

CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY: JULY-DECEMBER, 1966

THE NEW CATHOLIC MORALITY

Movement characterizes moral theology in the six months under review in the present survey. The waters are anything but stagnant. At times they are stirred by controversy, or a fresh rainfall leaves them less than clear. Though definitive synthesis of the new currents is not yet an actuality, their general direction is discernible. One such direction is the movement back to the epistemology of moral science. This movement has three elements. First, it suggests a broader base for the data of moral reflection. Second, it calls for a reevaluation of the teaching of the magisterium. Lastly, a wider role for the empiric sciences is postulated in moral.

Bishop Francis Simons of Indore, India, in an article widely cited in the press, reaches some surprising conclusions about Catholic moral theology.¹ Before assessing his conclusions, we should examine the evidence presented. The Bishop is speaking from the background of his cross-cultural experience in the Orient. In this respect he has a distinct advantage over most of us who have not lived in Asia. This is a jolting encounter for one who for the first time finds his Western ideas of morality challenged and sometimes overthrown. Speaking from this vantage point, the Bishop says that both the good of the individual and the social good of man cannot be adequately known unless other cultural and religious groups than Western Catholicism are interrogated. His accents are reminiscent of the interventions of bishops from Asia and Africa during the recent Council. To his first point we can say amen. The broader the base for moral reflection, the richer and more accurate will moral science be.

Next he calls attention to the difficult area of Church teaching that theologians in the past held to be infallible, or at least unchangeable, but subsequent evidence showed the opposite to be admissible. The creation of the body of Adam was one subject so interpreted, until Darwin sowed the seeds of doubt. Recent progress in Scripture studies has overturned earlier Church pronouncements about the sacred books. From such historical facts he concludes: ". . . it seems evident that the Catholic moral theologian need not feel restrained by the fear of running afoul of the infallibility of Bible or Church."² Be this as it may, the clarification of Church teaching by theologians that Bishop Simons asks for is a need.

¹ "The Catholic Church and the New Morality," *Cross Currents* 16 (1966) 429-45.

² *Ibid.*, p. 431.

No thorough restudy of official teaching on specifically moral subjects has come to the writer's attention. A suggestion can be made, however, as to where such an investigation might begin: the writings of Pius XII. *Aggiornamento* began not with John XXIII but with his great predecessor. Of recent popes he was the first who felt that the Holy See should address itself to any and all of the questions vexing the minds of men. The wide variety of topics on which he shed the light of Christian faith—from astronomy to street cleaning—is proverbial. Any congress meeting in Rome and submitting questions to him was assured of being enlightened by an appropriate discourse. In the course of his long pontificate a great body of moral teaching on the problems of the day was amassed.³ In view of these circumstances the question arises: Did moralists give too great theological weight to his pronouncements? Though they were not assessed as infallible or unchangeable, were they not considered, practically speaking, as definitive statements of Catholic doctrine? At least, were they not accorded a higher status than many of them actually had, namely, a clarification of the issues facing a given professional group in the light of the theological knowledge then possessed? Moralists—or better, ecclesiologists—owe the Church a solution to this question.

Bishop Simons next approaches the concrete moral issues, abortion, contraception, and the like, which he feels need to be re-examined.⁴ It was this part of his article which many Catholics found to be disconcerting. He approaches these topics on the broader level of the supposed universality of moral rules outside the area of the basic principles, and exclusive of our duties of love and reverence for God. It is the secondary principles of natural law governing our relations to the neighbor and charity to oneself with which he is concerned. For example, "You shall not kill" has exceptions beyond instances of justified self-defence. "Many, e.g., would allow the killing of the unborn child when this is honestly deemed the only means of preventing the death of both mother and child."⁵ We did, as he says, try to skirt this issue by denying the fact and insisting that modern medicine can save both. To this he answers that most of the world does not have modern medicine.

At this point we could marshal moral objections against the good Bishop. One may not intend the death of the fetus but only indirectly tolerate this

³ The late Gerald Kelly, S.J., once said at a meeting of moralists that it would take ten years to assimilate and synthesize the teachings of Pius XII, so much light and so many problems of interpretation had he created for the moralist.

⁴ Archbishop Denis Hurley of South Africa apparently shares Simons' viewpoint; cf. "A New Moral Principle—When Right and Duty Clash," *Furrow* 17 (1966) 620–22.

⁵ *Art. cit.*, p. 438.

bad effect, the loss of life is to be deplored, and Christian love demands that we seek alternative solutions to the dilemma, etc. But when all is said and done, we have not closed the door to all exceptions. The epistemology of moral science and St. Thomas' well-known doctrine of exceptions to the secondary principles of morality leave the door ajar. There remains the question of official Church teaching on abortion. The requisite historical and ecclesiological study on this aspect of the problem has not been done. When it is done, we should keep in mind that moral truth in these matters is not impervious to reason, is not shrouded in religious mystery to which faith alone can give an adequate answer.

Having pointed to the nonuniversality of the fifth commandment and said the same of the prohibition of lying, Bishop Simons makes the following statement of the commandments in general: "The exceptions are there admitted by mankind and by the moral theologians, though the latter have tried to maintain that they are not really exceptions."⁶ This statement we can distinguish, in the best manner of the Schoolmen. In basic ethics we admitted exceptions when we studied the natural law. Again, in general moral theology we learned that relatively few acts are morally good or bad *ex objecto*, that most receive their moral quality from the circumstances and the purpose of the agent. The trouble was that we forgot about these epistemological limitations as we progressed through "special" ethics and moral. We reached conclusions on divorce, truth-telling, chastity, etc., and for all practical purposes regarded them as universals, as without exceptions.

One final citation. Can we, the author asks, equate the purpose of an organ or an act with a moral obligation? Do purpose and obligation always coincide? Nature achieves the goals of the inclinations in man to marry and to beget his kind. "Therefore, nature seems to impose no moral obligation to marry, or, when married, to have children."⁷ The direct argumentation here is weak. Traditional natural law held these to be social duties and explicitly said that they were not binding on every individual. This could be further elaborated, but to do so might lead us away from the real difficulty implicit in the Bishop's argument. It is that of *knowing* the natural purposes of man's powers. Our moral conclusions in this area are not simply deduced from the essence of man. They are known from his *agere*, therefore a posteriori.⁸ This involves in part predicting the future, since human *agere* is

⁶ *Ibid.*, p. 437.

⁷ *Ibid.*, p. 434.

⁸ This question has been treated at length earlier in the pages of THEOLOGICAL STUDIES by John G. Milhaven, S.J., "Towards an Epistemology of Ethics," 27 (1966) 228-41. The epistemology outlined there is followed here.

continually disclosing itself in the ongoing historical situation. Predicting what the future condition of the human race will be, or of individual man for that matter, is a hazardous undertaking. It can be only partly known from the past and the present.

No doubt, man in an earlier age, if asked the moral question "May a human go to the moon?" would have answered that it was against nature and contrary to the purposes of man's natural powers. Yet we give a contrary answer to this question today; for we know empirically that space travel is possible; nor does it appear to us as contrary to right reason enlightened by faith. Once we go beyond basic moral principles into the realm of the commandments and farther, we can indeed predict that John will do moral right or wrong if he places act A or B. But the prediction is known only with greater or less accuracy. Often it is very high accuracy; at other times it is less so. What has occasioned our present awareness of changeable natural law is the explosion of knowledge in recent times. The result has been that former predictions are found to have been too narrowly conceived. They need reformulation in the light of the new knowledge. Man can now fly to the moon. It is chiefly the empiric sciences that have provided the new data on man, the world, and human existence, as we will try to point out below.

The questions raised in the article above are ones on which research is needed. They are not conclusions ready to be reduced to practice. Nor does Bishop Simons intend this. He has done the Church a good turn in pointing out areas of special difficulty in moral science today. What is of validity in "the new morality" points in the same direction. The ideas he has presented are actually a development of an intervention he made at the Vatican Council in October, 1965. Following his lead, we turn to the Council documents for the light they shed on the epistemology of moral.

VATICAN II AND THE EPISTEMOLOGY OF MORAL

The recent Council has given new and unusual impetus to the renewal of moral. A distinctive orientation is found in conciliar teaching. The final configuration of the renewal, of course, only the experience of the Christian community, on pilgrimage through time under the guidance of the Spirit, will eventually tell us. Certain directions, however, are clearly discernible in Vatican's blueprint and appear to be leading the pilgrim's hesitant steps forward at the present time.

Perhaps the most influential contribution to moral theology made by the Council is the insistence on the importance of the empiric sciences. *Gaudium et spes* states: "In pastoral care, appropriate use must be made not only of

theological principles, but also of the findings of the secular sciences, especially of psychology and sociology."⁹ This is an oft-repeated theme of other conciliar texts.¹⁰ The same injunction is implicit in the whole section of *Gaudium et spes* entitled "The Proper Development of Culture."¹¹ The message of this passage, unique in the social pronouncements of the Church, is that she should sit down at the feet of the world and learn from the rich cultural heritages of the peoples of the earth. Not only psychology and sociology are necessary for the pastoral ministry. Anthropology and history, too, serve the same purpose. The magisterium, then, is insisting on the importance of the behavioral sciences, as no official teaching has done before. Also the "natural sciences," especially "biology," have a role to play.¹²

This need within moral of an opening to science is not predicated expressly of moral but of theology as a whole. There is no doubt, however, that moral, pre-eminently an interdisciplinary field, is enjoined to make of science an ally.

A second direction for moral from the Council is not so immediately perceptible. It is contained in the well-known doctrine of the role of the laity in the Church. The point here is not simply that laymen should become proficient in the sacred sciences, long the domain of the clergy, though this too is part of the conciliar theme. It is rather that there are crucial implications for the teaching of moral in the Council's doctrine of the place of the laity in the Christian community.¹³ A broad overview of this doctrine should suffice, since it is a familiar theme and uncontested. First, the layman is accorded a more intimate participation in the mission of the Church. This is true not only of his priestly function and the consequent closer co-operation with the clergy in the liturgy. It pertains likewise to his prophetic role, whereby he witnesses to the faith in his life and is teacher to others. Very importantly, it concerns the layman's participation in the royal office of Christ. Specifically, he is assigned a prior, though not exclusive, responsibility over the temporal order, the secular.

Moreover, laymen are to have "lawful freedom of inquiry and of thought, and the freedom to express their minds humbly and courageously about those matters in which they enjoy competence."¹⁴ The basis for their heightened

⁹ Constitution on the Church in the Modern World, no. 62 (*The Documents of Vatican II*, ed. Walter M. Abbott, S.J. [New York: Association Press, 1966] p. 269).

¹⁰ Cf. Decree on Priestly Formation and Declaration on Christian Education.

¹¹ Part 2, chap. 2, nos. 53-62 (*Documents*, pp. 259-70).

¹² *Ibid.*, no. 5 (*Documents*, p. 203).

¹³ Cf. Dogmatic Constitution on the Church, chap. 4 (*Documents*, pp. 56-65), and Decree on the Apostolate of the Laity.

¹⁴ Constitution on the Church in the Modern World, no. 62 (*Documents*, p. 270).

role in the Church is the greater maturity recognized in the laity today, which makes them worthy of their new responsibility and the exercise of their baptismal consecration.

The doctrine just outlined has profound and far-reaching implications which will require years of reflection and experimentation to realize. Tensions will be created. Trial and error will take place. Change and adaptation on the institutional level will be necessary—for example, in the exercise of authority. But the new freedom and responsibility of the laity will release tremendous energies for the growth of the kingdom of God.

Furthermore, greater freedom of individual conscience must be given the laity than in the past. A fortiori this is so of adults; for the Council says of children and young people that they “have a right to be encouraged to weigh moral values with an upright conscience, and to embrace them by personal choice. . . .”¹⁵ The comment of Bishop Emmett Carter on this text deserves to be cited in full:

The theme of personal responsibility which has dominated so many of the deliberations of Vatican II comes out very clearly here. Note the insistence on children and young people and their own development in contradistinction to a previous attitude of education as if it were imposed from above. There is an interesting connection between this paragraph and the Declaration on Religious Freedom.¹⁶

The more mature the person, the less need of external direction.

This can only mean that moral teaching in the Church must take more the form of broad guidelines for human conduct and be less the detailed codes of rules it was in the past. Priest moralists, the cleric teacher, and those in the pastoral ministry must share with the layman some of the functions they have exclusively exercised in the past. The clergyman will have to yield “the principal role” to his lay brothers as regards the moral theory and the practical implementation of the mission of permeating the world with the spirit of Christ.¹⁷ The morality of specific states of life, e.g., medicine, politics, law, scientific research, etc., should be elaborated in future by laymen professional in these fields.

Not having exercised such functions in the past, many of the laity will be reluctant to assume such responsibility. They will still come to the clergy expecting us to have all the answers. The Council seems to have anticipated this reaction: “Let the layman not imagine that his pastors are always such

¹⁵ Declaration on Christian Education, no. 1 (*Documents*, pp. 639–40).

¹⁶ *Documents*, p. 640, footnote 8.

¹⁷ Cf. Constitution on the Church, no. 36 (*Documents*, p. 63).

experts, that to every problem which arises, however complicated, they can readily give him a concrete solution, or even that such is their mission."¹⁸ We of the clergy in all humility will have to be content often with words of guidance and inspiration. We will sometimes have to say "I don't know" to the question "What should I do?" We shall many times have to say "That is your decision."¹⁹

A third epistemological directive from Vatican II for moral is that it be ecumenical. Again we have a conciliar theme that is familiar and requires no documentation. The ecumenical movement is not limited to common worship among Christians. Obviously it extends to theology, for on this level must come the meeting of minds leading to ultimate reunion of the churches. Speaking of non-Catholic Christians, the Council says: "to them also He [the Holy Spirit] gives His gifts and graces, and is thereby operative among them with His sanctifying power."²⁰ The Spirit has much to teach us Catholics from their Christian living and writings, as they from us. The impact of such intercredal sharing of moral thought is only now beginning to be felt.²¹ In time a rich accretion to Catholic moral theology will result.

In the light of the foregoing epistemological considerations, the present survey next presents currents of moral thought from the sources of behavioral and natural science and of non-Catholic writers. They will be illustrative of the theory of moral we have tried to set forth. Of various moral topics, those of medical morality and sexuality have been chosen. These two are being most questioned at the moment and are the object of intensive re-study.

REVIEW OF THE MEDICAL LITERATURE

Of the epistemological norms set forth at the beginning of this survey, several have particular application in the area of medicine. These are the opening to science (here biological and medical science), the Vatican Coun-

¹⁸ *Ibid.*, no. 43 (*Documents*, p. 244).

¹⁹ Raymond Baumhart, S.J., makes another of his worth-while contributions: "The Theologian and Moral Problems of Business," *Homiletic and Pastoral Review* 66 (1966) 995-1001. He complains that theologians are behind the times. We do need to know far more of social science. Business morality is where laymen and professionals like Fr. Baumhart ought to be writing the moral theology.

²⁰ Constitution on the Church, no. 15 (*Documents*, p. 34).

²¹ The revision of seminary formation and curriculum is one subject that is being cross-pollinated. Cf. Charles R. Fielding *et al.*, "Education for Ministry," *Theological Education* 3 (1966) 1-252; Olin T. Binkley *et al.*, "Theological Education for a Changing Ministry," *ibid.* 3 (1967) 263-337; John Auricchio, S.S.P., "A Renewed Seminary Curriculum," *Pastoral Life* 15 (1967) 24-52.

cil's recognition of the greater maturity and responsibility of the laity (here the layman professional in medicine or biology), and the conciliar teaching of the temporal order as the primary responsibility of the laity. In reality, the first two norms coincide. The science is the scientist's. There is an important difference, however. The scientist sometimes speaks as a Christian. He does not merely report the facts and conclusions of his empiric discipline; he sometimes makes value judgments about them in the light of faith. We cannot write him off, then, as simply giving us what is, not what ought to be. Indeed, at times he reveals an insight into human and Christian values which the nonprofessional in the field does not have.

The following topics have been selected for moral reflection: the doctor's role in the formulation of medical ethics, the present biological status of oral contraceptives and of intrauterine devices, and moral perspectives of public health on the levels of intranational and international medicine.

As for the doctor's role in medical ethics, the rule of thumb, operative and adequate until recently, read like this: the principles of medical ethics and their application should be the collaborative effort of the man of medicine and the moralist. The latter, unless he has professional competence in medicine, cannot judge the specifically medical aspects of a given medication or procedure. Evaluation on this level belongs to the physician. "But the doctor should recognize that he, in turn, as such, has no special competence in moral science, and that the principles which determine the lawfulness of a particular medical procedure belong to moral, not medical science."²²

In the light of our epistemological norms, a reevaluation of the respective roles of the moralist and doctor is needed. There is something too facile here, a kind of physician-stick-to-your-scalpel simplicism. First, prescind from the objective data to be evaluated and concentrating on the appraising subject, the Catholic doctor has a remarkable sensitivity to moral value. He is deeply aware of his ministry of healing and conscious of the reverence due to human life. Moreover, this is not just a visceral knowledge, product of immediate, prereflective experience, but a systematic grasp of principle. He is more knowledgeable in moral matters than his medical forebears. This greater maturity is indeed worthy of the recognition that Vatican II accords to the laity as a whole. The moralist should now move over and make room for the doctor. He need not any longer elaborate such detailed rules of conduct for the medical profession. General guidelines should be more his aim.

Secondly, in carrying out the respective roles of (priest) moralist and physician, account must be made of the prior responsibility of the laity

²² L. L. McReavey, "The Doctor's Responsibility for the Formation of His Professional Conscience," *Catholic Medical Quarterly* 19 (1966) 110.

for the Christianization of the temporal order. Public health and that of the individual patient pertain to the temporal. The clergyman, be he theologian, ethicist, or teacher of morality, need not withdraw from the temporal arena, in which he still retains a competence. He must, however, draw back somewhat, if this conciliar teaching is to become a reality. This is especially true in the area of medical research, so labyrinthian has it become.

Thirdly, the norm enunciated does not take sufficiently into account the dialectic that has been operative in moral science down the centuries. Moral principles applied to new situations give occasion for deeper insight into moral values, and this new knowledge in turn provides a more accurate and enriched expression of the principles of morality themselves. For example, the equality of dignity of woman as a person as compared to man has been progressively realized as she emerged from the home into the social and political spheres and demonstrated there her capacities. This growing recognition has augmented the moral science of feminine rights and duties. "Thus the more exact determination of ethical norms is the work of both reason and experience."²³ The dialectic is not limited to ethics. It operates also on the theological level. Through the centuries the meaning of divine revelation has grown in the awareness of the Christian community as it reflected on Scripture from within the historical context in which it was immersed. This is a commonplace, often referred to as the development of doctrine.

In view of the more immediate experience of medical reality by the doctor as compared to the moralist, it is interesting to look back upon certain moral conclusions we reached in the past to the puzzlement of the man of medicine. One such was the prohibition of tubal ligation in situations involving a pathological uterus. We allowed hysterectomy on the basis of double effect, but forbade the physician to tie the tubes and leave the uterus *in situ*. Medical opinion judged the latter procedure preferable for physiological and psychological reasons. Thomas J. O'Donnell, S.J., re-examines in detail the case of the uterus so damaged by multiple cesarean section as to be judged by the obstetrician incapable of supporting another pregnancy. When hysterectomy is surgically contraindicated, he rightly concludes, the tubes may be tied. If the doctor performed the hysterectomy, as the older opinion required, the tubes would have to be severed anyhow, in order to free the uterus from its adnexa prior to its removal. At this point in the procedure, when he has clamped and severed the tubes, why must he go on to remove the uterus, depriving the patient of the health benefits this organ would provide?²⁴

²³ Joseph de Finance, S. J., *Ethica generalis* (Rome: Gregorian Univ., 1963) p. 188.

²⁴ "Current Moral Comment," article to appear shortly in the *Georgetown Medical*

No definitive theory of the respective roles of moralist and physician is here offered. Yet the evidence reviewed above strongly suggests that a viable hypothesis must allow the latter's sensitivity to moral values to enter into the moral judgment of cases and the elaboration of moral theory. Collaboration with the moralist remains, however, a need of the doctor. As an example in point, John Holden reviews the latest medical data on the transplantation of organs.²⁵ Kidney transplants, e.g., to date have had very limited success. Yet the popular image of spectacular results leads to pressure on the surgeon from the family to attempt transplantation when this is not medically feasible. Research teams, he finds, are similarly pressured to produce results, in order to qualify for renewal of foundation grants and maintain prestige, with sometimes dubious ethical consequences for the subjects involved. The professional expert in this field, the author reports, very much needs the guidance of moral science and recognizes this fact.

A survey of the medical literature on the intrauterine contraceptive devices (IUCD) covers articles appearing in the period from 1962 through 1966.²⁶ It likewise draws on private correspondence with researchers in the field. Of special interest to the moralist are the mechanism of action, the side effects, and the efficacy of the various coils and loops currently in use.

First, they are highly effective in preventing conception. However, the proverbial margin of error remains, minute though it be. As with other methods, efficacy varies with the intelligence and motivation of the user. For intelligent and well-motivated couples, they are rated far superior to diaphragm and condom but less secure than oral contraceptives. Biologically speaking, they are not the answer to the prayer of the couple who must avoid pregnancy at all costs.

Secondly, as to adverse side effects, little is known. The method is still in the experimental stage, much more so than oral contraception. Preliminary data show the incidence of pelvic infection in some patients. Long-term

Bulletin and the *Linacre Quarterly*. Other moral conclusions of the recent past are similarly in need of restudy, e.g., the prohibition of shelling of the embryo from the pathological tube in ectopic pregnancy, the prohibition of "masturbation" for sperm analysis, the absolute prohibition of therapeutic sterilization, etc. But work in these areas, if it has been done, has not come to this reviewer's attention.

²⁵ "Some Ethical Considerations in the Transplantation of Organs," *Existential Psychiatry* 1 (1966) 173-84.

²⁶ Louis A. Padovano, M.D., "Contraception and the Intrauterine Devices" (unpublished manuscript). The author notes the addition of the "Band" to the intrauterine armamentarium, specifically designed to meet the problem of the spontaneous ejection of other devices. Cf. Herbert H. Hall, M.D., "The Band—A New Intrauterine Contraceptive Device," *American Journal of Obstetrics and Gynecology* 95 (1966) 879-90.

effects on reproductive function are unknown but remain a possibility to be reckoned with. Incomplete data reveal a return to normal fertility upon removal of the device. Whether a carcinogenic effect is present or not, only lengthy research can say. At the moment, medicine can only state that no evidence exists as to an increase of risk in women free of cancer prior to insertion. Lesser side effects are vaginal bleeding in the early period of use and temporary pain. Current opinion holds that existing evidence does not contraindicate their use in field trials accompanied by medical surveillance.

Precisely how the IUCD's achieve their contraceptive goal is a matter of diverse opinion. Of some half dozen theories as to the mechanism of action, two offer the best explanation of the very limited data available: (*a*) the peristalsis set in motion in the Fallopian tube hurries the ovum through this channel before the spermatozoon can fertilize it; (*b*) the already *fertilized* ovum passes through the tube and uterus before the endometrial lining of the latter is prepared for nidation. The important difference between the two, morally speaking, is expressed in the italicized word. Explanation *a* at this early stage of research holds a slight edge over *b*.

A physiologist is likely to hold neither process to be abortifacient, since physiological development does not begin until after nidation. A medical clinician, however, is inclined to consider the second process as abortive. He conceives abortion as intervention after conception. Whether abortion in the moral sense is present is a question we will treat in another section of these Notes. Without a doubt, the IUCD's are biologically contraceptive.

This new method presents still further evidence of the revolutionary control of man over the processes of nature both within himself and in the cosmos. Earlier formulations of natural law could not conceive of nature as a system so open to human domination—understandably so in the light of the vast accumulation of knowledge about man in recent times. One further observation: the growing complexity of the science of human reproduction and the rapidity with which new knowledge is gained point up the increasing difficulty of the Holy See pronouncing definitively on the morality of the means of family planning. Magisterial teaching in such matters increasingly runs the risk of being outdated. Reliance in the Church upon a stepped-up role for the laity, professional in the sciences, is seen as more and more necessary.

With regard to the oral contraceptives, concern over adverse effects on maternal health of the steroid compounds continues to appear in the medical journals. One study, reviewing the literature from all countries and emanat-

ing from the National Cancer Institute,²⁷ concludes with considerable caution: "In view of the serious limitations in our knowledge of the potential long-term effects of estrogen-progestogen combinations, it is mandatory that further clinical experience be gained under properly controlled conditions of observation and follow-up."²⁸

The subject of the study is the normal, healthy woman who has used "the pill" over a four-year period. Cancer of the breast, endometrium, and cervix, thrombophlebitis and thromboembolism, and alteration of reproductive potential are the effects studied. Evidence for the authors' concern is, in part, the prolonged latent period—about ten years—of the chemical agents producing cancer in man. Yet humans have been exposed to oral contraceptives for nine years at most. The major portion of the existing medical data is for exposure over a period of time well below that figure. Secondly, there are extensive data establishing some relationship of estrogen to the pathogenesis of breast cancer, for example. The nature of this relationship as currently known is comparable to the knowledge of the association of lung cancer with cigarette smoking before the Surgeon General's Report established the boon companionship of these two agents.

Continued prescription of oral contraceptives is not, however, interdicted. The physician is directed to keep the risks in mind and to have due regard for other contraceptive techniques in treating his patients. In the absence of epidemiologic studies on long-term effects, the authors feel that the distribution of the steroids to millions of women by public health agencies is premature.²⁹ This posture of caution is apparently shared by the Department of Health, Education, and Welfare. Its *Report on Family Planning* notes the "need for continual close supervision" of oral contraceptives and the initiation of projects by the National Institutes of Health to monitor their long-term effects.³⁰ From such reports we are enabled to read with more accuracy the conclusion of the Advisory Committee on Obstetrics and Gynecology of the Food and Drug Administration, widely cited in the press: "The Committee finds no adequate data at this time, proving these compounds unsafe for human use."³¹ The context of this statement equivalently underlines the word "proving."

²⁷ Roy Hertz, M.D., and John C. Bailar III, M.D., "Estrogen-Progestogen Combinations for Contraception," *Journal of the American Medical Association* 198 (Nov. 28, 1966) 1000-1006.

²⁸ *Ibid.*, p. 1005.

²⁹ *Ibid.*, p. 1001.

³⁰ Issued September, 1966 (Government Printing Office) pp. 19, 34.

³¹ *Report on the Oral Contraceptives*, August 1, 1966 (Government Printing Office) p. 13.

On the subject of public health, Prof. Luigi Gedda contributes some illuminating observations.³² Describing the situation in Italy, he reaches conclusions applicable, *mutatis mutandis*, to other climes including our own. The touchy question of the relation of the medical profession to government and the economy is explored. (One recalls the stormy history of medicare in the United States.) The older distinction between public agencies of health and private health organizations and the doctrine of separate and independent jurisdiction vis-à-vis government and the medical profession, he finds, are no longer tenable. They do not correspond to reality. For centuries public health was the exclusive concern of the Christian community, not of the body politic. Today's ideal of health, however, affirms the right of every person to "health . . . medical care and the necessary social services" to implement this ideal in every land.³³ Medicine finds itself increasingly in need of political action.

A further demand on medicine to involve itself in the political sphere is found in the economics of administering the vast programs of both preventative and curative medicine. There is an inextricable intertwining of medicine and the economy in public programs of adequate housing, sufficient income to insure proper diet, the care of the aged, relief from demographic pressures, etc.

From this situation there springs new responsibility for the man of medicine. He must stay abreast of this broader social dimension of his profession, be concerned about it, engage in the continuous reevaluation of the situation, and see that the hierarchy of values is observed. The problem is complicated, Gedda admits, the circumstances vary from country to country, and the risk is perennially present of undue government intervention. Yet the responsibility remains. The medical and scientific communities are called upon to realize a sensitivity to moral values and a responsibility in the biological, political, and economic fields as never before. Not least among these new functions is the ministry of peace to a world imbued with the hatreds that still breed wars: "Enlightened by Christian conscience, the doctor himself may become the lay brother who discovers within his profession the authoritativeness to speak to the public and the politicians in those words of truth and love which are essential to peace."³⁴

Dr. Carl E. Taylor, head of the Division of International Health, Johns Hopkins, develops this theme still further.³⁵ Health needs abroad cannot be

³² "The Sick Person and the Community," *Catholic Medical Quarterly* 19 (1966) 78-87.

³³ Article 25 of the Universal Declaration of the Rights of Man. ³⁴ *Ibid.*, p. 87.

³⁵ "Ethics for an International Health Profession," *Science* 153 (1966) 716-20.

adequately provided by volunteers from private practice to serve overseas. A "career corps" of MD's professionally oriented in the social sciences is required. The reorientation from private practice to public service involves a jolting change of focus from individual to group. "A woman is either pregnant or not pregnant; a community is about 3 percent pregnant."⁸⁶ The taking of pulse and temperature becomes the reading of statistical measurements revealing rates of birth, death, infant mortality, etc. The careerist must learn to turn a deaf ear to the dying individual in the interests of the community, without feeling guilty about it. Hard decisions must be made according to the demands of socio-economic conditions and the hierarchy of values. This and more are set forth by Dr. Taylor as matters of ethical duty, not merely of humanitarian impulse or of purely empiric fact.

It comes with a measure of pleasure to find faced realistically the dislocations in the economies and living patterns of the developing nations caused by international medicine. Widespread inoculation and the mass use of DDT conspicuously drop death rates and as conspicuously unbalance existing resources for feeding and educating the suddenly augmented populace. This writer has had the experience of recommending the co-ordination of health programs with economic development, even though this may mean the slowing down of health and life-giving programs. This was likely to be met with a reply from doctors: "You are right, but you won't sell this to the medical profession." Dr. Taylor spells out the ethical imperative in terms of close co-operation with social and economic agencies, the learning of the language and values of the host country, and the like.

He is also acutely aware of the problem of neocolonialism, the "uncontrollable tendency for the helping country or organization to draw the recipient country toward its own approach, organizational pattern, and values."⁸⁷ Painful changes in behavior and value systems of the host nation necessarily result from development. Neocolonialism has long been the complaint of the anthropologist to the missionary and the government agent working among underdeveloped peoples. Its recognition by the medical profession and the Peace Corps hopefully heralds the beginnings of the demise of this moral monster.

The contributions of both Gedda and Taylor reveal the ethical insight and familiarity with the situation which the moralist as such cannot objectify and articulate. Only immediate experience of the reality described and a professional acquaintance with social science can produce this kind of ethical

⁸⁶ *Ibid.*, p. 717. ⁸⁷ *Ibid.*, p. 718.

writing. The moralist has reason to be grateful that the opening of his discipline to science, and to the scientist sensitive to moral values, can enrich it immeasurably.

CHRISTIAN LOVE AND SEXUALITY

Much of value has been written on love and sexuality in the half year covered in this survey—too much to be reviewed here. Celibacy has been a favorite topic. The biblical theology of sex has received attention. Masturbation and homosexuality were treated. We have selected instead, in line with the epistemology we are following, the declining sex mores in our society and the new standards coming to the fore in the dominant culture, as seen through the eyes of a sociologist. Thereafter an old Catholic stand-by, contraception, will be considered. It is chosen for its timeliness; there are other Christian values in marriage and the family of greater import.

Lester A. Kirkendall, Professor of Family Life at Oregon State University, does a sociological analysis entitled "Sex Revolution—Myth or Actuality?"³⁸ He holds that there is no revolution in sexual mores in the United States today, though a revolution of the right kind is sorely needed. None exists at present in the absence of real ideological direction to the current shifting mores. Nor is such direction likely to come from teen-age youth in society. It requires the leadership of experienced persons who have authority and social insight. He admits that strong forces for change are at work in society, especially the medical advances in contraceptive techniques and the open discussion of sex via the mass media. Change so externally induced, however, is not likely to be constant.

The cultural unwillingness to accept authoritative standards by fiat, Kirkendall continues, has definitely moved into the area of sexuality. "The negative deterrents upon which conventional standards have been based have largely lost their threat and their power to motivate."³⁹ The author proceeds to point out the weaknesses of the traditional cultural norms. They tended to set sex apart from its proper context of purposeful living. The current reaction to the shortcomings of the traditional approach is the growing view of sex as primarily a sensory pleasure valued for the satisfaction it provides the individual.

³⁸ *Religious Education* 61 (1966) 411-18. The entire issue is a symposium on "The Sexual Revolution and Religious Education." Cf. also Richard F. Hettlinger, "Sex, the Church, and the College Student," *ibid.*, pp. 418-23. Kirkendall is also the author of *Pre-marital Intercourse and Interpersonal Relationships* (New York: Julian Press, 1961).

³⁹ *Ibid.*, p. 411.

The solution to the problem of adequate sexual norms is the integration of sex into life patterns in a way that enhances growth and love. This is no easy task. It can only be achieved by analysis of and research into what constitutes "loving" and "hostile" uses of sex in our sociological context. Kirkendall continues with a criticism of sexuality as lived by Americans. Sex is still our primary moral obsession, not violence or race hatred. Secondly, it is disproportionately concerned with sexual acts to the neglect of attitudes and the consequences of acts. The biggest mistake the churches have made is "reliance upon institutionalized authority in the form of Scriptural injunctions. . . ." ⁴⁰

Kirkendall declares himself in sympathy with those who espouse situation ethics or an ethic of love. There are weaknesses, however, in such open approaches. They are apt to be vague unless the nature of love is spelled out in terms of specific guidelines for conduct. With a situationist approach, the moral agent may feel that every situation is wholly new and so different from any other that he must analyze each situation entirely on its own terms. Both ethical types need implementation to provide adequate guidance. To meet this need, Kirkendall offers his theory of "interpersonal relationships," really an ethic of love but in different dress. The norms he has elaborated from his extensive study of the social and psychological data are: "the moral [good] decision will be the one that works toward the creation of trust, confidence, and integrity . . . now and in the long run."⁴¹ Acts which have the opposite consequences are immoral. Supplementary norms for analyzing the interpersonal relationship are the kind of motivations, the readiness of the individual to assume responsibility for his action, and the type of communication that characterizes the relationship. These he has spelled out in detail in his other writings.

Finally, he answers the criticism that the moral approach he advocates is too permissive: "Relationships and their outcome are governed by principles which are unvarying and which cannot be repealed. The fiat of parents or the strictures of religionists can be softened, but there is no tempering of the consequences of dishonesty, lack of discipline, lack of respect for the rights of others upon interpersonal relationships. . . ." ⁴²

The above has been set forth in detail. The reason was not that this represents the last word the empiric scientist has to offer the theologian. Other behavioral scientists would stress more than Kirkendall the need of the person, especially the adolescent, for group norms. What he gives us, though, is a

⁴⁰ *Ibid.*, p. 415. ⁴¹ *Ibid.*, p. 416. ⁴² *Ibid.*, pp. 417-18.

sample of a kind of approach which the educator and the moralist are no longer free to ignore. There is a growing body of literature of this kind, most of it appearing in book form.⁴³

There remains, of course, the Christian dimension that would have to characterize a theological synthesis incorporating such material as Kirkendall's. One point is clear now, however, if only from the viewpoint of effective pedagogy: we can no longer reach our young people by speaking to them solely from authority. This is true whether it be in terms of church teaching or the condemnations in Holy Scripture. For years Catholic sociologists have been offering us this same kind of criticism and positive suggestion for our Catholic morality and moral teaching.⁴⁴ Apparently they were prophets speaking in their own country. It has taken an ecumenical council, the worsening of cultural mores, and confirmation by their non-Catholic confreres to alert us to the validity of the message from behavioral science.⁴⁵

The controversy on contraception continues in the period under review. The subject, however, does not engender quite the intensity which earlier characterized it. Rightly or wrongly, the persuasion is about that a change will come in the official teaching of the Church. Before treating the present theological status of the question, a brief overview of the factual situation is in place, the background for theological discourse. What biological research is being done on methods of fertility control? What is the practice of Catholic spouses as to the method of family planning? What is to be said of the current spate of writing on the subject?

A *Report on Family Planning* of the Department of Health, Education, and Welfare states that the Food and Drug Administration has approved eight oral contraceptives for sale and is investigating twenty-eight others. In the fiscal year 1966, some \$6.5 million were devoted to population research projects. Among these, study on the rhythm method was given a certain priority: "Emphasis has been placed on the study of the menstrual cycle in order to gain a better understanding of ovulation, with the goal of increasing the effectiveness of the rhythm method of contraception."⁴⁶

⁴³ E.g., Evelyn Duvall, *Why Wait Till Marriage?* (New York: Association Press, 1965); Richard F. Hettlinger, *Living with Sex: The Student's Dilemma* (New York: Seabury Press, 1966).

⁴⁴ Cf., e.g., John L. Thomas, "The Place of Sex," *Social Order* 7 (1957) 195-201.

⁴⁵ Other recommended literature on this subject: *Dialogue* 5 (1966); the whole issue is a symposium on "Sex and the New Morality."

⁴⁶ Issued September, 1966 (Government Printing Office) p. 19. Rumor has it that such research programs have influenced Pope Paul's postponement of his statement on the morality of family planning. Supposedly biologists on the papal Commission have assured him of the imminence of a break-through, the pinpointing of ovulation, so that periodic

Likewise, social research is being sponsored by the government on an object of interest to Catholic moralists, the possible relationship of abortion to the nonavailability of family planning services. The moralist has felt that the lesser-of-two-evils argument is theoretically applicable to questions of this kind. For example, a United States policy of contraceptive assistance may be justifiable with regard to India as a substitute for a program of mass sterilization, or to supplant legalized abortion in Japan. But without the relevant social and psychological facts at hand and a grasp of the foreseeable consequences of such a policy, he has been rightly reluctant to apply the lesser-evil principle. With the money, brain power, and computerized programs presently devoted to research on such questions, the mass of empiric data needed to make moral evaluation possible may be available in the not-too-distant future. This evidence and that of other government studies, e.g., "comparisons of the health characteristics of legitimate and illegitimate births," are of direct pertinence to Catholic co-operation with public programs of family planning.⁴⁷

Articles on the Church and contraception continue to proliferate in the press. So extensive is the literature that a review of even a representative cross section is impossible here. Several characteristics, however, are worth noting. The Catholic press speaks quite freely both for and against a change in doctrine. At least those weeklies that are considered "progressive" and such popular magazines as *Jubilee* and *Marriage* regularly contain articles advocating a new teaching.⁴⁸ A trend characteristic of this literature is the tendency to go beyond the basic question and to synthesize new data with traditional doctrine. Thus, Josephine Ryan interestingly relates recent biological findings, marital experience, and a feminine viewpoint to natural law in "Contraception Fulfills Nature."⁴⁹

The secular press still shows the extraordinary interest in this issue which it manifested in all matters Catholic during the sessions of the recent Council. The mass-circulation women's magazines still run an occasional article. The newspapers regularly publish accounts of developments. By and large they strive to report accurately not only relevant facts but theological argumentation. This phenomenon of unusual secular interest in the religious

abstinence would be narrowed to a couple of days. This would provide a secure method for Catholics and preclude the need of a doctrinal decision at the present time. Whether the rumor is correct, biologists do so speak.

⁴⁷ *Ibid.*, p. 21.

⁴⁸ E.g., William V. D'Antonio, "Why I Changed My Mind about Birth Control," *Marriage*, September, 1966, pp. 24-31.

⁴⁹ *Catholic World* 204 (1966) 207-12.

is apparently here to stay, endemic to the mass media and the movement toward one-world culture. Gone are the days when Catholics could have an internal discussion and keep it within the community. We can only learn to live with it and welcome the advantages derived therefrom.

One such advantage is the reporting of sociological surveys on the practice of contraception. A statistic in point: approximately 54 percent of fecund Catholic couples use methods of family limitation other than rhythm.⁵⁰ A majority of the faithful in this category, therefore, do what is immoral according to official Church teaching. Data from reliable sociological studies provide an empiric test of the effect on the daily lives of Catholics of the doctrine that is taught. We cannot write off all these surveys as popular-opinion polls of the man in the street. Experts in statistical analysis insist that some of them employ the scientific norms for accurate sociological measurement. The day is past when naked-eye observation is adequate to make known the actual state of religious practice. The social scientist has become the indispensable ally of the moralist and the pastor of souls.

Statistical studies of this kind reveal nothing, however, about the motivation and intent of the married laity, the specific moral aspect of the question. In the absence of sociological surveys on this point, one can only fall back upon the observations of the parochial clergy and of the laity themselves. A wide-ranging moral spectrum emerges. Some married faithful say that their faith in the Church will be shaken if there is any change. Many married couples state firmly that they will not alter their method of family limitation until and unless the Holy Father says they may. Some admit that they have changed to artificial contraception but feel guilty about it. Others declare that they have changed and feel they have conscientiously justified their decision. At the other end of the spectrum are those who state that their faith in the Church will be shaken if a change in the official teaching is not forthcoming. A danger implicit in all this is that of defection from the Church, since the word still means the hierarchical Church for many. The Vatican II concept of the Church as "the People of God," the whole Christian community, pastors as well as the other faithful, has not impregnated their thinking as yet.⁵¹ Consequently, disillusionment with the official Church can lead, illogically, to leaving the fold.

Summing up: at the present time Catholic thought and practice is marked by confusion, doubt, and disparity. The picture just sketched bears out what Catholic sociologists have long been saying: our Catholic subculture is pre-

⁵⁰ Cf. Ryder and Westoff, "Use of Oral Contraception in the U.S., 1965," *Science* 153 (1966) 1199-1205.

⁵¹ Constitution on the Church, chap. 2 (*Documents*, pp. 24-37).

occupied with avoiding contraception as the realization of conjugal virtue; this appears out of step with the hierarchy of values in conjugal life as seen according to theological norms. Though the present uncertainty is to be deplored, the fact of discussion by the laity of such matters is in accord with the teaching of Vatican II.

Running through this state of confusion there was a note of expectancy. The Catholic community awaited the voice of its supreme pastor in the autumn of 1966 and the results of the deliberations of the Papal Commission. That body of fifty, composed of laity and clergy, bishops and priests, married and celibate, theologians, demographers, social and medical scientists, was the Church in miniature. Yet after a year or more of intensive study, aided by still other experts consulted in all parts of the world, they apparently had not been able to reach a consensus. Nor had Pope Paul been able to make a decision when on October 29 he once more delayed his definitive statement and reiterated the continuance in force of the official norms. His reference to the "enormous complexity and fearful gravity" of the question of birth control could only be received with understanding by anyone conversant with the problem in all its dimensions.

One part of his October statement received a mixed reaction in the Catholic press. The Pope said that the magisterium was in a state of "reflection" but not of "doubt" on the question. Some journals expressed disbelief, others puzzlement. John T. Noonan, author of *Contraception: A History of Its Treatment by the Catholic Theologians and Canonists* (Cambridge: Harvard Univ. Press, 1965), gave a different interpretation. "The knowledge and attitude of the present Pope himself and the language of recent official pronouncements" lead to the conclusion that the norms of *Casti connubii* could change.⁵²

Turning now to the present theological status of the question, a distinction should be made between the mood of theologians and their doctrinal positions. They differ in the latter respect. The mood is common to all. It reads: "Let's be done with it! Let's get off the contraceptive merry-go-round." What goes in circles does not move forward. It concentrates all attention on the morality of the means of family limitation to the neglect of the important values of conjugal love and of responsible parenthood.

Denis O'Callaghan of Maynooth presents a calm and objective survey of present theological opinion on contraception.⁵³ He reviews the evidence pro and con, from reason, tradition, and the authoritative teaching of the magis-

⁵² "The Pope's Conscience," *Commonweal* 85 (Feb. 17, 1967) 559.

⁵³ "The Evolving Theory of Marriage," *Clergy Review* 51 (1966) 836-49; reprinted in the *Catholic World* 204 (March, 1967) 326-34.

terium. The conservative, moderate, and progressive positions are evaluated, the strengths and weaknesses of each carefully weighed. He concludes that the question has not been definitively settled. "The time-honoured arguments are not fully convincing, and tradition and authority should not be used to bolster up a position which cannot be proved rationally."⁵⁴ Next he recognizes the validity of the argument that the Church can teach truth even though evidence from reason cannot substantiate it. Then he says: "This may well be, but the onus of proof cannot be shelved, and in these circumstances the usual theology of the probable opinion would hold sway."⁵⁵

Canon Louis Janssens of Louvain develops his approach to conjugal morality beyond that of his earlier writings.⁵⁶ The values of generous fertility and responsible parenthood are treated in the context of the decisions usually faced by the married couple. His earlier thought is thus carried through into the area of casuistry. Whether or not one agrees with the Canon's well-known position on birth control—the acceptability of the pills and of other contraceptives in some circumstances—we cannot afford to ignore his reformulation of conjugal morality as a whole in a terminology closely approximating that of the Vatican Council.

There is a further dimension to the birth-control question beyond that treated above. Far more is involved than the issue of contraception itself. First, it has strong implications for the ecumenical movement. Religious News Service published the text and list of signers of a lengthy and urgent appeal to Pope Paul for a new position on birth control in the light of the population dilemma.⁵⁷ Among the eighty-five signers, all prominent churchmen and scientists, were John C. Bennett and Reinhold Niebuhr of Union Theological Seminary, Franklin Clark Fry, Chairman of the World Council of Churches and President of the Lutheran Church in America, and Ben Mohr Herberster, President of the United Church of Christ.

Within the Catholic community there is the crucial pastoral issue of the faith of the faithful. The resolution of the controversy will bear importantly upon the role of the mature Christian conscience on the one hand, and on the other upon the requisite docility to the Holy Spirit speaking through the magisterium. Whatever way the decision of Pope Paul turns, it will profoundly and extensively affect the theology of conscience and authority. A division will be created within the ranks of God's People, whether the papal

⁵⁴ *Ibid.*, p. 848. ⁵⁵ *Ibid.*, p. 849.

⁵⁶ "Moral Problems Involved in Responsible Parenthood," *Louvain Studies* 1 (1966) 3-18.

⁵⁷ Under the date line November 25, 1966, pp. 1-5.

pronouncement represents simply a reaffirmation of *Casti connubii* or a change in doctrine.

In such a state of affairs something must be done to preclude untoward results, or at least to lessen their impact. The following may help towards this goal, without anticipating the papal decision. It may clear the theological air of some of the confusion and misunderstanding.

The thesis, briefly stated, says: a change is already at hand; *Casti connubii* is an integral part of the new doctrine. That a change is at hand is predicated on a twofold basis. First, as Pope Paul has expressly acknowledged, new and pertinent data have come from the related fields of medicine and demography. A contemporary theology of marriage and the family cannot but be influenced by such data and, by definition, provides guidance for the People of God in the problems they face in present human existence. Again, at the direction of Paul VI, the Papal Commission has labored intensely over all aspects of the question—theological, philosophical, as well as empiric. It is inconceivable that new and important conclusions have not been reached. Else theology would be a static thing that never grows, the development of doctrine not a reality.

The second ground for existing change is the Vatican Council's teaching on marriage and the family.⁵⁸ The point here is not that the Council settled the specific issue of the morality of the methods of family limitation, as some have tried to maintain. Pope Paul and the Bishops rightly felt that there had not been sufficient theological discussion in the Catholic community for an ecumenical council to address itself to this matter. The issue of the morality of means, then, was not treated by the Council. The point is that the revaluation by the Council of the whole area of conjugal morality has indisputably resulted in a new orientation, a new doctrine of marriage and the family. Conjugal love was appraised as never before and its importance not only for the growth of the spouses but for the good of the children was newly recognized. For the first time in magisterial teaching the decision as to the number of children was clearly assigned to the parents. A reorientation of doctrine cannot but have important implications for the morality of the methods of limitation.

For this reason the conciliar teaching necessarily will affect any future pronouncement by the magisterium. Another reason exists. It is theologically unthinkable that a papal statement at this time would not align itself with the Council's teaching. A statement not so aligned would entail further de-

⁵⁸ Constitution on the Church in the Modern World, Part 2, chap. 1 (*Documents*, pp. 249-58).

lay in the whole unfortunate controversy; for the theologians would then have to exercise their traditional role in the Church, that of reconciling two teachings, apparently conflicting, both from within the magisterium.

In this connection it is pertinent to recall the two themes of *Casti connubii*. The familiar one expresses the primary purpose of marriage as the procreation and education of children. The other, less well remembered, states that conjugal love holds a "certain primacy of nobility in Christian marriage" and that the mutual perfection of the spouses is "the primary cause and reason (*ratio*) of marriage," if matrimony is not conceived as an institution for the rearing of children but as a community of life.⁵⁹ Discussion of this question of the primacy of purpose went on in the Church until a statement of the Holy Office terminated it in 1944.⁶⁰ In 1967 no such resolution of apparent conflict in teaching can be forthcoming. The Sacred Congregation of Doctrine has a new role by the decision of Pope Paul. Also, collegiality has been affirmed by the Council, and the action of the Holy Spirit through all the ranks of the Christian community, laity included, has been clearly taught.⁶¹

From the evidence cited above, the new data, the deliberations of the Commission, and the conciliar teaching, we may conclude that *Casti connubii* is historical theology. This means that it is integral to the tradition, but it is not an adequate theology for today's world and its questions and problems. In the light of all the above it is difficult to see how the magisterium could simply reaffirm the earlier teaching, as some have been insisting. A new doctrine is already in existence; it includes the tradition as an integral part of itself.

ABORTION AND THE LAW

Law and morality are not the same. One may adopt a public policy of approval, or at least of toleration, regarding a law that works evil, if lesser evil in the over-all results. But it is quite a step from the lesser-evil principle to its application to abortion laws. Another precaution: argumentation from analogy in such matters is singularly precarious. Laws permitting abortion are in a totally different moral category than those which provide contra-

⁵⁹ "Quemdam . . . principatum nobilitatis; . . . etiam primaria matrimonii causa et ratio" (*AAS* 22 [1930] 547-49).

⁶⁰ Cf. Noonan, *Contraception*, pp. 495-99.

⁶¹ It was his perception of this last truth, no doubt, that led Pope Paul to include married couples on the papal Commission.

ceptives at public expense.^{61a} Incipient human life has a value of a far higher order than do the seeds of life. With this in mind we approach the question of Catholic public policy and the movement afoot to broaden existing abortion law.

A circular distributed by the San Francisco Citizens' Committee for Humane Abortion Laws lists five reasons for change in the statutes at present on the books:

- 1) to relieve women of the fearful burden of carrying a pregnancy resulting from rape or incest;
- 2) to aid where birth control methods have failed;
- 3) to aid the parents of economically depressed, unhappy, oversized families;
- 4) to aid any woman who has an unwanted pregnancy for any reason;
- 5) to make abortion legally available at a cost that is not prohibitive. . . .

The statement concludes with an assertion that prevailing laws and social attitudes encourage criminal abortion, which will be reduced by more humane legislation. Typically, no reliable data are offered as to the incidence of criminal abortions, the categories of persons undergoing them, or sociological evidence for the expected reduced rate of women patronizing the illegal abortionist. When such data are presented, they are often of the unscientific variety. We need far more hard evidence than exists as to the prevalence of illegal abortion, the percentage of rape victims seeking it as compared to, say, married mothers who do not want another child, accurate figures on maternal mortality, etc.⁶² In the absence of such evidence, an empirically oriented moral, where so high a value as life is at stake, sees irresponsibility in a policy advocating a change in law.

In contrast to the Citizens' Committee proposal above, the new abortion bills presently before state legislatures are more tightly drawn. Most of the states with new legislation pending follow the American Law Institute's model statute: "A licensed physician is justified in terminating a pregnancy if . . . he believes there is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother or that the

^{61a} Since these lines went to press, the new Encyclical *Populorum progressio* has been issued. It is squarely within the conceptual framework of Vatican II. Though the morality of contraceptive means is not settled, this question is placed in proper perspective; only one of eighty-seven paragraphs is devoted to it.

⁶² Some data are available; for example, *World Medical Journal* 13 (1966) 69-88, reports on abortion in Sweden, the Socialist countries of Europe, and a limited study done in New York City.

child would be born with grave physical or mental defects or the pregnancy resulted from rape . . . or from incest."

Norman St. John-Stevas reports his reactions to such legislation from the legal point of view.⁶³ The Anglo-American legal tradition has insisted on the right to life and the necessity of protecting it. The sanctity of life is rooted in common law and finds expression in the whole series of declarations of the rights of man over the past centuries to the present day. This same tradition has protected the rights of the unborn.

As for the phrasing of the new bills, St. John-Stevas states that there is "confusion and controversy amongst lawyers as to . . . what is meant by health, and how serious the threat to the mother's well-being must be."⁶⁴ Regarding the victim of rape he says: "Rape . . . is a charge notoriously difficult to prove and extremely easy to allege."⁶⁵ Next he adverts to the current opinion that it is the right of every child to be born wanted. Following this line of thought would lead to the conclusion that abortion is not only a right but a duty. "Children have been warned: they must choose their parents carefully."⁶⁶ There is a social problem here to which St. John-Stevas does not call attention but which American Catholics must seriously consider. Statistics show mounting incidence of child beating. Short of physical violence, psychologists testify to the number of children whose psychological development has been stunted or twisted by lack of parental attention and love. The moral issue is not simply that life is a transcendent value. There is a conflict of values: Is no life sometimes better than subhuman existence? Traditional Catholic morality has allowed one to desire to be dead when his life is worse than death, though it has not permitted the desire to be made effective.

St. John-Stevas regards as a new departure in law the aim of the new legislation to preclude the birth of an abnormal child. Given the medical problem of the prognosis of the quality and degree of abnormality, it is more reasonable, he suggests, to wait until after birth and then kill the child. Moreover, Anglo-American law has never conferred the right on one person to decide whether another's life is worth living. This leaves the important question of how to propose a Catholic position. "If one advances [in the public forum] purely theological arguments against abortion, one will find that one is literally talking to himself. . . . Theology is no longer queen but servant in our contemporary pluralist society."⁶⁷ Rather, social arguments should be stressed—the good that has come to mankind from the principle of respect for life and the threat to society in the current spate of permissive

⁶³ "Abortion Laws," *Commonweal* 85 (1966) 163–66. ⁶⁴ *Ibid.*, p. 164.

⁶⁵ *Ibid.*, p. 165. ⁶⁶ *Ibid.*, p. 164. ⁶⁷ *Ibid.*

abortion bills. Finally, he submits that Catholics should not oppose a new law which would simply clarify an existing statute. Laws must be clearly worded for the protection of those involved.

This last line of reasoning suggests another conclusion. Law must indeed draw its lines sharply, to insure that rights granted by law are not exercised to the detriment of the rights of others, to serve clear notice to all where the protections of law extend and where they end. In the present instance a definite line has to be drawn; for at least in the last weeks of pregnancy human life is certainly present and just as certainly must be protected by law. But medical science cannot tell us precisely when human life is there. When does animation occur? When is a fetus a person? The perennial question is still with us without conclusive answer. Despite all the research in recent years, science has no clearer evidence for the solution to this philosophical question than ten years ago. "We don't know," is the constant reply.

There are new biological data but they concern the time when animation is not present. This does not answer the question raised. Nor will it satisfy the aims of the proponents of the new abortion bills. It does, however, point toward two conclusions, one affecting the morality of the IUCD's, the other bearing on traditional Catholic public policy on abortion. The new data are twofold. First, research scientists in reproduction maintain that the occurrence of identical twins may take place several days after fertilization, even after implantation of the ovum in the uterine wall. This last event usually occurs about six days after the union of the pronuclei of ovum and spermatozoon. This requires that we re-examine our traditional Catholic view of the probable presence of human life from the moment of conception. How can a person, matter and spirit, be divided into two or more unique incommunicable beings? Furthermore, recent research presents a second piece of evidence. Approximately one third of all conceptions are naturally aborted. In the light of this high figure, a position holding human life to be probably present in this early period of pregnancy would raise a theological problem regarding the providence of the God of nature over His children. It would raise a pastoral question: Must Catholics baptize each menstrual discharge because it may well contain a fertilized ovum?⁶⁸ Probably no theologian would draw this conclusion. Logically, then, we should reconsider our traditional position.

The new data are also applicable to the IUCD's. Earlier moral opinion held them to be probably abortifacient. This judgment was based on the tentative evidence that the devices interfered with the ovum after fertilization but prior to implantation. With this new evidence indicating the ab-

⁶⁸ Cf. n. 26 above.

sence of specifically human life in the first days after conception, the earlier judgment needs revision.

There is, however, a further theological aspect to be considered: the teaching of Vatican II on abortion. Speaking of the sacredness of life, the Council says: "Therefore from the moment of its conception life must be guarded with the greatest care, while abortion and infanticide are unspeakable crimes."⁶⁹ Though no one would hold that animation at the moment of conception is here defined as a matter of faith, no one can deny that this teaching demands respect. It was discussed, phrased, and approved by the Bishops with the greatest care and in view of disregard for life in the world today. The question is, however, more complex than this. The Council also calls for dialogue with the other churches, some of whose spokesmen favor mitigating the abortion laws. It also calls for communication with secularists for the betterment of the world. "Such an ideal cannot be realized, however, apart from sincere and prudent dialogue."⁷⁰ Many secularists wish to relax the laws. The two conciliar texts, therefore, seem to conflict as they impinge upon the real order. Adherence to the norm of life from the moment of conception runs the real risk of Catholics in the United States being called intransigent and obstructionist. This would seriously jeopardize a Catholic effort to propose alternative legislation to the proposed bills and find the necessary political support to have it passed. A worse risk: the whole issue of abortion may become in the press and public opinion a religious one, a battle between the churches. It must by all means be discussed as a social and ethical question.

This leads us into the political dimension of the whole situation. There must be recognition of the pluralisms that divide us. The value of basic harmony in society, necessary for the political enterprise to operate and the common welfare to be achieved, must be preserved. Vatican II has given us a new status in the eyes of our fellow citizens, one of openness to the world and its needs. A posture that would conflict with this image should only be adopted after the most careful scrutiny of all aspects of the question. On the other hand, the image would be enhanced if the Catholic community could see its way to a more open policy regarding public family-planning clinics. A willingness to discuss public provision for even contraceptive sterilization for those who wish and need it—at least as a lesser evil than contraceptive abortion—would further assure other Americans that Catholics are willing to enter into amicable and objective discourse on the social and legal norms

⁶⁹ Constitution on the Church in the Modern World, no. 51 (*Documents*, p. 256).

⁷⁰ *Ibid.*, no. 21 (*Documents*, p. 219).

best suited to preserve respect for life in our culture. In the last analysis, the hard demands of political reality may mean that we will have to support a compromise measure in place of a given abortion bill.

Our own attitudes towards other groups in society require periodic re-examination. It is easy to forget that the secularist shares with us the basic cultural value of life. Indeed, he may be passionately dedicated to its realization. Where we differ from him lies in the relative evaluation of unborn life in conflict with the health and happiness of the already born, and in the implementation of respect for life in our cultural and legal norms.

Finally, looking beyond the present controversy on abortion law to the social plague of abortion, long with us and destined to be with us for some time to come, we have not begun to solve the problem. Estimates on illegal abortions still range in the astronomical proportions of from 200,000 to one million each year. If only we could muster our forces, and ally the support of other groups with our own, to take positive steps against this social evil! Attitudes towards the unmarried pregnant girl must change from rejection to acceptance. An adequate structure should be worked out to provide homes, not institutions, for unwanted children. All the agencies of education, family, organized religion, and government must somehow unite to show the mother and father, married or not, that the death of a fetus is not contributory to their well-being. It has yet to prove good to the fetus.⁷¹

Woodstock College

ROBERT H. SPRINGER, S.J.

⁷¹ There have been noteworthy contributions to the morality of warfare in the period under review. Time has prevented a discussion of them in these pages. The reader is referred to the "Statement of the National Conference of Catholic Bishops on Peace," November, 1966, and to "The Pursuit of Peace," in Richard Cardinal Cushing's pastoral letter *The Servant Church* (Boston: Daughters of St. Paul, 1966) pp. 11-17.