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## THE SALVATION OF SOULS: IS THIS THE PURPOSE OF CANON LAW ?

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by **Malcolm Bowman**

“Canon law has one purpose only: the salvation of souls” is an epigram derived from the writings of Bishop Ivo of Chartres. In his writings, set out by Fournier in “Yves de Chartres et le droit canonique” (*Revue des Questions Historiques* (1870) and quoted by Kemp: “Introduction to the Canon Law of the Church of England,” 1957, p25. Ivo said that Canon Law is made up of precepts of the Church which are only means (of varying value) for securing the salvation of souls. A Dominical command laid upon the Church is to “make disciples of all nations” (Matthew 28: 19)—the salvation of the souls of all mankind – so that to identify the purpose of Canon Law with that of the church is an unjustifiable exaggeration. The part (Canon Law) cannot fulfil the entirety of purpose of the whole (the Church). More realistically, Gareth Moore wrote of Canon Law:

“In the study of the canon law we are concerned with so much of the moral law as is enforced, directly or indirectly by human sanctions” (Introduction to English Canon Law 1985, p 1)”, and defined English Canon Law and as: “So much of the law of England as is concerned with the regulation of the affairs of the Church of England”. Mark Hill described the purpose of Canon Law and is being: “...to regulate the functioning of the church and the conduct of its component members...” (Ecclesiastical Law (1995), p 1). Function and conduct are aspects of behaviour, and secular law recognises – in some cases at least – the concept of Absolute Offences, i.e., offences in which the necessity of *mens rea* – a guilty mind – is absent. In no part of Canon Law are Absolute Offences to be found. Dominical teaching shifts the emphasis from behaviour to motive:

Mark 7: 21: “It is from men’s hearts and minds that evil thoughts arise..”

Luke 16: 15: “... God knows your hearts...”

And, quoting Isaiah -

Matthew 15: 8 and 9: “...but their heart is far from me. In vain do they worship me”

Indeed, the Matthean Sermon on the Mount (Chapters 5, 6 & 7) is a discourse on the interior life and the corrosive effect of *mens rea* on the soul of man. Jesus excoriated the Pharisees' reliance on their Traditions for salvation; Canon Law itself cannot achieve the *Metanoia* – change of heart – requisite for salvation.

The catechism of the Book of Common Prayer sets out the purpose of the church which is to assist individuals to believe in God, to love Him, to worship Him, to trust Him, and to serve Him. To the extent that these lead to “the salvation of souls”, Canon Law may discourage hell-bent behaviour and encourage belief, but it cannot *make* souls be saved.

St Paul, “touching the law a Pharisee” (Phil. 3: 3) came to see the limitations of the power of the Law (Torah).. This form of Law regulated every aspect of Jewish life – particularly the minute details of the Traditions – but though it might produce (if completely kept!) a person entitled to be judged “Not Guilty” before the Judgement Seat, the Law, or even the keeping of it, could not establish the relationship with God to which Paul gave the name “faith” (the appropriation of God’s saving grace), a loving, trusting relationship as found in children (Matt. 18: 3) and ‘In Christ’.

The purpose of the Law, Paul says (Gal. 3: 24) is to act as a tutor, a schoolmaster, to bring the individual into such a state that this relationship can be appropriated. He rejects the view that the Torah is the only way to God (Rom 3: 26). Knowing the Torah is merely an intellectual achievement, but doing the Torah is a different matter (Rom. 2: 30). Knowing is akin to the ‘gnosis’ of the mystery cults – and just as ineffective of salvation.

He does, affirm that, as a tutor, the Torah is an expression of God’s ‘chesed’ or ‘loving-kindness’ and of His loyalty to the Covenant in which the Torah prohibited evil. It is not, however, of the same order as his grace (*charis*), which offers forgiving love and restoration to fellowship, which effects men’s becoming “sons of God.” (John 1: 12). Paul is acutely aware of his (and by implication, all mankind’s) inability to keep the Torah: “the evil that I do not want is what I do.” (Rom. 7: 19). He asks: “who will save me?” (Rom. 7: 25) and it is, by the grace of Jesus, that this is accomplished. For Paul the “*bene esse*” of the Law yields to grace.

“Esse” and “bene esse” are terms referring to the fundamental being of something. Phenomenalists, such as Husserl, pointed out that behind the observable phenomena of an object lies a reality that makes a thing itself: it is more than what appearances make it. Mediaeval theology approached this concept in the doctrine which assigned ‘substance’ as the reality of the real body and blood of Christ under the ‘accidents’ of bread and wine.

By way of an example, W.A. Miller in his ‘A Theory of Punishment’, (a paper for the Royal Institute of Philosophy) describes the ‘esse’ of punishment as “the right response to the offender’s guilt”, while the ‘bene esse’ is deterrence to others and reformation of the offender. For Paul, the ‘bene esse’ of the Torah was its pedagogic and condemnatory nature. But there is more to the nature of Law than these characteristics. The ‘Laws of Nature’ may illustrate the point: the relationship between ‘pi’ (p) and circularity is not contingent upon size, position, location, time or any other factor; it is a teleological relationship. Despite some references to God ‘repenting’ of something (Ex. 32: 14), His characteristic throughout the Scriptures is His steadfastness (e.g. Dan. 6: 20), His unchanging reliability – a teleological characteristic. This is the ‘esse’ of the Torah for the Torah springs from the very nature of God.

“In the beginning God created the heaven and earth.....and the Spirit of God brooded over the face of the waters.” (Gen. 1: 1 and 2). The Greek understanding of this Hebraic concept was an understanding of the First Principle, making order out of disorder (“the waters.”), or Cosmos out of Chaos. This Principle then proceeded to create a day and night, land and sea, and eventually, man himself. This initial, unmerited, unasked for act of creation was followed in time, and in character, by Covenant – of the rainbow (Gen. 9: 9), of the tribe (Gen. 17: 2), of the land (Gen. 18: 19) – culminating in the Covenant of the Law at Sinai (Ex. 20). But “Covenant”, like other words, has subtly changed its meaning. In 21st Century common parlance, Covenant is very similar to Contract, an agreement between two parties. In some respects, the Hebraic concept of covenant was an adaptation of the Hittite covenant\*\*, an entirely one-sided grant, rather than an agreement, somewhat similar to that in ‘Hobbes Leviathan’. The grantor might accept submission – or he might not; he might be just and consistent – or he might not; he might be benevolent or malevolent: as he wished: his rule was supreme and arbitrary, his word was law, it was regulatory and applied to all, it was apoditic (unchangeable).

What was significantly different in the Hebraic understanding of Covenant, was the loyalty of God to the Covenant He established. This loyalty sprang from the same loving-and kindness (chesed), as the Creation itself.

Yet, reason lies at the heart of creation. As St. John puts it: “In the beginning was the Logos”. This Word or Wisdom (Sophia), effected the will of God not only in Creation, but in His loving- kindness (chesed) in becoming part of his creation – “the Word became flesh.” (John 1: 14) so that man might become a child of God.

Richard Hooker (b. 1554 d.1600) lived and taught in that link period between mediaeval and Renaissance thought. His “Laws of Ecclesiastical Polity” (1593 – 1661) analysed the relationship between Church and State and in doing so made some useful comments on the nature of Law. In Book I [ii (i)] he defined Law as:

*“That which doth unto each thing the kind; that which doth moderate the force and power; that which doth appoint the form and measure of working.”*

That is, things work and behave as they do because they were so made: *Law* is the expression of *will*, but it is not the dictate of arbitrary will.

Hooker applied this definition to God Himself: it is His perfection that gives perfection (or potential perfection) to His works. For Hooker the ultimate basis of law is reason and, following St. John, the reason - the Logos - is indistinguishable from God Himself.

Hooker declared of the law :

*“Her seat is in the bosom of God, her voice the harmony of the world: all things in heaven and earth do her homage, the very least as feeling her care and the greatest not exempt from her power; both angels and men and creatures of what condition soever, though each in different sort and manner, yet all with uniform consent, admiring her as the mother of their peace and joy”*

Indeed, grace, the loving-kindness of God, has its “esse” in law, the very nature of God.

\*\* The difficulty in equating the Hittite covenant with the “jus divinum” is in determining the details of the latter. This difficulty is solved in Scripture (Deuteronomy 5: 22) by miraculous writing on the stone tablets by the Urim and Thummim (Ex.. 28: 30), or by lot (Acts 1: 26). But these traditions in an Age of Reason may not be accepted as revealing the mind of God. In practice the ‘jus divinum’ was determined by Man, in the light of experience or inspiration but susceptible to amendment and thus casuistic in character.

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