exception.²⁵

Josef Fuchs explains, that not the 'action merely in itself' (e.g. killing a human person) can be morally judged, but only the 'action with circumstances and intention' (e.g. killing a person ill to death in order to get his organs for a transplantation).²⁶ Fuchs appears sceptical as to norms alleged generally valid. As circumstances and intentions differ from various persons, and even for the same person in his alternate situations, a generally valid norm could be founded exclusively on the judgment of the action merely in itself. The action merely in itself or the materiality of the action, however, is according to Fuchs just a basis too narrow for the judgment; rather one has to pay attention also to circumstances and intention. The knowledge of the action merely in itself is not sufficient for the establishment of a commandment or a prohibition (e.g. killing a human person is good and generally obligatory or evil and generally forbidden). Though in one kind of circumstances and with one intention the action appears good and obligatory, one cannot be sure, that in other circumstances and with another intention it is evil and forbidden; and though in one kind of circumstances and with one intention it proves evil and forbidden, one cannot exclude, that after change of circumstances and intention it can become lawful.²⁷ It is difficult to prove intrinsically evil, i.e. never lawful, an action merely in itself,²⁸ because one cannot survey, with what circumstances and intentions it can be combined. So far J. Fuchs.²⁹

Bruno Schüller³⁰ thinks, that to directly killing a human person

²⁴ cf. Norm und Freiheit 190-193.

²⁵ F. Böckle l.c. 308.

²⁶ J. Fuchs, Der Absolutheitscharakter sittlicher Normen, in: H. Wolter, Testimonium Veritati. Frankfurt am Main 1971, 232.234.

²⁷ l.c. 230.

²⁸ ibid. 230.

²⁹ ibid. 232.234.

³⁰ B. Schüller, Die Begründung sittlicher Urteile 182-188.

could be applied the principle of preference of values and that by this sometimes it could be proved lawful.

Peter Knauer³¹ terms as murder, intrinsically evil and therefore forbidden only killing a human person without due reason, but not, when a due reason does exist.

The problem runs to the point, whether or not there are actions merely in themselves, which in their own contents, in their whole quality contradict the vocation of man in such a way, that they never can be lawful. To some extent the question seems to be, how the limits of the action merely in itself (strictly speaking: the object of the moral act) and of the circumstances can be fixed: 'Killing a person' can be regarded as action merely in itself which according to traditional doctrine dependently on the circumstances can be lawful or unlawful (lawful with the necessary suppositions as selfdefence, capital punishment or defence in war, furthermore in many a case of indirect killing; unlawful as direct killing an innocent person); or I can regard 'secretly taking away other people's property' as action merely in itself, which dependently on the circumstances can be lawful or unlawful (lawful for saving life in extreme need or with the necessary precaution as secret indemnification; unlawful, when one can say that it is performed against the reasonable will of the proprietor). The matter gets another facet, when one terms as action merely in itself direct killing an innocent person or secretly taking away other people's property against the reasonable will of the proprietors; is it possible, that even such actions are, according to circumstances, sometimes lawful and sometimes unlawful? Does their justification depend only on the fact, that by teleological consideration one can find for them a due reason, i.e. that for somebody by them one can get a considerable advantage or avert a considerable disadvantage?

Thomas Aquinas, when analysing the moral act, thinks, that one has to include into the action merely in itself (the object, strictly speaking) those circumstances, which have a special relation to the moral order.³² If the action merely in itself is termed as 'killing an innocent person', according to Thomas it contains such moral disorder, that it cannot be lawful in any case.³³ Such an

³¹ P. Knauer, Das recht verstandene Prinzip von der Doppelwirkung als Grundnorm jeder Gewissensentscheidung, *Theologie und Glaube* (Paderborn) 57 (1967) 107-133, 114f.

³² S.Th. 1, 2 q.18 a.10 c. ad 1. ad 2; a.11 c.

³³ 'Homicidium autem est occisio innocentis; et hoc nullo modo bene fieri potest' S.Th. 2, 2 q.88 a.6 ad 3.

action, which in its materiality is stated as unlawful, cannot be made lawful by striving after a good end, i.e. by teleological consideration.

Thomas Aquinas in his analysis of the moral act distinguishes between the action merely in itself (the object, strictly speaking), the circumstances and the end of the action.³⁴ In order that the action can be said simply good, none of these elements must contradict the moral order.³⁵ When one of these elements contradicts the moral order, it causes the moral defectiveness (unlawfulness) of the action.³⁶ One cannot see, why the contradiction to moral order could be situated only in the intention and the circumstances and not also in the action merely in itself.

Rudolf Ginters, stimulated by B. Schüller, analysed anew the kinds of establishing moral norms, both teleological and deontological.³⁷ He thinks, that the traditional teleological theory needs completion: When this theory fixes itself exclusively to the question, what results from an action or an omission, and when it says morally correct that behaviour, from which results more good or less evil than from any possible alternative action, it commits the mistake of pretending, that man has no other possibility of acting with regard to value or evil than causing or preventing them. In fact, however, besides the actions of causing (preventing) do exist also actions of expression, the primary meaning of which is expressing an interior attitude (towards values and evils) without effecting anything. There are numerous values (evils), which we cannot effect at all or not in given circumstances (e.g. God; moral dignity of man; values or evils which transcend the actual ability of a person), and nevertheless it seems suitable to express one's attitude towards them (towards God by prayer; towards moral dignity of man e.g. by rehabilitation of a late person). Ginters calls special attention to the fundamental moral norm of right attitude towards values and evils; the moral justification of expressional actions even there, where they do not cause values or prevent evils, consists in the fact, that they do concretely shape interior (affective) attitudes towards values, that they give affective at-

³⁴ cf. K. Hörmann, Die Bedeutung der konkreten Wirklichkeit 122-126.

³⁵ 'Non tamen est actio bona simpliciter, nisi omnes bonitates concurrant; ... bonum autem causatur ex integra causa' S.Th. 1,2 q.18 a.4 ad 3.

³⁶ 'Quilibet singularis defectus causat malum' S.Th. 1,2 q.18 a.4 ad 3.

³⁷ R. Ginters, Die Ausdruckshandlungen. Eine Untersuchung ihrer sittlichen Bedeutsamkeit. Düsseldorf 1976.

titudes their full realization and bring them to the culminating point of their execution. 'Even such actions are actions of love, indeed not of effecting, but of expressing love.'³⁸ When Ginters as the ultimate criterion for the rightness of such expressional actions regards values or evils themselves, to which man is behaving affectively, he does not use the teleological argumentation (what is the result?), but the deontological one (what are given values or evils?).

The very difficulties in Ginters' treatise arise there, where he occupies himself with the conflict, into which a person falls, when he feels himself obliged to expressing an interior attitude towards a value and sees, that this expression would evoke evil consequences (for him or for other ones). A person conscious of his responsibility cannot overlook this fact. The problem runs to the question: In order to avoid evil consequences may one renounce the confession of a moral conviction (including religious belief)? By renouncing one could understand concealing the expression of a conviction. The reason for the lawfulness of renunciation in this sense is, that the evil, which would be evoked by the expression, causes a moral impossibility of expression, which justifies its omission. It seems to be, however, another case, when one, as Ginters does, understands by renunciation a conscious action in contradiction to one's own moral conviction, and thinks it to be sometimes defensible (e.g. one is convinced, that killing on purpose an innocent person is morally evil, and nevertheless consents to do it, in order to prevent evil consequences for other ones, e.g. the killing of a bigger number of innocent persons, which would be loosened by refusing to kill the former). I cannot help being very much disturbed in front of Ginters' opinion, that because of the consequences, which an expression conformable to one's conviction would cause, denying one's own conviction could be morally right; and in order to avoid evil consequences a person could be allowed to take to be obligatory, what otherwise would be forbidden, and to be forbidden, what otherwise would be obligatory. This seems to me to be a very dangerous victory of teleological thinking over the deontological one.

When Ginters justifies himself by the reason, that moral conviction is not completely identical with its application in the concrete, and therefore it could be lawful sometimes to perform an action, which contradicts one's own conviction, without giving up

³⁸ l.c. 99.

by this even this conviction and losing moral dignity, it is to be asked: Isn't it a diminution of the moral personality, when one's moral conviction does not attain its full realization and the culminating point of its execution? Furthermore, isn't the moral personality splitted and the dignity of man injured, when his exterior and his interior contradict one another.

A better solution seems to be hinted at by H. Weber, who, though acknowledging the legitimacy of utilitarian (teleological) thinking, in order to judge the defensibility of an action with its consequences widens his view much further than the usual utilitarianism: 'An action is good, when and as far as it furthers man – seen in all his dimensions – and is of use for him'.³⁹

Here the question is, whether or not a behaviour helps to make of man a personality according to the Christian conception of man, according to the essential end, to which man is called. This vocation man cannot find by teleological consideration, but only by God's call, and man cannot but accept or decline it.

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³⁹ H. Weber l.c. 242.