

### **Divine Command Theory: Some Reflections on the Contemporary Situation**

This talk is about the current state of play in the philosophical discussion of the divine command theory of moral obligation, roughly the theory that what makes something morally obligatory is that God commands it. I am going to do two things in this paper, first contrast divine command theory with some forms of natural law theory, and then relate this distinction to some contemporary work in evolutionary psychology.

Within analytic philosophy, there has been a remarkable renewal of this discussion, starting with Philip Quinn 's book Divine Commands and Moral Requirements in 1978. Before that book, there were various references to divine command theory as an example of what happens when ethical theory goes wrong. I could give you references from G. E. Moore, A. J. Ayer, and R. M. Hare, for example. But there was no sustained working out of a defensible form of the theory. There are also, in the analytic tradition, frequent references to two classical treatments that are supposed to have shown that divine command theory must be wrong. The first standard reference is to Plato's Euthyphro, and Socrates's view that what is holy is loved by the gods because it is holy, and not vice versa. This is the arbitrariness worry about divine command theory, that just anything would be obligatory if God commanded it. I am not going to say much about this, except that if we separate between a theory of the obligatory and of the good, we can say that God's having discretion about what to command is consistent with God having a reason to command, namely that what God commands is for our good because it fits what we are like (though it is not deducible from it). The other historical text that is often said to have shown that divine command theory is wrong is a text from Kant's Groundwork, where Kant rejects 'the theological concept which derives morality from a divine and supremely perfect will.' This is the heteronomy worry about divine command theory, and again I am not going to say much about this, except that I take Kant to be arguing that morality itself requires us to take our duties as

imposed upon us by the king of the kingdom of ends, and that only if we do so, will our commitment to the moral life be rationally stable.

The discussion that Philip Quinn began has been sustained. I think the most important book has been Robert Adams's Finite and Infinite Goods of 1999. I would add, in addition to my own work, Richard Mouw's The God Who Commands of 1990, Paul Rooney's Divine Command Morality of 1996, Stephen Evans Kierkegaard's Ethics of Love: Divine Commands and Moral Obligations of 2004, and some important and influential articles, for example by Ed Wierenga 'A Defensible Divine Command Theory' of 1983, by William Alston 'Some Suggestions for Divine Command Theorists' in 1990, and by Robert Audi, 'Divine Command Morality and the Autonomy of Ethics' in 2007. I am not trying here to be exhaustive. What I want to ask about this discussion is, Who is the opponent? Who are the divine command theorists arguing against? The answer is, in part, people who want to leave God out of ethical theory completely. But that is not going to be my focus. These divine command theorists have another set of opponents in mind, opponents who are within the class of theists. In the case of Robert Adams, he says that he finds natural law theory unappealing. Natural law theory and divine command theory are usually taken as the two main competitors within theism for an account of the relation between our moral obligation and God. But the nature of this competition is, upon examination, very obscure. I am going to try to make it less obscure. But this is a large project, and one that will take me some years. Part of my project for this year at Notre Dame is that Jean Porter and I have agreed that we will meet regularly, and read each other's work, and see if, when we have made the necessary qualifications to each other, there are still areas of important disagreement between us. I think this is a good procedure. The terms 'divine command theory' and 'natural law theory' are vague. There have been and continue to be many different varieties of each. This is a quite general point in philosophy. Arguments about whether, let's say, deontology can be reconciled with virtue theory are beset with the vagueness of the original terms. We are much better off asking, 'Can Aristotle's view be reconciled with Kant's?'. Then we can be held accountable

to the original texts. Very likely, in this kind of argument, the answer will be 'No'. The two positions contradict each other. But we can then proceed by modification. If we change Aristotle's views in respects ABC, and we change Kant's views in respects DEF, then we may get a consistent view. It will not be a helpful question at this point, 'Is this view that we have now developed really a deontological view any longer, or is it really a virtue theory?'. This will be like the question, 'Was England the same country after 1066?', which was, I remind you, the date of the Norman conquest. The answer is, 'Well, it was the same country in some respects, and not the same country in other respects.' Or, better, 'That is not a very good question.'

In my case, I am starting with Duns Scotus, and I will take him to be a divine command theorist, though Richard Cross disagrees with me. I hate disagreeing with Richard Cross, because he knows Scotus much better than I do. But in this case, I will persevere. Cross thinks Scotus is not a divine command theorist because divine command theory holds at least that divine commands are necessary for moral obligation, but Scotus says that 'the moral goodness of the act consists mainly in its conformity with right reason, which dictates fully just how all the circumstances should be that surround the act' (Ord 1, dist. 17, 62) and that from those circumstances of the action 'one immediately concludes that such an action ought to be performed by this agent for such an end' (Quod 18, n.6). Cross takes it that these passages show that Scotus is not a divine command theorist, because our right reason is sufficient for determining the moral goodness of an act or that it should be performed, and therefore God's command is not necessary. There are a number of difficulties here. One is that Scotus does not make the distinction I am making between a theory of the good and a theory of the right, or of obligation. I am not trying to defend a divine command theory of the good. My suggestion, worked out elsewhere, is that the good is what draws us and deserves to draw us, and that what finally deserves to draw us is God and our union with God. In Scotus's language our end is to be co-lovers (condiligentes) with God. But there are multiple things that are good in the sense of drawing us and deserving to draw us that are not obligatory. Everything that is obligatory is good, but not everything that is good

is obligatory. A divine command theorist will say that what makes a good thing obligatory is that God commands it. Once this distinction between the good and the obligatory has been made, the possibility emerges of separating our forms of access to the two. We also will have to distinguish in both cases between our knowledge of something good or obligatory and our knowledge of what makes it good or obligatory. It is possible that what makes something good or obligatory is some relation to God (different in the two cases), but that we can know it is good or obligatory without knowing this relation. Perhaps God reveals to our reason the commanded route to our end without revealing that the divine will has chosen it. Since we can suppose that God has prescribed for us a route to our final end that is in perfect harmony with our nature, we can expect to see this harmony by means of our reason. We can see that when we tell the truth, respect each other's lives, honor our parents and so on, we progress toward the life that we are made for, the life of being co-lovers with God. But Scotus insists that what we see is a harmony, or a beauty, or a fittingness, and not an entailment of the commands from our nature. We might say that we see with our reason the goodness of the command, since Scotus also says that moral goodness fits or is in harmony with our nature. His term for the relation between moral goodness and our nature is that the former 'supervenes' on the latter, and I have tried elsewhere to say what this means. So we can make two claims together: first that we can know moral goodness by reason since it fulfills our nature, and second that what makes something obligatory is that God has prescribed it to us as opposed to other fitting routes that God could also have prescribed. Whatever fulfills our nature and takes us towards our final end is good, we might say, but only what God chooses from all these good things is obligatory. In these terms, we can have access by reason to what is good, but it is not conformity to our reason that makes something good but rather that it draws us to our end; and it is not conformity to our reason that makes something obligatory but rather that God commands it.

I said that I would try to clarify the relation between divine command theory and natural law theory. We have come at this juncture to the first point of contrast.

Scotus, as I understand him, denies that the second table of the Decalogue, that is to say the laws that deal with our relations to each other as opposed to our relations to God, is deducible from our nature. The contrast would be with the deductivist view, namely that the second table can be deduced from our nature. So as to make the structure of this talk clear, I am going to discuss two points of contrast. The second has to do with whether the moral law has essential reference to our good, where this good is indexed to us individually. This is the question about eudaimonism, the view that our motivation is always in the end to our own happiness or perfection. I am going to take it that Scotus denies eudaimonism.

My paper would be more elegant if I could point to a medieval thinker who was, in contrast with Scotus, a deductivist and a eudaimonist. I could then proceed with the program of exegesis and modification and testing for consistency that I outlined above. What about Thomas Aquinas for this role? Here I am going to weasel out of committing myself. I have made a life-long practice of avoiding the attribution of views to Thomas Aquinas. My reason is prudential. I have found that different types of Thomists hate each other so much that any attribution of a view to Thomas is likely to occasion deep animosity from one group or another, and I am better off quoting texts when I need to, and saying that one plausible interpretation is ABC, but that I do not claim the relevant expertise to know whether this is actually Thomas's view. So, one plausible interpretation is that he is a deductivist and a eudaimonist, but I freely admit that there are other interpretations by reputable scholars, and I do not know enough to know which is right. In any case, my project for this year, as I described it, is dialogue with a living natural law theorist, and not a dead one. I am interested in seeing to what extent contemporary natural lawyers, for example Jean Porter, are eudaimonist and deductivist. One question I do not think is a good one, as I said earlier, is to ask about these contemporary theories, 'Are they really natural law theories?' In the remainder of this talk, then, I am going to talk about these two points of contrast, and I am going to try to relate them to contemporary work in evolutionary psychology. That is why I entitled the talk, 'Divine Command Theory: some reflections on the current situation.'

I will start with the point about eudaimonism, because what I say about it will have consequences for what I want to say about deductivism. It is not necessary for a natural law theorist to be a eudaimonist. Scotus, as I read him, is a natural law theorist of an idiosyncratic kind, and is not a eudaimonist. There is, however, a congenial relation between eudaimonism and the rejection of divine command theory. To the extent that you think that our obligations are grounded in our happiness, there will be no need to appeal to anything outside our happiness, such as divine command, for the authority of these obligations. We will already have all the answer we need to what Christine Korsgaard calls 'the normative question', Why should I be moral, or why should I take the moral demand as a demand upon me? Scotus, as I read him, inherits from Anselm the distinction between two affections of the will, what he calls the affection for advantage and the affection for justice. The affection for advantage is a drive towards our own happiness and perfection, and the affection for justice is a drive towards what is good in itself independent of our own happiness and perfection. Aristotle's account of motivation has nothing corresponding to the affection for justice. The closest he came was his view of friendship, where two people who have the highest kind of friendship want to benefit each other not for personal advantage but for one another's sake. But this is not really a counter-example, because Aristotle's view is that in this kind of friendship the friend is another self. This is what enables the friends to forget their own pleasure and profit, and the friendship is contingent on the maintenance of the special relation. Everything we do, on Aristotle's account, we do for the sake of our own happiness. Aquinas says, 'every man naturally wills happiness; and from this natural willing are caused all other willings, since whatever a man wills, he wills on account of the end.' (ST I, q. 60, a 2.) One plausible interpretation of this is that he agrees with Aristotle on this point. With the distinction between the two affections in place the motivational question is more complex. Both affections will be operative in most of our choices; Scotus is not suggesting that we lose the inclination towards our own happiness and perfection. Even the blessed in heaven, he says, will have the affection for advantage. But there is one part of our motivation, the higher part, which is not directed towards the self,

and this part has the task of restraining or moderating the lower part so that we end up with a love for the highest good, God, for God's own sake, independent of our own salvation. The most vivid way to put this point is counterfactually. If God were to require us, which God does not, to sacrifice even our own salvation for the sake of God's glory, we should be willing to do so. This thought lies behind the words of Jonathan Edwards, repeated at the close of Presbyterian ordination services for generations, 'I would be willing to be damned for the sake of the glory of God.' These words echo expressions of Moses and Paul and perhaps even of Jesus. Moses said that he would be willing to be blotted out of the book of life. Paul said that he would be willing to become a curse, and Jesus in fact took separation from his Father as the price for saving his people. There are, says Scotus, three ways of loving God: loving God for God's own sake, loving God for our sake, and loving God for the sake of the joy of the relation. Only the first is the affection for justice. But if we should be motivated in our obligations by the affection for justice, the question arises that Christine Korsgaard calls 'the normative question', why should we be so motivated, and one answer will be, because God commands it.

Now I want to say a word about contemporary evolutionary psychology, though I need to say first that I am not an evolutionary biologist or an economist or a game theorist. I have been reading for the last couple of years in the literature about the evolutionary origins of morality. The discipline of game theory has recently undergone a significant shift, due primarily to new empirical data about choice behavior in certain games. To give you a flavor of the old construction, I will quote from Ken Binmore's book Game Theory and the Social Contract (MIT Press, Cambridge: 1994, I, 152), 'Nature cannot achieve the first-best outcomes to which those like Kant aspire because the latter are not incentive-compatible. That is to say, they are achievable only if the human beings who live in the society act in a manner that is incompatible with their nature.' What is this nature? It is homo economicus. 'The assumptions about human nature to be made in this book are those of neoclassical economics. People are assumed to act in their own enlightened self-interest.' (ibid. 18). This last phrase is multiply ambiguous. But Binmore is

opposed to Kant, and endorses Hobbes's view, 'of the voluntary acts of every man, the object is some Good to himself.' This shows that Binmore is not merely claiming what Kant would also claim, that morality is in an agent's interest, and not merely claiming what Kant would also claim, that the moral agent is made happy by the happiness of others. The anthropology behind the theory of homo economicus requires that the object as purposed be self-indexed, and this is something Kant cannot agree to. The heart of the categorical imperative is that it is binding on an agent whatever else she wants, and so whatever she wants for herself. The universal law does not allow any special reference to the agent herself or her interests.

Because of Kant's emphasis on the will, moral action is more than mere cooperation, though it is one form of cooperation. Suppose we define 'cooperation' as Martin Nowak and Sarah Coakley do, as 'a form of working together in which one individual pays a cost (in terms of fitness, whether genetic or cultural) and another gains a benefit.' (Evolution, Games and God The Principle of Cooperation, Cambridge: Harvard University Press, 2009, introduction). This definition does not say anything about motivation. Note that this definition is different in this respect from their definition of 'altruism', as 'a form of costly cooperation in which an individual is motivated by good will or love for another' (emphasis added). The terms in the literature are confused. Cooperation as defined by Nowak and Coakley is what Elliott Sober and David Sloan Wilson in Unto Others call 'evolutionary altruism' and 'altruism' as defined by Nowak and Coakley is what Sober and Wilson call 'psychological altruism'. In this talk I will not use the term 'altruism' but 'moral motivation'. Kant sometimes talks about moral motivation as 'practical love,' so his account will fit under Nowak and Coakley's definition of altruism, except that he insists that the moral agent is motivated by respect for humanity both in her own person and the person of any other. If 'altruism' is defined in a way to exclude this kind of self-concern, then Kant's account is inconsistent with it.

I said that there has been a shift in game theory from the position I quoted from Ken Binmore and his insistence that society developed its moral rules to deal



with repeated interactions by self-interested individuals. Here I will quote from Samuel Bowles and Herbert Gintis, 'For students of human cooperation, the challenge thus shifts from that favored by biologists and economists over the last half-century – showing why self-interested individuals would nonetheless cooperate – to explaining how the other-regarding preferences and group-level institutions that sustain cooperation could have emerged and proliferated in an empirically plausible evolutionary setting.' The empirical data I referred to, which have produced this shift, come from the playing of the 'Ultimatum' game and various public goods games, in which humans do seem to be capable of adopting preference strategies that do not have any obvious link to self-advantage, and this has been documented (if we can trust the testing conditions) cross-culturally on a large scale, including hunter-gatherer societies that are assumed to be the closest in form to the societies of our original human ancestors. Ultimatum is a game in which only one player proposes a distribution (say of ten dollars), but no distribution is made unless the proposal is accepted by the other player. Classical game theory would have expected proposals like 9:1, where the 1 gives the second player the incentive to cooperate that is consistent with the highest benefit to the proposer. But in fact the results are much closer to 5:5, and this needs explanation. It seems that humans have a preference for something like fairness in distribution, even though in one-shot games, there is no incentive provided by what the theorists misleadingly call 'reciprocal altruism' (where there is expectation of benefit from the recipient) and 'indirect reciprocity' (in which one's reputation for cooperation is rewarded indirectly through the favor of third-party observers.)

We should note, however, that a Kantian is going to be skeptical about whether we can show empirically that some practice is not self-interested, though we can certainly show empirically that it involves cooperation. The reason for this is that Kant holds that the will is in principle beyond the range of sensory observation, and so is what he calls the 'maxim' of an action, namely the prescription of the action together with the reason actually adopted for it. Gintis argues, on the basis of the data I have referred to, for a capacity that he calls 'strong

reciprocity,' namely 'a predisposition to cooperate with others, and to punish (at personal cost, if necessary) those who violate the norms of cooperation, even when it is implausible to expect that these costs will be recovered at a later date.' (Moral Sentiments and Material Interests, Cambridge: MIT Press, 2005, 8). It is significant, for the evaluation of eudaimonism, that game theory has shifted in the way Gintis describes. But we have to be careful not to exaggerate the significance. We can talk about the players of Ultimatum and the other public goods games adopting a preference strategy. But the preferences here are observable preferences. It is always possible that the person who selects such a strategy has what Kant would call a heteronomous motivation, one derived simply from the inclination towards happiness. We cannot tell this by mere observation. However, we can say that the preference strategy can be defined in terms of the achievement of something that is not itself self-indexed, namely something like fairness, even though the people who adopt the strategy may or may not have self-indexed motivation (and so a self-indexed maxim) for adopting the strategy. Those who adopt the strategy may or may not, for example, have what Kant calls 'the good will', which is motivated by love for the moral law for its own sake.

The important contrast here is with non-human primates. They certainly display cooperation, as indeed do much simpler organisms. Kin-selection, so-called 'reciprocal altruism', 'indirect reciprocity' and 'network reciprocity' (mediated through interactions with those within the network) all have game-theoretic explanations in terms of strategies directed entirely at self-indexed goods, though we cannot reach so to speak 'inside' the minds of non-human animals, assuming that there is an 'inside' there to be reached. One researcher, Jan Silk, concludes, after looking at the evidence for 'strong reciprocity' among primates, 'Strong reciprocity in humans seems rooted in a deep sense of fairness and concern for justice that is extended even towards strangers, but we have no systematic evidence that other animals have similar sensibilities.' ('The Evolution of Cooperation in Primate Groups', in Gintis et al., Moral Sentiments and Material Interests, *op. cit.* 63-4) With humans, by contrast, cooperation seems to continue when kin-selection, 'reciprocal

altruism', indirect reciprocity and network reciprocity are not at stake. E. Fehr and S. Gächter say, 'People frequently cooperate with genetically unrelated strangers, often in large groups, with people they will never meet again, and when reputation gains are small or absent.' ('Altruistic Punishment in Humans', *Nature* 414, 2002, 137-40.)

We can now connect the thesis that humans, even hunter-gatherers, are capable of selecting preference-strategies that can be defined in terms of the achievement of something that is not itself indexed to their advantage with a second thesis, about religion. The human groups that now seem closest to the form of life of the earliest groups of homo sapiens, and which do display the preference-capacity I have been talking about, also all seem to display some form of religion, as indeed do all societies of which we have knowledge. In the standard cross-cultural sample of 186 societies (from the Ethnographic atlas of 1, 267 entries) all have gods, and 168 of the 186 have 'high gods'. 'Religion' is here broadly defined to include a belief in 'high gods' but also lower grades of divinity, ancestors who are still active, and witches and sorcerers. A 'high god' is defined as 'a spiritual being who is believed to have created all reality and/or to be its ultimate governor, even though his (sic) sole act was to create other spirits who, in turn, created or control the natural world.' The question then arises whether religion has anything to do with the development of specifically human forms of cooperation, and it is initially plausible to think that it does. I will try to explain this again in terms of Kant's system. Kant thinks that we are both under the moral law and creatures of need, aiming at our happiness whatever else we aim at, and we therefore have to be able to believe that the members of the kingdom of ends can be virtuous and happy, if we are rationally to persist in the life of virtue. This is why he says that 'morality inevitably leads to religion.' (6: 6). Morality itself requires us, he thinks, to postulate the existence of a sovereign of the kingdom of ends, who has the role of bringing about the consistency of virtue and happiness. This being also has the roles of enabling in us a revolution of the will (which reverses the innate ranking of happiness above duty, and so of Scotus's two affections of the will), and of coordinating the ends of all

rational beings so that the happiness of every virtuous person is consistent with his or her virtue, even if not all rational beings are virtuous. If we return now to Ken Binmore's claim, which I quoted at the beginning of this section of the talk, we can see that his claim that Kant's moral requirements are not incentive-compatible is invalid once Kant's moral theology is taken into account, since this theology has the function of making self-indexed and non-self-indexed motivation compatible. The term 'function' is tricky here. The claim that religion is logically or causally necessary for the development of this kind of motivation is too strong, because we do not know what the alternatives are. Perhaps non-self-indexed motivation is consistent with self-indexed motivation in evolutionarily stable games even without belief in high gods and their role in maintaining cosmic order. But there will still be a functional relation if belief in these gods in fact played the role I have described. One practice can be functionally related to another if they co-occur and the working of one is helpfully understood through the working of the other, even if the first could exist in some logically or causally possible world without the second.

I will not do this in detail now, but this analysis of the relation between morality and religion can be supplemented by a consideration of how the moral agent's motivation is related to punishment for violation of the moral norms. There is an important difference between being motivated by fear of divine punishment and being motivated by love of justice or fairness, which is a system that divine punishment maintains. Also religions can provide a method of atonement, a process by which the agent can be reconciled with the divinities that have also been offended along with the human beings when the offence is committed. Commitment to cooperation, moreover, is hard to form and sustain, and given the difficulty of commitment, signals of commitment are hard to make credible. A signal of commitment is more likely to be credible if the signaler and the recipient both believe in the availability of divine assistance. Thus in our own culture God's help is often invoked at marriage services, where difficult commitments are made. Finally, religion can give us a model of the kind of thinking that morality requires. 'Impartial spectator' theories in ethics are just one example, holding that moral thinking is an

approximation to the thinking of a being who knows the desires (the ends) of the relevant parties and what action(s) or type(s) of action would satisfy those desires, and who loves those parties equally. If such a being could also coordinate the realization of morally permissible ends, the concept of obligation (as Kant acknowledges) would fit best our being under the authority of, or being commanded by, such a being.

I will go on now to the second area of contrast. I have been dealing so far with the question of eudaimonism, and its relation to recent work in evolutionary psychology. I want now to talk about deductivism, the view that our moral obligations, or at least the main headings of moral obligation to be found in the second table of the Decalogue, can be deduced from a theologically neutral account of human nature. I will be able to do this more briefly, because what I want to say follows from material I have already presented. I will proceed in the same way as before, first presenting what I take to be the view of Scotus, and making some modifications, and then relating the position to contemporary work in evolutionary psychology. Whether Aquinas is a deductivist is again something Thomists can try to settle. There are respectable Thomists who say he is and respectable Thomists who say he isn't.

I take it that there are three reasons why Scotus resists deductivism, and there is one reason frequently given for such resistance that he does not give. Even though he thinks the commands of the second table are contingent, however, and not known ex vi terminorum (from the force of the terms), he still wants to call them natural law in an extended sense. As I said earlier, it is not a very good question, 'Is this really a natural law theory?' One objection Scotus has to deductivism is that we cannot say that God has to prescribe the second table to human beings, because there are actual cases where God has prescribed contrary to it. These are the so-called dispensations, of which there is a standard list, including the command to the Israelites to take the gold of the Egyptians under the threat of divine plagues, the command to Hosea to marry Gomer the prostitute, the command to Abraham to kill his son Isaac, and the commendation of the Hebrew midwives for deceit. One

plausible interpretation of Aquinas, in his treatment of these cases, is that he denies that there are contraventions of the law in these cases, because he holds that God (who owns everything) transfers temporal ownership, for example of the gold from the Egyptians and of Isaac's life from Isaac, so that there is no theft or murder commanded in these particular instances. But if this seems too easy a solution, and if we want to go on holding that God did command these things, then we seem stuck with some doctrine of divine dispensation. One philosopher in the recent discussion of divine command theory who denies that we should hold that God commanded Abraham to kill Isaac is Bob Adams. In Finite and Infinite Goods he suggests that we should only take something to be a divine command if it is plausibly taken to be the command of a loving God. He tells the story of the Purka tribe who, when it appeared that the goddess was commanding a human sacrifice, decided to throw the sacred whisk representing the deity into the river. Adams is here repeating the position of Kant, who says, not that God did not command Abraham to kill Isaac, but that it could not have been rational for Abraham to take it that God was so commanding him, since we have to assume that God has a holy will, and so wills in accordance with the moral law. But a divine command theorist does not have to take this view of Abrahams' dilemma, and Scotus did not.

The second reason Scotus is against deductivism is that the prescriptions of the second table seem to apply to us not simply in our nature as humans, but in our contingent circumstances. His best case is the proscription on theft, which implies the institution of private property. Scotus, as a Franciscan (though he does not mention this here) is convinced that it is possible to be human and not have private property. He mentions the original state in the Garden, and our state in heaven, and the state of the early church after Pentecost. Private property and the need to protect it are not deducible from human nature as such. In my own work I have suggested similar scenarios for the other commandments of the second table, but I have found people tend not to be convinced by them. I think this is because I am describing how things could have been for humans, and people are too attached to how things actually are to allow a fair-minded consideration. For example, humans

in heaven do not, I assume, have the capacity for physical reproduction. Perhaps this is what is meant by there being no marriage there, or being given in marriage. I say, humans could have been created, even as sexual beings (if you think sexuality is an essential characteristic of human being), with the command not to reproduce. I say that the unmarried or the non-reproducing life can be a fulfillment of sexuality, as it is in the case of the religious, not a denial of it. God could have arranged for the continuation of the species in some other way. But the commandment against adultery requires the institution of marriage in the same way that the commandment against theft requires the institution of private property. Or consider the possibility that in heaven we communicate by intuiting each other's thoughts, without any intermediate sign (as pseudo-Dionysius imagines the communication of angels). In such a case, the proscription on lying loses its application.

We might reply that it is still necessary for God to make these prescriptions of the second table to human beings in our current circumstances. This is a tricky point. It is not clear what Scotus thinks about it, because his use of the term 'circumstances', unlike ours, is restricted to the end, object, manner, time and place of an act. In the case of Abraham and Isaac, for example, he holds that Abraham believed that God was going to bring Isaac back to life (as the letter to the Hebrews in the New Testament suggests, as does the Genesis text itself, on one reading). But it is not clear whether the eventual resurrection of Isaac enters into Abraham's end (or intention), or whether the end is confined to producing his son's death. I will have to leave this question for another time.

The third reason Scotus resists deductivism is that he wants to insist on divine sovereignty, and he takes it that we simply do not know what the alternative possibilities are between which God is choosing. God can command anything that is logically possible in itself and is consistent with God's commanding it. To say that God has to command something to human beings might mean that it is logically or metaphysically necessary for anything with divine nature to command such a thing to anything with human nature. Suppose we grant, with Bob Adams, that a human

can only rationally take something to be God's command if it could be the command of a loving God. There is a good argument that this is not yet an infringement on God's sovereignty, if God is necessarily loving. But does this mean that such a being cannot require a killing followed by an immediate resurrection? Surely we should be modest about what we know the possibilities and impossibilities are in such a case.

There is one kind of reason to resist deductivism that Scotus does not use, though many twentieth and twenty-first century authors do use it. That is the doctrine that can be abbreviated, 'No ought from an is'. The doctrine is often associated with Hume, though John Finnis has, I think, shown that Hume's application is more restricted than is usually realized. The relevance to deductivism is that the doctrine implies that no conclusion about obligation ('an ought') can be deduced from premises about our nature ('an is') as long as those premises are themselves evaluatively neutral. We could no doubt get a valid deduction if we defined 'nature' as 'created nature', and defined 'created nature' in terms of our already meeting our obligations. But this is not a deduction that the opponent of deductivism will resist. The position of Scotus here is delicate, because he does, in contrast to one plausible interpretation of Aquinas, reduce final causation or teleology to efficient causation by a creator. The end or telos of an artifact, for example a sewing machine, is put into that matter by the maker of the machine. In the same way God puts their ends into natural things, like oak trees. This does not eliminate teleology, but it makes it less ambitious metaphysically. I am not going to enter further into this, for Scotus is, even on his less ambitious account, still going to say that natural things have an end, and therefore the way they are implies a way that they should be, an 'is' implies an 'ought', but that is because the 'is' is, so to speak, already evaluatively loaded.

I am going to describe now one way in which contemporary work in evolutionary psychology relates to deductivism. Some writers, such as Larry Arnhart in Darwinian Natural Right, argue a deductivist line of the following sort: He says that the good is the desirable, and the desirable is what is generally desired



by human beings. By 'generally desired' he means that these desires are found in most people in every society throughout human history, though not necessarily in every individual since there may be defective individuals. The connection he makes with evolution is that evolution gave us these desires, operating selectively on our species in the hunter-gatherer stages of our development during the Pleistocene, because these desires enhanced our chances of survival and reproduction. There are twenty such desires that he lists, and the framework of his argument is that if a desire is general in this sense, belonging to this list, then its fulfillment is good. He thinks, accordingly, that we can tell how we ought to live by reconstructing the human desires present in hunter-gatherer societies, which are the desires that are 'natural' to us in his preferred sense. Arnhart, incidentally, is not just deductivist but also eudaimonist. He thinks the fulfillment of these desires is good just because it leads to our happiness. He extends his account to cover not just what is generally desired by humans, but what is generally desired by natural subgroups of humans, such as males and females, 'Women typically have a stronger desire for intimate companionship. Men typically have a stronger desire for dominance.' (p. 123). When natural desires conflict, Arnhart's view is that we have tragedy, a situation where we cannot allow 'some transcendental norm of impartial justice (such as Christian charity) that is beyond the order of nature' but 'we must either find some common ground of shared interests, or we must allow for an appeal to force or fraud to settle the dispute.' (146). I have described elsewhere what I think is wrong about this kind of account. The central problem, I think, is the deductivism, the view that we can reach normative conclusions based simply on a description of the inclinations we are born with.

Evolutionary psychologists do not have to take Arnhart's line, however. There are many options, and I will close by describing one of them that I think is plausible. I will assume that we inherit from our non-human ancestors various complex forms of what Scotus calls 'the affection for advantage' (forms that I described earlier in terms of kin selection, 'reciprocal altruism', indirect reciprocity and network reciprocity). We also inherit from our human ancestors the capacity

for something more, which I have called non-self-indexed motivation. I suggested that religion has a function in the acquisition of this capacity. This picture sees our inheritance as, in this way, a mixture. But it is interesting to compare this kind of mixture with the one Kant describes. He says that we are born with both the predisposition to good (preferring duty to happiness) and the propensity to evil (preferring happiness to duty). The predisposition to good is, he says, fundamental and part of what it is to be human, but the propensity to evil lies over the top of this, and is accidental, in the sense of not essential to us. We can lose this propensity to evil and still be fully human, but we cannot lose the predisposition and still be fully human. Kant is here translating within the bounds of mere reason the traditional Christian picture of creation and fall, which is a picture of chronological sequence, and restating it in terms of necessity and contingency. But if we take the evolutionary picture I have just given, the chronology is reversed. We inherit from our non-human ancestors the propensity to self-indexed motivation (of various complex kinds), and over the top of this the predisposition to good. We can still say, however, that it is only after the acquisition of the capacity for non-self-indexed motivation that the propensity to rank first one's own happiness becomes a propensity to evil. Here another doctrine of Scotus enters in. The affection for justice is, he says, 'the first checkrein' on the affection for advantage. Scotus recounts the thought experiment of Anselm about an angel who had the affection for advantage but not the affection for justice. Such an angel, Scotus says, would be unable not to will what is advantageous, and unable not to will it above all. But then this would not be imputed to the angel as sin, because the pursuit of the advantageous would be triggered automatically by apprehending it in the intellect, just as bodily appetites are triggered by sense perception. There is, therefore, on this picture I have been drawing still a logical priority, as in Kant, of the predisposition to good over the propensity to evil.

In this evolutionary picture I have just given, we do not have a deduction of obligation from 'natural' inclination. We do, however, have something related, namely that our inherited capacities provide one set of limits to what Kant calls

'real' as opposed to merely 'logical' possibility, where 'real possibility' has to be grounded in something actual. On the doctrine that 'ought' implies 'can', obligations have to be fulfillable by creatures like us, given the assistance actually available, though not necessarily by creatures like us on our own. If God's assistance is one kind of assistance that is available, the question is what assistance God has in fact offered to beings with our propensities, rather than what assistance it is logically possible for God to provide. We are learning from recent work in game theory and evolutionary psychology that the propensities we have inherited are in fact more complex than we had thought. Martin Nowak, for example, says that we have to add a third component to the essential mechanisms of evolution; not just random mutation and natural selection, but cooperation. Cooperation, as I argued earlier, does not yet give us motivation, and is consistent with motivation exclusively by various complex forms of the affection for advantage. But human beings are also capable, at least on the Kantian picture of morality, of a kind of cooperation that does require motivation of a certain kind, namely cooperation willed for the purpose of the fulfillment of moral obligation. A divine command theorist is likely to hold that God commands a kind of life that God does offer assistance to us to live, and it is assistance that takes us to the capacity for this new kind of cooperation.