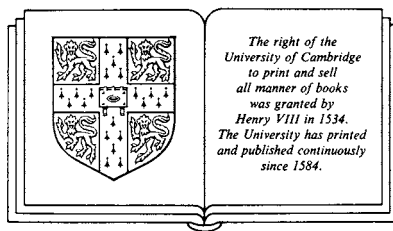

CONSCIENCE AND
CASUISTRY
IN EARLY MODERN
EUROPE

EDITED BY
EDMUND LEITES



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INTRODUCTION

EDMUND LEITES

The contributors to this volume are philosophers, historians, and political theorists from Great Britain, Canada, the United States, Australia, France, and Germany. In spite of the diversity of disciplines and national traditions, their contributions show a remarkable convergence on three themes: changes in the modes of moral education in early modern Europe, the emergence of new relations between conscience and law (particularly the law of the state), and the shared continuities and discontinuities of both Roman Catholic and Protestant moral culture in relation to their medieval past.

The late nineteenth-century American historian Henry Charles Lea saw the history of conscience in early modern Europe as the liberation of conscience in Protestant lands from the authority of priests and casuists, who had built their power upon 'the weakness of those unable to bear their burdens, unable to trust themselves'.¹ A number of contributors to this volume, however, question whether the early modern period did see the emergence of new practices and ideas which 'freed' the individual conscience from social and political control. In the first chapter James Tully argues that a new practice of governing conduct was formed in the early modern era which was a direct attack upon conscience, its aim being the creation of habits that would replace conscience as a governing element of action. He relies largely, but by no means exclusively, on a wide variety of works by John Locke to describe the new constellation of moral ideas and practices, which he calls 'penal'.

Tully sees a close connection between changes in dominant conceptions of epistemology and changing beliefs about how morality is to be taught, learned, and enforced. The new way of governing, he

¹ Henry Charles Lea, *A History of Auricular Confession and Indulgences in the Latin Church* (3 vols., Philadelphia, Lea Brothers and Company, 1896), vol. II, p. 456.

writes, depends upon the conviction that assent or belief is not governed by a natural human attraction to the truth, but by acquired dispositions or habits which are created by the social environment. It is in this manner, Tully says, that Locke accounts for the religious wars which were such a prominent feature of the sixteenth and seventeenth centuries. To free people from thought formed by custom, fashion, and the claims of authority of religious elites, Locke proposes the mental technique of suspending one's judgment and examining the grounds for and against any proposition before assenting to it. The force of the argument and the weight of the evidence can then be the criteria on which one's beliefs are formed. There is no innate disposition to truth, but if these criteria are applied in the context of a suspension of belief, mankind will get as close to the truth as humanly possible. The trouble is that neither the methods of suspension and examination nor the rational criteria for the assessment of evidence and granting of assent are natural or innate in Locke's view. Rationality is itself an acquired disposition that is created by the social environment. Tully therefore argues that an adequate and free judgment for Locke is as much a consequence of external manipulation as the crude hatreds that fuel religious wars.

This account of the mode by which beliefs are formed, Tully argues, is analogous to a new constellation of ideas about conduct. Just as Locke believes there is no innate attraction to the truth, so he believes that there is no innate inclination to goodness. It, too, is made up of acquired habits created by the social environment. The lack of innate connection between the human will and the moral truth is all the more drastic in Locke because of his 'voluntarism' concerning the will of God. The divine will which determines what is right and wrong is, to Locke's mind, not a function of any rationality to which God himself submits. One cannot assume that human rational conceptions of right and wrong correspond to God's will, and in any case, as Locke repeatedly says, human reason cannot demonstrate that a purely rational conception of good is backed up by divine sanctions. This, however, is what makes God's will a law for mankind.

This voluntarism is combined by Locke, in the latter half of the 1670s, with hedonism, the doctrine that what governs choice in conduct is attraction to pleasure and avoidance of pain. Humanity can be brought into a steady compliance and willing harmony with God's law, then, only if it finds that the balance of pleasure and pain makes compliance worthwhile. It is, however one's *current* uneasi-

ness or pain which is the source of one's choices, not absent and far-off goods. The knowledge of hell, Locke points out, is not always enough to bring the human will into compliance with God's, or else men who know very well what is in store for them would behave better than they do.

The uneasiness associated with particular choices is learned, not innate. The present pain one may commonly feel at giving up a good in present possession for the sake of a greater future good is itself an acquired habit that can be broken, according to Locke. In Tully's view, Locke therefore finally arrives at a programme for the refashioning of the human will which is drastically coercive. In all phases of life, practices must be established which will make one feel sufficient present pain in the desire or intention to violate God's law to guarantee a habitually law-abiding will. Locke is far from being a champion of the liberty of conscience. The coercive methods of social and moral reform which Locke proposed to apply to the poor illustrate, Tully says, Locke's willingness to use the law of the state as an instrument of moral education. The penalties of the law, including death, are to be used to create the regular and law-abiding self which is now a familiar feature of the modern Western world. For Tully, this reveals no true freedom of conscience.

Sampson stresses both the continuities and discontinuities in the changing treatments of conscience and moral reasoning in seventeenth-century England. Many of the crucial elements of Dutch and English political and legal theory of the seventeenth century were directly borrowed from Catholic casuistry. Ideas central to the probabilist doctrines of Roman Catholic casuistry were also alive in English law. In fact, they became more important to English legal practice as the century developed. The antagonism of lawyers and political theorists against the casuists was nonetheless deep. As the casuists' opponents saw it, divines should not meddle in the daily life of mankind by determining for particular cases what was permissible or forbidden. For many of the defenders of the common law during the Interregnum, that determination was the task of lawyers. They were to be the casuists of English society. The clergy had a different job: to encourage people to form their characters on the basis of the love of God and their neighbour. Similarly, Grotius and Locke envisaged an entirely educative role for the divines. They were not to be judges, relying on the penal power of the law, but teachers. Law, Locke wrote, works by force, but the task of religion is to make men true Christians in their hearts. It has the task of spiritual and moral education, which was more a matter of the formation of the selves

than it was the precise determination of the bounds of Christian liberty.

Sampson agrees with Tawney's thesis that the claim of religion to guide conscience in economic affairs had vanished by the reign of James II, but she sees this as an outcome of the general campaign on the part of lawyers and political theorists to monopolize the science of casuistry (in its broad sense as the application of general principles to particular cases) and to relegate the clergy to the role of teachers of moral and spiritual values. The very groups, however, who fought to deny church casuistry a role in the regulation of daily life borrowed much of its teachings for their own casuistical endeavours.

In my own contribution to this volume, I argue that the opposition to church casuistry in seventeenth-century England owed much to the belief in utility of individual autonomy – the conviction that when it came to moral and spiritual matters, people were served best by being left to direct themselves. Autonomy was seen as furthering the formation of a more adequate moral and spiritual self because the use of one's own judgment in the choice of actions and beliefs was held to be necessary for the development of character in adults. However correct the casuists may have been in their conclusions, they were seen as hindering (or, at least, not furthering) the end of spiritual and moral education because they took the task of judgment away from the individual himself. The casuistry of English common law, however, did not commonly receive the same critique because it was not seen as impeding the formation of a moral and pious self. Unlike casuistry it made no claims to regulate the character of our conduct through conscience, but tried to control behaviour directly through penal sanctions. The casuistry of the English courts was ultimately compatible with seventeenth-century ideas of the necessity of autonomy in the moral growth of adults. This does not mean (and here I disagree with Tully) that the claims of conscience and autonomy which were so forcefully advanced in seventeenth-century England were in the end no more than a devious mode to create an even more powerful social and state control of the individual. Ideas of moral character, as expressed in conduct, could and did oppose the actual requirement of law. A concern for the harmonization of law and character has therefore been one legacy of seventeenth-century English moral and political philosophies.

Delumeau also sees a discontinuity between the medieval and the early modern eras in the realm of moral education. The church gave up its accommodation of popular and age-old magical practices and

replaced it by a sustained and marked effort to eradicate these customs. The pure religion of the elite was imposed upon the masses. This relatively recent process of Christianization cut across the division between Protestant and Roman Catholic. Both were involved in the same programme of conversion. Penal repression was one chief mode, but another, equally important, was education. The medieval clerical attitude was that people would be saved in spite of their ignorance as long as they did not rebel against the church, by virtue of their good will and the prayers of the clergy. Both Protestant and Catholic now argued that religious ignorance led to damnation. The new attitude required that Christian doctrine and proper modes of conduct be taught to the masses, particularly to the rural population, which for so long had been left untutored.

The attempt to make the rural population, even in the secret details of their daily life, thoroughly conscious of God and eternity was a massive challenge. It is Delumeau's contention that the Protestant and Roman Catholic pedagogies meant to serve this purpose did not fundamentally differ. They tried to create and intensify the fear of hell and at the same time relied upon the newly powerful state to enforce beliefs and practices through its own penal mechanisms. The result was that by 1700, true and salvific religion was seen as a choice of the hearts and minds of individuals, yet nearly everyone regularly attended church, something never previously achieved.

Delumeau is nonetheless well aware of the gap between pastoral ambition and actual results. Travelling people who lived outside the framework of the parish and migrants from rural areas to the city where there was no parish to welcome them were barely touched by the church's interior mission. For other reasons as well, the old rural magical ways survived. Both clergy and laity often grew tired of the unending emphasis on the fear of the hereafter, a fatigue which weakened their piety to the extent that it depended on that fear. The power of the clergy over the laity, which was sustained by the superior education to which the cleric could lay claim, was weakened by the increase in the number of educated laymen, the extension of secular learning to new regions, and the increased independence, in terms of learning and power, of the educated city-dweller. The result was that the church more and more turned for support to the very rural areas which centuries earlier had been seen as no less pagan than the Indies.

Divisions over serious ethical questions in early modern Europe did not always parallel the division between Protestant and Catholic,

as Sommerville shows in his study of the casuists' treatment of lies. Nineteenth-century Protestant attacks against Roman Catholic casuistry, like Pascal's polemic against the Jesuits, supposed that the judgments of the casuists which were offensive to the mind of the plain and honest man had been developed to make lax moral behaviour morally acceptable. The doctrine of mental reservation, according to which it would not be a lie to make a spoken assertion which one believes to be false and believes will deceive one's hearer if one adds in thought some words which will make the whole truthful was, as Sommerville shows, in fact developed in order to reconcile the strict ban on lying, which had its authority from Augustine, with such duties as saving lives and preserving secrets. The persecution of Catholics in Protestant countries may account for the popularity of the doctrine in the years around 1600, but it was not invented for the benefit of Catholic priests under interrogation. Their equivocation, however, did bring the theory to the attention of both Protestant and Catholic laymen. Catholic vernacular writings had stressed the virtue of honesty, but the contrary ideas which had been developed by the casuists to solve difficult theoretical problems and which had been argued for in scholarly Latin volumes were now made available to a large mass of people who lacked the casuist's education. Catholics and Protestants alike found the doctrine of mental reservation thoroughly offensive. An embarrassment to the church, it was finally condemned by Pope Innocent XI in 1679.

It was by no means the case, however, as enemies of the Jesuits repeatedly said in the seventeenth century, that mental reservation was a doctrine and practice peculiar to the Jesuits. There were Jesuits who opposed it and, in fact, there was no distinct Jesuit moral code. Moreover, there were important Protestants who argued that lying could sometimes be justified, including Hugo Grotius and Jeremy Taylor. Casuistry was a phenomenon that was as much Protestant as Catholic in the seventeenth century and the divisions between casuists on ethical questions did not correspond to the boundaries between these two religious worlds.

Although casuistry was an active force in seventeenth-century Protestantism, it has not survived in the modern Protestant world as it has in Roman Catholicism. Kittsteiner argues that casuistry went out of fashion in Protestant Germany because conscience itself asserted its independence from the casuists' mode of reasoning. Kant claimed that when conscience was truly grounded in morality it could resolve its cases quickly, correctly, and unequivocally. In the older idea of conscience, however, upon which casuistry based its

claims to authority, conscience was constantly in danger of doing something wrong. It was not simply an entity within, but was outside the self in the form of revealed divine law. Religious people understood conscience to include both that law and the complex science and accumulated wisdom developed by the church concerning its interpretation. No wonder, then, that in doubtful matters they would turn to those more experienced in thinking and morals for aid.

Kittsteiner (agreeing with Delumeau) says, however, that the bulk of the European population from the Middle Ages to the seventeenth century were not religious in this ethical sense. They did not know the statutes and precepts of the church and seldom made any attempt to gain a knowledge of them or to ask experts for advice. The great casuistical *summas* of the seventeenth century—meant to instruct the clergy who were in turn to instruct the laity—were in fact part of a massive attempt at the ethical Christianization of Europe.

This attempt to introduce biblical norms into the interpretation of daily conduct was linked to a ministry of fear, which stressed the idea that eternal life was not to be obtained by a few prayers shortly before death, but by a true morality embedded in daily conduct. In spite of its spiritual claims, Kittsteiner argues, seventeenth-century casuistry did nonetheless commonly attempt to accommodate itself to the demands of earthly survival. The casuists sometimes referred to Thomas Aquinas, who said that in cases of misery, the goods ordained for subsistence had to be accessible to everyone. In this, the casuists were not alone. Penal codes also recognized desperate circumstances as modifying the statutes and penalties protecting property.

The casuists permitted the individuality of desperate circumstances to create exceptions to the general rule. The individual, in certain respects, took precedence over the general. Kittsteiner points out that matters were very different in Kant's ethics, where the individual had to do whatever was necessary to sustain the rule of law. The change in the idea of what constituted true moral reason was as well a shift in the content (and social context) of morality. Casuistry, in fact, characteristically understood the plight of those who could not survive if they did not steal from the rich in directly economic terms. It was a question of the relations between rich and poor, not of a relation between an individual and a system of law (which in turn served property and encouraged commerce).

The attack against casuistry in the name of morality, according to

Kittsteiner, was, however, a good deal more than a defence of bourgeois forms of property and exchange. Casuistry had been flexible enough, in spite of its pretensions to syllogistic form, to modify the balance between the world and salvation according to the changing situation. In pre-capitalist societies, the difference between relatively prosperous times and times of distress was so great that the casuists had to take account of the difference in their practical ethics. Whatever the accommodation, casuists always tried to connect life in its givenness to questions about the right way to salvation. In the conscience advocated by Kant, there was a move away from a concern to justify oneself before God towards an emphasis on one's responsibility to society. A thorough respect for the outward forms of legality was not connected by Kant to outward penal sanctions so much as it was to the idea of duty and law as inner springs of conduct. Kittsteiner adds, however, that the moral law which created a link between inward moral feeling and outward legality did not represent bourgeois society as it was, but as it should be. There was an implicit but powerful antagonism towards things as they were in the apparently bourgeois form of Kant's thought. Inspired by the idea of a society in which every rational creature is an end in itself, the moral law was intimately linked to the hope and belief in the possibility of a better society. This, above all, is what distinguishes the ethics of Kant and his descendants from the casuists, who attempted to create a practical connection between the world of the spirit and the world as it actually was.

Bossy, like Delumeau, sees a pattern of change common to both the Protestant and Roman Catholic worlds of early modern Europe. For the most part, the moral system taught in medieval Western Christianity was constituted by the Seven Deadly Sins, but after the sixteenth century, a different moral system, the Ten Commandments, was universally taught throughout Western Christianity, whether Roman Catholic or Protestant. In this change of systems, Bossy argues, Christians had acquired a morality which gave greater emphasis to the worship of God, less emphasis to one's obligations to one's neighbour, and in both matters was more precise, more penetrating, and more binding. Bossy argues that this change was not a consequence of the Reformation, although the Protestant emphasis on Scripture did advance the cause of the Ten Commandments. In quite a lot of the West, the transition from one scheme to the other had occurred before the Reformation. The adoption of the Decalogue by the Council of Trent was as much an expression of the

movement towards the new system as was its universal adoption by the Reformers.

Advocacy of the Decalogue began with the thirteenth-century schoolmen, but their scheme was not generally communicated by the clergy to the laity. There were a number of practical and theoretical difficulties which blocked the scholastics' project, one of which was the useful role which the Seven Sins could play in the calculation of one's moral account, an account-keeping which was encouraged by the requirement of annual confession. Much before Luther, Jean Gerson advanced the cause of the Ten Commandments, giving them effective vernacular expression and integrating them into a general scheme of Catholic piety which included the practice of confession. His innovations were particularly influential in Germany. In spite of Luther's insistence on Scripture, Bossy notes, it is still surprising that he was the vehicle for the final victory of the Decalogue, since he might more naturally have been among those who resisted it. From an early date, however, perhaps even before his break with Rome, he had abandoned the Seven Sins in favour of an ethics built on the Ten Commandments. He was, of course, well aware of their 'legal' character and in fact saw them as properly supported by the penal powers of secular authority.

This change in moral systems and moral education had some surprising results, Bossy argues. Under the old scheme, the Devil was seen as an anti-type of Christ, but under the new, with its emphasis on worship, he became the anti-type of the Father, the source and object of all idolatry and false worship. This led in turn to a change in the idea of witchcraft. Under the Seven Sins, witchcraft was the offence of causing malicious harm to one's neighbour by occult means; under the new scheme, it was an offence against the first commandment. Witches were now Devil-worshippers. In both Roman Catholic and Reformation Christianity, obedience to parents (and by extension, to other authorities) also underwent a change, not so much in meaning as in importance. It was not an obligation that had received much notice in the exposition of the sins.

Although the philosophically systematic moral and political theorists of the seventeenth century owed much to the ideas of medieval scholastics and casuists, they were clearly doing something new. In what respects, however, were they different? In the concluding contribution to this volume, Tuck argues that there was a crucial break in the history of the philosophical ethics in the seventeenth

century, marked above all by the emergence of a group of theorists who took as one of their main tasks the development of a philosophically sensitive answer to the scepticism of both classical antiquity and their own time. Mersenne proposed a programme for the refutation of scepticism which recognized the force of sceptical arguments and aimed to transcend them. This was a programme, Tuck argues, which Descartes, Gassendi, and Hobbes all tried to carry out. The core of Mersenne's programme was the argument that each science had a set of indisputable *a priori* principles on which a science could be built in spite of the inadequacy of the senses. What Tuck argues is that Hobbes developed an analogous programme for ethics and politics.

The seventeenth-century sceptic denied the existence of secure means for establishing the truth of any proposition in natural science. Perceptions were relative, as were morals. Tuck sees Grotius as taking the first steps towards the refutation of scepticism in moral matters by a 'transcendental' argument: however much diversity there was among moralities, all societies had to possess certain moral principles, or else they could not exist. There had to be, behind the variety, a universal though minimal moral core. This argument, with its distinctly anti-sceptical purpose, marked Grotius off from earlier moral and political theorists to whom he is in other respects similar. He did not, however, support his argument with extensive philosophical underpinning, which is just what Tuck thinks Hobbes did do. He designed a transcendental argument to support the possibility of a science of *both* nature and morals.

Hobbes agreed with the sceptics that there was no necessity that one's perception of things was of what the things were in themselves. He took up as well Descartes's more general doubts about whether there was any material reality at all behind any of one's perceptions (although he did not accept Descartes's resolution of this doubt). To surmount these challenges to the possibility of knowledge of the material world, Hobbes developed the argument that the reality of the change in our perceptions, which the sceptics did not doubt, could only be caused by motion – and motion could only be conceived of by supposing the existence of material bodies which operated on one another. This answered Descartes's challenge. To this, Hobbes added a philosophy of science or knowledge in which he asserted that although there can be many causal accounts relying on the motion of bodies that could account for changes in perception, it is sufficient for science if the perceptions could be brought about by the ascribed cause and that cause could not be shown to

bring about something which was not the case. Hobbes developed, as did Descartes, a scheme in which sceptical elements were incorporated into a philosophy which nonetheless permitted the construction of systems of knowledge.

In morals, Tuck argues, Hobbes did the same. He agreed with the sceptic that everyone calls 'good' that which pleases him and 'evil' that which displeases him, but went on to argue that this was compatible with the possibility of an ethical science. Grotius' argument that there had to be certain moral rights and duties embedded in the variety of moralities that societies adopt, otherwise they would not exist, was just what Hobbes needed. It paralleled his arguments concerning the reality of the material world. Hobbes did modify the content of Grotius' doctrines in such a way as to make them unacceptable to Grotius himself, but Tuck argues that at least some of these modifications came about because Hobbes took greater interest in some of the challenges of sceptical epistemology.

It is not surprising, given the scope of this volume, that there is considerable diversity of interpretation and perspective. What is more significant, however, is the remarkable convergence of these essays on a common set of themes and issues. The perception that early modern European developments in conscience, moral education, and law are coordinated phenomena in both the Protestant and Roman Catholic worlds is perhaps the most important of these. There is considerable disagreement about what sort of coordination this was, but there is enough agreement on the terms and issues to lead one to expect fertile debate in the years to come.

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