



Symposium
**Contemporary Thomist:
J. Budziszewski and Nature's Law**

**Budziszewski on Natural Law, Conscience,
and Atheism**

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This article raises several questions concerning J. Budziszewski's excellent scholarship on the topic of conscience. In particular, by drawing on the writings of Thomas Aquinas, Pope St. John Paul II, and Pope Benedict XVI, it asks whether Budziszewski's claims concerning atheism and conscience are correct, and offers the concept anamnesis as a corrective to the deficiencies of the concept synderesis.

Professor Budziszewski is richly deserving of our gratitude and commendation for his work on conscience and the importance of evasions and distortions of conscience in the modern world.¹ I would like to make a few inquiries about his book, *Commentary on Thomas Aquinas's Treatise on Law*, together with his online *Companion to the Commentary*.²

Pope John Paul II asks whether modern man is “threatened by an eclipse of conscience? A deformation of conscience? By a numbing or deadening of conscience?” According to the ideologies and the dominant practices of the modern world, the human person is not encouraged to develop conscience, that is, to really seek the truth about God and the good. The tremendous blast of modern ideologies has withered the search for this truth. Totalitarian ideologies serve as a substitute for religion and their utopian and utilitarian goals leave no room for personal conscience. In liberal society, mass culture and the weakness of the individual in the face of the group weaken the energy for this search; and the ideology of absolute freedom and exaltation of personal choice and design obscure the role of natural law and divine providence. Despite this onslaught of ideology and the oppression of various forms of materialism, Pope John Paul II thought that there are signs of hope in the “creative restlessness” of each human person, when there could be called forth “the search for truth, the insatiable need for the good, hunger for freedom, nostalgia for the beautiful, and the voice of conscience.”³ Conscience, especially, is a sign of the transcen-

dence of the human person. In 1983, John Paul said: “Moral conscience does not close man within an insurmountable and impenetrable solitude, but opens him to the call, to the voice of God. In this, and not in anything else, lies the entire mystery and the dignity of the moral conscience: in being the place, the sacred place where God speaks to man.”⁴ Ten years later, in *Veritatis Splendor*, he deepens this notion of conscience as the voice of God. Conscience is not so much a “process of moral reasoning” or a moral syllogism but primarily a “dialogue of man with God.” He reminds us that Saint Bonaventure teaches that “conscience is like God’s herald and messenger; it does not command things on its own authority, but commands them as coming from God’s authority, like a herald when he proclaims the edict of the king. This is why conscience has binding force.”⁵

Budziszewski develops the theme of the role of conscience as a response to the voice or dictate of God in the development of and application of natural law in his *Commentary on Thomas Aquinas’s Treatise on Law* and the online *Companion to the Commentary*. I would like to focus my remarks now on his commentary on question 96, article 4, “Whether human law binds a man in conscience?” and question 94, article 1, “Whether the natural law is a habit?” For both sections of the Commentary, Budziszewski elaborates on his position in his *Companion* with a section subtitled “conscience, conscience, and conscience.” To find a way into his account, I select a brief but intriguing discussion that he constructs concerning atheism and conscience.⁶ We will also consider his remarks on question 91, article 2 and the *Companion* piece “If the Natural Law Is Really Natural, Why Bring God into It?”

The brief discussion on atheism and conscience to which I refer is actually a supposed dialogue between an atheist and St. Thomas Aquinas in light of the latter’s treatment of the question whether human law binds a man in conscience. Thomas explains that human law does indeed bind conscience only on the condition that it is a just law, and not an unjust law. A just law is binding for the very reason that precepts of the natural law are binding, namely they derive from eternal law and in this case are measured by the political good which consists of the proper end—i.e., the common good, proper authority, and the right form of justice. Because such laws are “just” they are binding, in the same manner as any moral precept of natural law. Unjust laws, on the other hand, are not binding in conscience. Because they do not have that quality that makes them just or right, they fail to bind. However for good order it may be prudent to observe the unjust laws of the regime. Aquinas does subdivide the wrong of unjust laws into those which pertain to the human good (*bona humana*)

and those which pertain to the divine good (*bona divina*), translated by Budziszewski as the temporal good and the supernatural good.

I would quibble with this translation because I think it tracks something more closely to the political good and the moral/religious good. The import of the distinction is to delineate which laws may be prudently accommodated and which should be resisted and disobeyed. Clearly the latter category includes not only those “supernatural” goods and commands of God pertaining to revelation, but also many of the moral duties laid upon us. As Cardinal Ratzinger would later express it, the separation of Church and state does not entail the separation of politics and morality or the separation of man from God.⁷ So it is the political good as such which is subject to the hazards of fortune and limited possibilities, requiring the authority of political command. These may be accommodated in the name of prudence. But it is the moral good, pertaining to personal choice and action, that must lead one to resist a law requiring a violation of conscience.

But this is not the main point I wish to discuss at length. The thrust of this article leads to the conclusion that human law does bind a man in conscience in most cases—the duly authorized and just enactments of the political association, as well as the majority of the those enactments that fail to measure up to the full measure of the politically just.

An examination of the first objection provides Budziszewski with the opportunity to thematize the notion that conscience is the voice of God or “God’s representative within us.” The objection is as follows: “It would seem that human law does not bind man in conscience. For an inferior power has no jurisdiction in a court of higher power. But the power of man, which frames human law, is beneath the Divine power. Therefore human law cannot impose its precept in a Divine court, such as is the court of conscience.” Budziszewski points out that Thomas agrees with the two main premises of the objection: (i) God’s power and authority are greater than the power and authority of the political and (ii) conscience is the “court of God.” But Budziszewski takes this opportunity to claim that the courtroom image is the most fitting one, because Thomas is discussing law; therefore the metaphor of anamnesis or other comparisons are not as helpful here.

But in his reply Thomas does not really use a “courtroom” image, he simply invokes the passage of St. Paul: “As the Apostle says (Romans 13:1,2) all human power is from God . . . ‘therefore he that resisteth the power,’ in matters that are within its scope, ‘resisteth the ordinance of God’; so that he becomes guilty according to his conscience.” This brief reply contains much in it. The main point of course is that the ordinances of the political authority, if they are within their proper scope, are to be obeyed precisely as ordinances of God because the political power derives

its authority from God. (See Jn 19:11; cf. Prov 8:15–16 and Wis 6:3.) So one cannot invoke conscience against civil law as such: Antinomianism does not follow from reverence for conscience because obedience to law is a principle of conscience. Thomas thus says that if one resists the ordinance of civil authority, one “becomes guilty according to his conscience.” A rebel incurs judgment before the court of God, yes, but also within the court of conscience itself. I am not sure that we have fully captured the reality of conscience by use of the courtroom image alone and I think this over reliance on the model actually hampers Budziszewski’s interpretation. Aquinas explains that the duty to obey the law springs from the piety or respect we owe to our father, and analogously to kings and princes who “are called fathers because they should look after the welfare of their people.” He explains that obedience to civil law arises “not only out of fear but out of love; not only for reasons of convenience but because our conscience tells us to act this way.”⁸ Thus although I agree with Budziszewski that “Conscience is God’s representative within us,” I am not so sure about his claim that “when it speaks with certainty, we cannot help but hear it as the judgment of God.” With a properly formed conscience, informed by faith, such is the case. And if one knows with certainty that one is before the court of eternal judgment, one understands the guilt of damnation. Is it possible that one understands that one is “answerable before conscience” without yet knowing that one is answerable to God almighty? Thus, I would ask for a greater elaboration on just what is the “voice of conscience”? How is it manifested in the experience of moral reflection? How does one come to hear it as the voice of God, or why does one fail to hear it as the voice of God? Budziszewski does begin to go in this direction, but I think that he falls short.

Budziszewski appropriately refers the reader to Thomas’s more in-depth treatment of conscience in *De Veritate* question seventeen. He quotes from 17.5 in which Thomas states that conscience binds in a way greater than the binding authority of a superior because the conscience binds with the sanction of divine authority.⁹ Because the voice of conscience is taken as a higher authority, it stands greater than the authority of a superior or prelate, and also of course greater than civil law. Conscience is the voice of God. Budziszewski then adds this comment: “When we enter the court of conscience and listen closely, the voice we are trying to hear is the voice of God—whether or not we fully realize that we are trying to do so.” It seems to me that Budziszewski finally acknowledges here the gap between what is first for us and what is first in itself, or between a way of discovery and a way of explanation; or as Maritain phrases it in his treatment of natural law, a gap between the epistemological and the ontological aspects

of the teaching on natural law, and thereby of conscience. Simply put, yes conscience *is* the voice of God, but must one always know it to be such in order to be conscientious? We hear a voice, but we must try to discern what manner of voice it is. We may not realize or fully realize that it is indeed the voice of God, and that God is our creator, and that he is our judge, and further that he is a merciful father. How do we characterize this intermediate state and its range of possibilities? I think this is where the courtroom image begins to fall short. Perhaps we need the model of forgetfulness and remembrance to get a better handle on the phenomenon of conscience.

In order to establish one limit on the range of possibility for conscience and the recognition of it as the voice of God, Budziszewski excludes the atheist from the ranks of those who may authentically exercise conscience. He continues with the comment “this view of conscience [that it is the voice of God] also raises interesting questions about atheism.” In order to illustrate the questions, he then provides a dialogue between St. Thomas and an atheist. I might add that readers of Budziszewski know that this is a very effective pedagogical tool, which he uses to good effect in many of his books and papers, and he is provocative in this case as well. This dialogue proceeds as follows:

Atheist: “I hear the voice of conscience, but I deny the voice of God.”

St. Thomas: “That is like listening to someone speak, but denying that anyone is there.”

Atheist: “That’s right; nobody is.”

St. Thomas: “Then you deny not only God but also conscience, because you consider it a hallucination.”

Atheist: “I misspoke. What I meant to say is that when I am listening to conscience, I am really listening to myself.”

St. Thomas: “Then you still deny conscience, because you deny its authority to judge you. Instead you claim to judge yourself, but no one can be judge in his own case.”

I wish to follow a line of inquiry concerning this little dialogue and the commentary in which it is embedded. I would first ask, “must an atheist by denying God also deny the reality of conscience?” That is, are there logical and existential reasons for pairing atheism and the denial of the reality of conscience? I would argue that this proposition “an atheist, by denying God, must also deny the reality of conscience” is false, at least as a blanket statement about atheists as such. There are atheists and there are atheists. We must explore the various meanings and sources of atheism. I am aware that Budziszewski used this short dialogue to emphasize the idea of con-

science as the voice of God and the strategic role in Aquinas of the divine sanction granted to conscience such that even an erring conscience must be obeyed. But his brief dramatic piece is provocative and I shall duly respond.

Budziszewski believes that an atheist, by denying God, would thus claim that the source of the moral norm is oneself. But not all atheists claim that the source of norm is oneself. The various motives for atheism may well impact the way in which an atheist views or construes conscience. The documents of Vatican II discuss the varieties of atheism and such construals of morality, stressing the variety of such positions: “the word atheism is applied to phenomena which are quite distinct from one another.”¹⁰ The Council Fathers state, “divine providence shall not deny the assistance necessary for salvation to those, who without any fault of theirs, have not yet arrived at an explicit knowledge of God, and who, not without grace, strive to lead a good life.”¹¹ Wojtyla comments as follows: “although such men do not seem to have God in mind as the purpose of their righteous acts, God himself draws them to him by means of those acts.”¹² During his pontificate this Polish prelate would turn to the good efforts of the new evangelization as an appeal to the spirit to obtain the spirit, that is, an appeal to conscience, truth, beauty to rouse up the person to consider God, creator and savior. Can we not therefore classify some atheists as those who acknowledge a source of morality greater than the self? If they do acknowledge a source, yet deny that the source is God, we may ask “what is the reason for their denial of God?” They may deny a mistaken image or conception of God, perhaps thinking the God put forward for belief is cruel or a tyrant; perhaps the problem of evil has led to confusions about his omnipotence or goodness. Perhaps they do not acknowledge a personal deity but only a Platonic form or a cosmic source greater than self, such as nature or solidarity. In these cases, then, they are open to the true conception of God precisely through coming to understand conscience and its commands more deeply. Could this group be included in what Budziszewski characterizes as not fully realizing that “the voice we are trying to hear whether we fully realize it or not” is that of God.

The Council Fathers also acknowledge of course that there is the phenomenon of an aggressive and “systematic atheism.” Such insists on “man’s desire for autonomy” and objects to any dependence upon God. Freedom means that “man is an end to himself, and the sole maker, with supreme control, of his own history.”¹³ This new phenomenon of modern atheism also finds those who “willfully try to drive God from their heart and to avoid all questions about religion, not following the biddings of their conscience.” These are the type of atheists that Budziszewski is engaging in the dialogue, and we could correctly say they nullify or subvert

conscience by such theory and practice. This group of atheists may be further subdivided as well into significant categories: the liberal individualists or existentialists who seek and cherish individual autonomy above all; the totalitarians (greater than person and conscience, a substitute god); the reductionists who recognize no transcendence or spiritual aspect in man but see only the biological, evolutionary, or social determinants of behavior. The root error is an anthropological error above all, as John Paul II says of socialism in *Centesimus annus*. But as an anthropological issue, it is also at the same time, a religious issue. As taught by the Council Fathers, “Forget the creator, the creature is lost.”¹⁴ And it is here that I think the Platonic notion of anamnesis has an important relevance to supplement the meaning of synderesis and the grasp of first principles of morality.

I return to the model of the conscience as courtroom, favored by Budziszewski. Its limitations are clear once he speaks about the person straining or trying to hear who is speaking, often not realizing that it is God. In a court of law there is no mistaking the voice of the law. It is the judge, or it is the head juror, and by his decree you clearly hear the judgment guilty or not guilty of a given transgression of the law. You clearly hear your sentence and recognize the bailiff as he binds you and takes you on your way. There is no murkiness or halfway state. But in the dynamic of personal conscience there can be such murkiness about the law, its application, and its full meaning for my life and the life of others. To begin with, we must acknowledge that between universal law and concrete particulars there is a wide gap of contingency, adventure, and variability. This by itself allows wiggle room, twilight, and some degree of incertitude. In addition there is the aspect of tendency toward the good and moral inclination in the very grasp of principle and application.

How do we then develop an adequate interpretation of conscience, both as the deep habit of principles (synderesis) and the act (conscientia)? If we return to the analysis of erring conscience, we find the twofold teaching that one must follow an erring conscience, but also one must strive to seek the truth. It is often the case that the blindness of sin blocks conscience from properly recalling the principles of morality. Conscience can change, Thomas says, through a conversion, for example. John Paul II and Benedict XVI found that the idea of “forgetfulness” was a very important notion to use in understanding conscience. That is, we must deal with the forgetfulness of sin, the forgetfulness of God. In addition, we must be able to recollect or remember that we are creatures and come to stand in the truth of creation.

I think it is unfortunate that Budziszewski too easily dismisses the model of recollection and Platonic reminiscence (anamnesis).¹⁵ He says that the Platonic theory “maintains that we are literally remembering something

we learned before we were born.” The two great weaknesses to this notion are that the pre-existence of the soul is problematic, as is the account of how one “learned” in a previous life. On my reading of Plato, derived from Jacob Klein, John Sallis, and others, these problems are acknowledged in *Meno* and the core doctrine pertains to the connected character of things in nature (parts and wholes) and the need for a dialectical ascent to the original form behind an image.¹⁶ Socrates declares that “As the whole of nature is akin, and the soul has learned everything, nothing prevents a man, after recalling one thing only—a process men call learning—discovering everything else for himself, if he is brave and does not tire of the search, for searching and learning, are as a whole, recollection” (81c). The learner must “look within” and not conform to external pressure for honor or gain; the learner must consider the truth and only giving assent of the mind to evidence. What is learned is—in a way—“already known.”

This means that a great part of learning and discovery is a matter of making explicit what is implicit. The moment of insight emerges from a rich and deep area which Maritain calls the “preconscious of the spirit.”¹⁷ Experience is intelligible; patterns are implicit in experience; the whole is implicit in the part. Through the use of analogies we are able to find relationships and larger patterns and wholes: “All of nature is akin.” *Meno*’s dilemma is false because it is not true to say that “we either know something or we don’t.” There is an in-between state—Socrates calls it “opinion”—and it is in-between ignorance and knowledge. So too the problem of conscience requires accounting for the in-between of not fully recognizing the voice of God in its distinctness, but progress in deepening conscience is a possibility, as is blockage of such growth.

More is at stake than interpretations of Plato; “remembering” describes important features of the development of conscience. Josef Pieper, in *Four Cardinal Virtues*, speaks about prudence in terms of “knowledge of reality and realization of the good.”¹⁸ Prudence is subverted by “thoughtlessness” and “irresoluteness.” A properly formed conscience and prudential act also demands “memoria, docilitas, solertia.” The good memory is that it is “true to being.” The recollection of memory can be easily falsified, yet it is called by Pieper the “container” of the truth of real things. The point is that recollection need not depend on a theory of a pre-existent soul, but it helps fill in the somewhat flat teaching on “synderesis” as a habitual knowledge of first principles.

Cardinal Ratzinger (Pope emeritus Benedict XVI) suggested that *synderesis* is a misleading term because it derives from the “stoic doctrine of the microcosm” and does not fully capture the complex dynamism of deep conscience and the issues surrounding the obligation to follow an erring

conscience. He claims that the notion “became a hindrance to a careful development of the whole question of conscience” and he further suggests that anamnesis is “linguistically clearer and philosophically deeper and purer,” and it also harmonizes better with biblical thought and anthropology concerning the law as written in the heart.¹⁹ The core of his position is as follows:

This means that the first so-called ontological level of the phenomenon conscience consists in the fact that something like an original memory of the good and true (both are identical) has been implanted in us, that there is an inner ontological tendency within man, who is created in the likeness of God, toward the divine. From its origin, man’s being resonates with some things and clashes with others. This anamnesis of the origin, which results from the godlike constitution of our being is not a conceptually articulated knowing, a store of retrievable contents. It is so to speak an inner sense, a capacity to recall, so that the one whom it addresses, if he is not turned in on himself, hears its echo from within. He sees: “That’s it! That is what my nature points to and seeks.”²⁰

On this account, we can better understand why an erring conscience may fail to recognize the law as it applies to his situation: “the will can block the way to recognizing the norm or it can lead to it.” The false convictions that bind subjectively should not signify the “canonization” of the wayward conscience. For “it can very well be wrong to have come to such askew convictions in the first place, by having stifled the protest of the anamnesis of being.”²¹ Pope John Paul II makes a similar point in his catechesis on conscience as well as in *Veritatis splendor*. We must always be willing to seek the truth, allowing that our conscience is not “closed in on itself as an insurmountable barrier and impenetrable solitude, but open to the voice of God.”²² By allowing error to settle into our conscience we “break the bond which links him in alliance with the creator.” In *Veritatis* he explains that knowledge of the general law is necessary but not sufficient—“what is essential is a sort of ‘connaturality’ between man and the true good (*Summa theologiae*, II-II q. 45, a. 2).”²³ Deep conscience must include, in addition to the cognition of the first principles of action (synderesis) an additional component such as the capacity to recognize and affirm the connaturality between the act and the true and full good, or the recollection of the good as containing an infinite fullness in beatitude.

In conclusion, I would say that my remarks, although more than a quibble, do not suggest a deep disagreement with Professor Budziszewski. We are in agreement on most essential points in his *Commentary* and in his other books. I hope that my remarks suggest some ways of deepening his account of natural law and conscience. I commend him for recognizing

and discussing the importance of the metaphysical and theological aspects of natural law, contrary to some currents of the new natural law theory.²⁴ I especially like his comments in the *Companion* entitled “If the Natural Law Is Really Natural, Why Bring God into It?” (97–99) and I think these comments are in harmony with many of the points I suggest above. I would propose for our final consideration some remarks of the great Thomist, Yves R. Simon, in *The Tradition of Natural Law*. He considers the question of the connection between God and natural law as an essential part of the philosophical tradition.

Acquaintance with natural law, being a way to God, would be logically antecedent to the knowledge of God’s existence. But from this logical priority in the order of discovery it does not follow that the understanding of natural law can be logically preserved in case of failure to recognize in God the ultimate foundation of all laws. . . . [I]f the way to God is blocked, no matter what the obstacle, the intelligence of natural law is itself impaired.²⁵

I hope that my comments assist us in some small way to understand this important issue so well articulated by Yves R. Simon and so ably developed by Professor Budziszewski.

Notes

1. J. Budziszewski, *Commentary on Thomas Aquinas’s Treatise on Law* (Cambridge: Cambridge University Press, 2014); *The Line Through the Heart: Natural Law as Fact, as Theory, and as Sign of Contradiction* (Wilmington, Del.: ISI Books, 2009); *What We Can’t Not Know: A Guide*, revised and expanded edition (San Francisco: Ignatius Press, 2011); *The Revenge of Conscience: Politics and the Fall of Man*, revised edition (Eugene, Ore.: Wipf and Stock, 2010); *Written on the Heart: The Case for Natural Law* (Downer’s Grove, Ill.: InterVarsity Press, 1997); *True Tolerance: Liberalism and the Necessity of Judgment* (New Brunswick, N.J.: Transaction Publishers, 1992).

2. Budziszewski, *Commentary on Thomas Aquinas’s Treatise on Law*; *Companion to the Commentary* available at <http://www.cambridge.org/us/academic/subjects/philosophy/political-philosophy/commentary-thomas-aquinass-treatise-law>.

3. John Paul II, *Redemptor Hominis*, no. 18.

4. John Paul II, Address, General Audience (17 August, 1983).

5. John Paul II, *Veritatis Splendor*, no. 58.

6. Page 392.

7. See, for example, Joseph Ratzinger, “Biblical Aspects of the Question of Faith and Politics,” in *Church, Ecumenism and Politics* (New York: Crossroad, 1988).

8. *On the Two Commandments of Love and the Ten Commandments of the Law*, IV. Cited in *The Navarre Bible, Romans and Galatians* (Dublin: Four Courts Press, 1989), 146–47.

9. “To compare the bond of conscience with the bond resulting from the command of a superior is nothing else than to compare the bond of a divine command with the bond of a superior’s command. Consequently, since the bond of a divine command binds against a command of a superior, and is more binding than the command of a superior, the bond of conscience is also greater than that of the command of a superior. And conscience will bind even when there exists a command of a superior to the contrary.”

10. *Gaudium et Spes*, no. 19; also see *Lumen Gentium*. Karol Wojtyla treats the theme of atheism in his commentary on Vatican II: *Sources of Renewal: The Implementation of the Second Vatican Council*, trans. P. S. Falla (San Francisco: Harper & Row, 1980). See pp. 34, 116–17, 130–33, and 268–69.

11. *Lumen Gentium*, no. 16. See also “we would like to include those who respect outstanding human values without realizing who the author of those values is.” *Gaudium et Spes*, no. 92.

12. *Sources of Renewal*, 130–31.

13. *Gaudium et Spes*, no. 20.

14. “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.” *Gaudium et Spes*, no. 36. See Sister Damien Marie Savino, FSE, and John P. Hittinger, “Loss of Creation and Its Recovery Through Aquinas and Bonaventure.” *New Blackfriars* 97 (January 2016): 5–21.

15. In the *Commentary*, he discusses the reasons to reject anamnesis on page 231 and explains why the courtroom model is preferable on page 380.

16. Jacob Klein, *A Commentary on Plato’s Meno* (Chapel Hill: University of North Carolina Press, 1965); John Sallis, *Being and Logos: The Way of Platonic Dialogue*, 3rd edition (Bloomington: Indiana University Press, 1996).

17. Jacques Maritain, *The Peasant of the Garonne: An Old Catholic Layman Questions Himself about the Present Time* (New York: Holt, Rinehart and Winston, 1968).

18. *Four Cardinal Virtues* (Notre Dame, Ind.: University of Notre Dame Press, 1966) 1–22.

19. Joseph Cardinal Ratzinger, *On Conscience: Two Essays* (San Francisco: Ignatius Press, 2007).

20. *Ibid.*, 32.

21. *Ibid.*, 38.

22. Catechesis, August 17, 1983. “The Rule of Conscience,” found in *The Pope Speaks* 28(4) (1983): 330–32.

23. *Veritatis Splendor*, no. 64.

24. See John Finnis, *Natural Law and Natural Rights* (Oxford: Oxford University Press, 1980) 49.

25. Yves R. Simon, *The Natural Law Tradition: A Philosopher’s Reflections* (New York: Fordham University Press, 1992), 62–63.