CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY: APRIL-SEPTEMBER, 1972

The articles and studies on moral questions during the past semester are, if the word is not too suggestive, legion. This survey will touch four areas of contemporary concern: (1) the continuing reform of theological ethics; (2) death and dying; (3) premarital sexual relations; (4) the sociopolitical mission of the Christian.

MORALITAS SEMPER REFORMANDA

The Second Vatican Council, after speaking of the renewal of theological disciplines through livelier contact with the mystery of Christ and the history of salvation, remarked simply: "special attention needs to be given to the development of moral theology."[1] During the past six or seven years moral theology has experienced this special attention so unremittingly, some would say, that the Christianity has been crushed right out of it. When reform is in human hands, the results will inevitably bear the imprint of human handling. Be that as it may, much recent writing on Christian morality will fit no tidy category but ranges over a whole list of general concerns that represent a continuation of the "special attention" requested by the Council. Some examples follow.

Stanley Hauerwas contributes what he calls a "modest diatribe" against the new moral theology.[2] His first concern centers around the potential of the new moral theology, because of its highly general character, to be captured by conceptions of the good alien to the gospel. Too many theologians have reduced the ethical task to suggesting compelling slogans such as "conform to God's dynamic action in the world." If the concrete implications of such phrases are not spelled out, they remain homiletic flourishes capable of providing ideological justification for all kinds of things foreign to Christianity. The vacuous character of much moral reflection is reflected in the "politicization of morals," that is, the idea that the primary response to moral questions is to take a liberal or conservative stance. Thus, being "for" *Humanae vitae* is associated with legalism and authoritarianism, being "against" it makes one a participant in the love-and-freedom ethic.

[1] *The Documents of Vatican II*, ed. Walter M. Abbott, S.J. (New York: America, 1966) p. 452.

[2] Stanley Hauerwas, "Judgment and the New Morality," *New Blackfriars* 53 (1972) 210–21. Practically the same article appears as "Aslan and the New Morality," *Religious Education* 67 (1972) 419–29.

Hauerwas' second stricture is against the confusion of ethics and apologetics. Apologetics is, for Hauerwas, the baptism of the secular in an attempt to be relevant to the contemporary world. This represents capitulation to the assumption that conventionality defines the real. Christian ethics is that modest discipline that attempts to break this type of intellectual bewitchment by insisting that we see ourselves and our world rightly only if we view them in the light of what God has done in the person of Jesus Christ.

The final problem Hauerwas raises is the assumption that an ethical response is the same as pastoral compassion. For instance, a man whose marriage has never been happy, whose wife is frigid, etc., develops a friendship with a secretary at the office. Their genuine caring finally leads them to share a bed. The reaction to an older judgmental attitude is a type of compassion that leads the spiritual counselor to see this as a positive good, a fulfilling experience. Hauerwas finds this an ethically insufficient approach. His point is not that we should point judgmental fingers but that unless we are clear about what has gone on here, we will not be able to minister to this man at all. We will not be able to raise the painful questions that lead to the deepening of one's moral life. When the ethical is completely identified with pastoral compassion, then ironically there is no basis for pastoral concern. Behind this ethic of sentimentality there lurks the distortion that the aim of the moral life is not the good but adjustment. To Hauerwas this means the triumph of the therapeutic over the moral.

Hauerwas has made some excellent points, even if with some degree of caricature at times. His study culminates in a kind of theological haymaker: "I suspect that contemporary Christian ethics is superficial precisely because it is an all-too-faithful witness to the shallowness of our own individual lives." What Hauerwas has done is to provide some stinging correctives for a type of moral reflection that has grown sloppy and accepted uncritically the assumptions of modern humanism, especially the assumption that the moral life is primarily the securing of our own happiness.

These correctives are needed, I believe; for it can be argued that the history of theology reveals the Hegelian syndrome of action-reaction, extreme to extreme. Our escape from legalism involves us in the real danger of antinomianism. Flight from a one-sided supernaturalism too often leaves us secular pagans. Rejection of authoritarianism too easily leads us to a type of ecclesiastical anarchy. And so on. Is not heresy frequently but the reaction to a one-sided orthodoxy?

Perhaps we cannot altogether avoid this teeter-totterism in moral thought, but the best way to try is to lift out and acknowledge

humbly and honestly the traps into which we are likely to fall at this moment in history. Some are: neospiritualism (that disguises or ignores the human and concrete character of sin and virtue); selective responsibility (that collapses responsibility in one sphere to emphasize it in another); narrow consequentialism (that ignores the fact that my neighbor is everyman); secularism (that depresses the deep influence of Christian realities on the moral life); individualism (that is insensitive to the communitarian dimension of moral knowledge and discernment).

Moral analysis in the past too often discussed human acts in isolation from the historical subject. One of the shifting emphases in recent moral writing is a greater concern with the moral subject. Enda McDonagh continues his illuminating exploration of morality using his own experience as the basis for reflection.[3] In an earlier study he had described the nature of the moral call as basically an interpersonal situation, a situation involving two personal centers or poles, whether individuals or community groups.[4] One of these centers was described as the subject who experiences the moral call, the other as the source of the call, though a certain reciprocity prevents us from speaking of one exclusively as subject of the call, the other as source. The present study delves into the moral response itself, especially the subject's relation to the source.

McDonagh sees this as involving three phases, though these phases are not altogether distinguishable. The first phase is other-recognition and self-identification. This recognition of the other as source of a moral call is first of all very concrete—a call to feed the hungry, care for the sick, etc. But implicit in this is the awareness of the other as other, as constituting a different world, as both gift and possible threat.[5] And simultaneously one achieves a fuller awareness of self as self.

The next phase in the dynamic process is respect for the other as other, as an independent (gift) world, and, as unavoidable concomitant, respect and acceptance of self. The third phase is the subject's response. The response is the subject's effort to meet the immediate need of the source as manifested in the moral call experienced by the subject. In responding to the other, the subject brings into being a new feature of himself; he actualizes himself. Thus, "other-response

[3] Enda McDonagh, "The Moral Subject," *Irish Theological Quarterly* 39 (1972) 3–22.

[4] E. McDonagh, "The Structure and Basis of the Moral Experience," *Irish Theological Quarterly* 38 (1971) 3–20.

[5] For an interesting study of the dynamics of love, cf. Esther Woo, "Subjective Love and Objective Charity in the Thought of Gabriel Marcel," *American Benedictine Review* 23 (1972) 40–55.

is self-developing or self-creative," even though this may not always or frequently be perceptible. If the response is predominantly other-centered, it is good; if it is predominantly self-centered, it is bad. The response is "critical" if it has conversion-capacity, that is, a capacity to turn the subject's basic direction or orientation from self-centered to other-centered or vice versa.

Of this basic moral orientation McDonagh says that it is the fruit of a person's historical responses. In the development of a disposition or basic direction, time plays a key role. He distinguishes this from what theologians call the fundamental moral option. This latter, he believes, "suggests some grand dramatic choice and the literature generally does not seem to one to do justice to the gradual, historical, mainly implicit formation of the basic orientation which my experience suggests."[6]

McDonagh writes with subtlety and sensitivity about moral response, and I believe the main lines of his analysis are very enriching. Two points, however, call for comment. First, there is the matter of the basic orientation. This is a *moral* orientation according to McDonagh, yet his treatment of it all but identifies it with psychological realities. I have always felt a certain discomfort with this complete identification. O'Neil and Donovan made a similar identification of "attitudes, habits, and values" with one's moral position, a term that must refer to one's posture before God.[7] The problem with this is the following: Is it not possible to experience a genuine conversion, to accept Christ's empowering grace in the depths of one's person, without shattering immediately this cluster of "habits, values, and attitudes"? One's habitual dispositions and values are, it is true, long in building, and therefore long in changing. When this cluster is dominantly self-centered, it remains, of course, as a challenge to be fought and transformed. But should we say that until it is changed it represents one's *moral* position? This is not clear. If we simply identify a moral position with a cluster of habits, values, and attitudes, we must eventually say that one is morally bad up to the point where he has managed to change these. Is there not a good deal in Christian attitudes and practice, as well as in human experience, that would find so close an identification a foreshortening of the reach of divine grace? At least the matter needs much more attention than it has yet received.

Secondly, McDonagh refers to "critical responses" as those capable of changing the subject. He is making reference to what was known in

[6] McDonagh, "The Moral Subject," p. 22.

[7] Robert P. O'Neil and Michael A. Donovan, *Sexuality and Moral Responsibility* (Washington, D.C.: Corpus, 1968).

more vintage language as "serious matter,"[8] though he has relativized (to the subject) the notion in a way most appropriate and realistic. Of these critical responses he says: "The change in basic orientation will be through a critical response but one which is prepared for in time, in history. The critical action is the culmination of a process which may not be adverted to until the critical action itself occurs."

This provides an altogether realistic understanding of a serious moral act. McDonagh's discomfort with the fundamental option as some "grand dramatic choice" is justified. But the reaction to this can too easily smother the importance of concrete actions. Or again, if in the past, serious sin was all too mechanically identified with the performance of certain actions, the contemporary reaction (no single action can be a grave choice or sin) remains precisely a reaction that tends to spiritualize the notion of moral choice. McDonagh has found the middle ground: critical action—but one that is the culmination of a process. A seriously evil choice is not a surprise phenomenon, an isolated, fragmented choice. It seems much more the culmination of a process of growing unconcern, an action wherein one embodies an accumulating unconcern and rejection.[9] It does not so much cause this unconcern as it provides the occasion to sum it up, embody it, intensify it, and seal it. The process that has been going on is ratified and manifested in this concrete, critical action.[10] When we speak of serious matter (or critical choices) as that apt to occasion a serious response, a use of core freedom, it should be understood, I believe, in this more dynamic way, a way that gives importance to the single act, but within and as part of a process of deterioration.[11]

[8] A balanced understanding of this as touching Church law is that of John O'Callaghan, S.J., "Christian Conscience and Laws of the Church," *Chicago Studies* 11 (1972) 59–71.

[9] A good statement of this is found in Thomas N. Hart, S.J., "Sin in the Concept of the Fundamental Option," *Homiletic and Pastoral Review* 71 (1970) 47–50. Eugene J. Cooper's "The Fundamental Option," *Irish Theological Quarterly* 39 (1972) 383–92, arrived too late for review.

[10] Cf. also Ralph J. Tapia, "When Is Sin Sin?" *Thought* 47 (1972) 211–24; William F. Allen, "Second Thoughts on Sin" *Priest* 28 (1972) 46–52; Martin A. Lang, "Penance Is for Penitents," *America* 126 (1972) 167–73; F. Podimattam, "What Is Mortal Sin?" *Clergy Monthly* 36 (1972) 57–67.

[11] Recent literature on the sacrament of penance includes "Les nouvelles normes pour l'absolution général." *Documentation catholique* 69 (Aug. 6–20, 1972) 713–15; M. Desdouits, "Une absolution collective est-elle invalide? illicite?" *Esprit et vie* 82 (1972) 9–11; "Pastoral Instruction on the Sacrament of Penance," *Furrow* 23 (1972) 497–501; William F. Allen, "First Confession: When?" *Pastoral Life* 31 (1972) 33–38; P. Jacquemont, "Bulletin de théologie: Le sacrement de pénitence," *Revue des sciences philosophiques et théologiques* 56 (1972) 127–46; Karl-Josef Becker, S.J., "Die Notwendigkeit des vollständigen Bekenntnisses in der Beichte nach dem Konzil von Trient," *Theologie und Philosophie* 47 (1972) 161–228.

Closely connected with an understanding of the moral act is the specifically Christian character of morality. This subject has been the center of a lively discussion during the past few years.[12] Helmut Weber (Trier) regards this as "one of the most significant questions" in moral theology.[13] Approaching the question from the perspective of social morality, he reviews the thought of preconciliar authors in Germany. Over a period of time there occurred a development from the natural-law approach (Fellermeier, von Nell-Breuning, Gundlach) to an attitude more specifically Christian (Gecks, Monzel, Ermecke, J. Höffner), even if the specifically Christian remained dissatisfyingly obscure. Finally, Weber seeks an answer in *Gaudium et spes*. The specifically Christian is the biblically inspired understanding of man and the world that the Christian brings to concrete issues and that can affect his solutions to concrete problems.

The editors of *Civiltà cattolica* argue that faith and grace characterize Christian morality and that they will necessarily "translate themselves into new moral conduct and new commands."[14] Examples offered are: love of enemies, nonresistance to the wicked, renunciation of wealth, love of the cross, the value of virginity.

Gerard J. Hughes explores the Christian justification for moral beliefs.[15] Does the Christian base his moral beliefs upon grounds not available to the non-Christian? Hughes discusses carefully and ultimately rejects three theses that derive the substantive content of our moral knowledge from specifically Christian sources. The teaching and example of Christ provide, rather, a stimulus, a context, and a motivation. For instance, we cannot read the New Testament seriously without being forced to re-examine our current moral values and beliefs. The Christian revelation continues to inject a divine discontent into our secular moral thinking and to throw light on the status of the moral life as a whole, though the implications of this discontent must be sought by the ordinary methods of ethical reflection.

D. Tettamanzi summarizes the opinions of various authors (F. Böckle, A. Jousten, J.-M. Aubert, R. Simon, J. Fuchs, Charles Curran)[16] and

[12] Cf. THEOLOGICAL STUDIES 32 (1971) 71–78.

[13] Helmut Weber, "Um das Proprium christlicher Ethik," *Trier theologische Zeitschrift* 81 (1972) 257–75.

[14] "Esiste una morale 'cristiana'?" *Civiltà cattolica* 123 (1972) 449–55.

[15] Gerard J. Hughes, S.J., "A Christian Basis for Ethics," *Heythrop Journal* 13 (1972) 27–43.

[16] F. Böckle, "Was ist das Proprium einer christlichen Ethik?" *Zeitschrift für evangelische Ethik* 11 (1967) 148–59; A. Jousten, "Morale humaine ou morale chrétienne," *La foi et le temps* 1 (1968) 419–41; R. Simon, "Spécificité de l'éthique chrétienne," *Supplément* 23 (1970) 74–104; Ch. Curran, "Y a-t-il une éthique sociale spécifiquement chrétienne?" *Supplément* 24 (1971) 39–58.

then presents the directions of his own thought.[17] The foregoing authors have by and large affirmed the identity of Christian and non-Christian morality at the level of material content and sought the specificity of Christian morality at the intentional level.[18] Tettamanzi fears that this overlooks the fact that faith has not merely a revealing function but a personally transforming one. Insisting on the tight connection between being and action, he suggests that the transformation of being will appear in conduct. "The newness that characterizes the Christian as a 'new creature in Christ' cannot fail to appear in 'newness' of conduct." He does not say what this newness of conduct is at the level of material content—the very issue raised by the authors he discusses. Rather he is content to say that whatever this difference is, it is the moral norm for historically existing man; for the grace of Christ, as gift and demand, assumes and perfects every human value. Rewarding as Tettamanzi's essay is, it ultimately fails to show just what a Christian morality adds, at the level of material content, to a human ethic.

In a remarkably fine article Norbert Rigali has, I believe, truly advanced the state of this discussion.[19] First he engages James Bresnahan. Bresnahan, it will be recalled, had argued to the nondistinctiveness of Christian ethics on the basis of Rahner's supernatural existential and anonymous Christianity.[20] The created consequence of God's universally salvific will in Christ is a universally experienced directedness toward God who is offering Himself in intimacy to man, even though a non-Christian may be only implicitly aware of this. Since this is the experience of everyman in his subjectivity, Bresnahan had concluded that the resources of Christian revelation (the objectification in Jesus of this subjectivity) could add to human ethical self-understanding nothing that is new or foreign to man as he exists in this world.

Rigali attacks the form of the argument, not for the moment the conclusion. The argument leans on Rahner's notion of "anonymous Christianity" and ultimately on the supernatural existential as they are developed in Rahner's early thought. Rigali rejects Rahner's earlier formulations as being individualistically biased. An atheist's orientation by grace to the God of eternal life may be a reality, but it does not deserve the name of Christianity. Christianity is essentially both

[17] Dionigi Tettamanzi, "Esiste un'etica cristiana?" *Scuola cattolica* 99 (1971) 163–93.

[18] Most recently Laurance Bright, O.P., "Humanist and Christian in Action," *Theology* 75 (1972) 525–33.

[19] Norbert J. Rigali, S.J., "On Christian Ethics," *Chicago Studies* 10 (1971) 227–47.

[20] James F. Bresnahan, S.J., "Rahner's Christian Ethics," *America* 123 (1970) 351–54.

God *and people*. Therefore one can employ the term "anonymous Christianity" legitimately only where, besides this anonymous personal relation of the non-Christian to God, there is also a relation to people which is anonymously identical with that of the authentic Christian. Rahner advanced to this position later when he came to maintain that the primary act of love of God is love of neighbor.[21] Since it is this love of the human thou that is for Christian and non-Christian alike the primary act of love of God, the basis and quintessence of morality are identical for Christian and non-Christian alike. The inference is that Christian revelation cannot add to human ethical self-understanding any material content foreign to man as he exists in the world. Rigali believes that Bresnahan had argued off an "early Rahner," one whose notion of Christian was too utterly vertical, and hence that the argument did not follow.

But Rigali does not stop there. The question of the distinctiveness of a Christian ethic has, he believes, been pursued within a single notion of ethic—an essential ethic.[22] By this term he means those norms that are applicable to all men, where one's behavior is but an instance of a general, essential moral norm. However, this notion of ethic does not exhaust the notion. There are three more understandings that must be weighed. First, there is an existential ethic, the choice of a good that the individual as individual should realize, "the experience of an absolute ethical demand addressed to the individual." At this level not all men of good will can and do arrive at the same ethical decisions in concrete matters.

Secondly, there is "essential Christian ethics." By this Rigali refers to the ethical decisions a Christian must make precisely because he belongs to a community to which the non-Christian does not belong. These are moral demands made upon the Christian *as Christian*: for instance, to receive the sacrament of penance, to participate in a liturgy, to establish a Catholic school. These are important ethical decisions that emerge only within the context of a Christian community's understanding of itself in relation to other people. Thus, "to the extent that Christianity is a Church in the above sense and has preordained structures directly relevant to morality (e.g., the sacrament of penance), to this extent there can be and must be a distinctively

[21] Cf. also Ph. Delhaye and M. Huftier, "L'Amour de Dieu et l'amour de l'homme," *Esprit et vie* 82 (1972) 193–204, 225–36, 241–50.

[22] Thus, Timothy E. O'Connell, summarizing the literature on this matter, states: "There is no action which is demanded of Christians but is not, in fact, demanded of all men as well." This statement is true only within an essentialist concept of ethics. Cf. "The Search for Christian Moral Norms," *Chicago Studies* 11 (1972) 89–99.

Christian ethic, an 'essential ethics of Christianity' which adds to the ordinary essential ethics of man as member of the universal human community the ethics of man as member of the Church-community."

Finally, there are those ethical decisions that the Christian *as individual* must make, e.g., the choice to enter religious life. Such choices fall within "existential Christian ethics."

Rigali is insisting that the first step toward clarifying the relationship between Christian and non-Christian ethics is an adequate understanding of the term "ethics," one that allows the term to include more than essential ethics. This is an aspect of the discussion too often overlooked. But when all is said and done, Rigali's analysis represents a change in the state of the question.

Are there exceptionless moral norms? This question has been treated by many authors over the past four or five years. In one sense the question is of only peripheral importance because of the sheer irrelevance of a rule-morality for much of our moral life. However, in another sense the question is very important, because at its heart is the discussion about the deontological or teleological character of normative statements. And practical conduct can be decisively affected at key points by the resolution of this question. For example, if direct sterilization is always wrong because "contrary to nature," as Catholic tradition held for decades, then one direction of a solution for quite a few practical problems has been closed off. Three examples of this discussion follow.

Bruno Schüller, S.J., continues his already fruitful reflection on the meaning of moral norms with a synthesis of many of the things he has written before.[23] He frames the question in terms of changeable moral norms, though the substance of his study makes it clear that he is concerned with the existence of exceptional instances. In approaching the problem, he states that we must first distinguish between a factual judgment and a value judgment. When only a factual judgment changes, there is no change in the norm. We have difficulty keeping these two judgments distinct, because facts are often of great moral significance. For example, whether and when the fetus is a human being is a factual judgment, but it determines the moral character of interventions into pregnancy. The formulation of moral prohibitions and prescriptions often contains both fact and value judgments. Therefore, when the facts change, so could the norm.

But how about norms in which ethical value judgments are not composed of both value and fact, but are uttered purely as value judgments?

[23] Bruno Schüller, S.J., "Zum Problem ethischer Normierung," *Orientierung*, April 15, 1972, pp. 81–84.

Schüller answers this by distinguishing between nonmoral values and moral values. Examples of the former: life, health, appearance, success, wealth. Their nonmoral character is clear from the fact that a person is not morally good because he is healthy, etc. Examples of moral values: justice, truthfulness, fidelity. These are predicated directly of the person. Although nonmoral and moral values are distinct, a person's moral character is determined by his freely established relationship to both. However, the norms that state what this relationship ought to be are very different depending on whether moral or nonmoral value is involved. Since moral value is by definition unconditioned value, the exceptionless validity of norms stating it is analytical. Thus, one must always be just; one may never approve of the injustice of another; and so on. Norms dealing with nonmoral value, however, necessarily have exception clauses built into them. For example, one should not cause pain unless causing pain is the only way to avoid a worse (than pain) evil. This type of statement is obviously a teleological assertion, i.e., one that evaluates alternative choices from their consequences.

By contrast, a deontological norm is one that evaluates an act by a characteristic that cannot be gathered from the consequences. Catholic tradition has served up deontological norms where some nonmoral values are involved. What is the characteristic (distinct from consequences) that has led to this? Where human life and sacramental marriage are involved, it is lack of right. Where prevention of conception is concerned, this characteristic is "contrariness to nature." Schüller is clearly very uncomfortable with deontological norms. They lead to the possibility that a morally proper act could increase the number of nonmoral evils in the world, and a morally improper one could decrease them. The history of moral theology reveals a continuing attempt to contain the negative effects of deontological norms by a restrictive reading of them. Thus, indirect killings are not murders; use of the Pauline privilege is not contrary to the indissolubility of marriage.

Recently Catholic theologians have begun to judge three instances teleologically where before they judged deontologically: falsehood, organ transplants, prevention of conception. Schüller is convinced that all actions involving nonmoral values must be judged teleologically. We hesitate to do this because the areas in question (e.g., sacramental marriage) were judged deontologically before, and therefore we have no experience of what would happen. We say: "What will be the consequences if we do judge teleologically?" But this warning itself reveals the right teleological instincts.

Schüller's analyses are always well reasoned and enlightening. For this reason it would be helpful if he turned his attention to the question

left unanswered in his recent writings: Are there behavioral norms that we ought practically to hold as exceptionless, even though theoretically they are not? And on what grounds?

This very question has been discussed by Donald Evans in a very careful and tightly written article.[24] He engages Paul Ramsey on the question of exceptionless rules. Ramsey had earlier argued that there are some rules that we ought to hold as exceptionless, and this for a variety of reasons. Evans first explains what "exceptionless" rule must mean. It must fulfil three conditions: (1) the prohibited action must have a definite, nonelastic meaning; (2) it must allow no quantity of benefits exception clauses; (3) it must not be open to any feature-dependent exception clauses. Thus, where we accept the prohibition "Thou shalt not steal" but give the word "theft" a plastic meaning that allows for nuancing and modification of its meaning, we have an unrevisable rule, but not an exceptionless one; for our rule is open in a way that amounts practically to the same as a less plastic definition with stated exceptions.

Evans agrees with Ramsey that the real question is whether there is adequate moral justification for *holding* that a moral rule is exceptionless. After examining the reasons that Ramsey adduces for holding certain rules "significantly closed to future exceptions" (e.g., "Never experiment medically on a human being without his informed consent"; "Never punish a person whom one knows to be innocent of that for which he would be punished"; "Never force sexual intercourse on someone who is totally unwilling"), Evans concludes that such moral rules are "virtually exceptionless." By this he means that the theoretically possible exceptions are virtually zero in their practical probability. Here the conclusions of Evans and Ramsey are very close, indeed practically indistinguishable. For Ramsey's argument assumes the possibility that in a particular instance the consequences of adhering to the rule could be so disastrous as to warrant a revision of the rule. As for Evans, he contends that there can be genuine conflicts between obligations where one is overridden by another.

A careful reading of Evans and Ramsey will, I believe, lead to the conclusion that the only significant difference between them with regard to exceptionless rules is the way their thought is trending. Ramsey fears creeping exceptionism. That is, he has a greater fear of morally disastrous consequences if we admit the need for openness in certain fidelity-rules. Therefore he gathers metaethical arguments for holding that some rules must be held as exceptionless. Evans fears creeping legalism. That is, he fears the morally disastrous consequences if we do not admit the

[24] Donald Evans, "Paul Ramsey on Exceptionless Moral Rules," *American Journal of Jurisprudence* 16 (1971) 184–214.

need for such openness in these rules. Therefore he goes about qualifying the metaethical arguments of Ramsey. In particular, Evans believes that the deontological tone that surrounds Ramsey's treatment "leaves unresolved the problems of priorities and conflicts." He is convinced that Christians have New Testament warrant for being concerned not only about covenant-bonds between men, but also about human suffering. Therefore exception-clauses on the basis of a calculation of quantity benefits have Christian, not merely utilitarian, warrant.[25] Evans' study is one of the most enlightening I have seen on the meaning of moral norms.

Denis O'Callaghan, in discussing exceptionless norms, makes two interesting points.[26] First, he argues that if there are (negative) moral absolutes, it is not that these actions are intrinsically evil; rather they have been made absolute by a teaching authority. Why? "It formulates its principles in this absolute manner because there is no other effective way of safeguarding the important values at stake. Exception would mean precedent and experience teaches how precedent tends to ladder in some areas of life."[27]

Secondly, when it comes to putting these absolutes into practice, O'Callaghan does not fault the casuistic tradition as such; some such system is necessary to face the intractability of reality without abandoning moral norms. The fault of the casuistic tradition was lack of self-criticism. "If it was honest with itself it would have admitted that it made exceptions where these depended on chance occurrence of circumstances rather than on free human choice. In other words, an exception was admitted when it would not open the door to more and more exceptions, precisely because the occurrence of the exception was determined by factors of chance outside of human control." He gives intervention into ectopic pregnancy as an example. The casuistic tradition, he believes, accepted what is in principle an abortion because it posed no threat to the general position, though this tradition felt obliged to rationalize this by use of the double effect. Tubal pregnancy, as a relatively rare occurrence and one independent of human choice, does not lay the way open to abuse.

[25] Recent literature on utilitarianism: Rolf Sartorius, "Individual Conduct and Social Norms: A Utilitarian Account," *Ethics* 82 (1972) 200–218; R. E. Ewin, "What Is Wrong with Killing People?" *Philosophical Quarterly* 22 (1972) 126–39; Peter Singer, "Is Act-Utilitarianism Self-defeating?" *Philosophical Review* 81 (1972) 94–104; R. Stephen Talmage, "Utilitarianism and the Morality of Killing," *Philosophy* 47 (1972) 55–63.

[26] Denis O'Callaghan, "Moral Principle and Exception," *Furrow* 22 (1971) 686–96.

[27] This is very similar to the analysis of Timothy O'Connell, "The Search for Christian Moral Norms" (n. 22 above).

If I understand him correctly, O'Callaghan has done two things in this study. First, he has accepted the principle of the lesser evil as determinative in conflict situations. Secondly, he has specified this principle by arguing that when crucial values are at stake (e.g., human life), the evil that is done in protecting the value at issue remains factually the greater evil if it is likely to escalate into other exceptions. I think there is something to this, though the criterion of what exception is likely to expand into others remains problematic. O'Callaghan's distinction between chance occurrence and human choice needs much more study before its adequacy is clear and certain. His over-all analysis leads to the conclusion that if there are concrete absolutes, the exceptionless character of the norm is the equivalent of *lex lata in praesumptione periculi communis*, a matter to be touched on at greater length later in these notes. If such a notion of an exceptionless norm will survive systematic analysis, the remaining problem would be to discover what actions fall into this class.

OF DEATH AND DYING

The over-all care for the dying has surfaced as a concern of much recent literature. I say "surfaced" because this subject has been for too long a contemporary form of pornography: on everybody's mind but repressed from our cultural consciousness by every myth, taboo, and ritual we can bend to this purpose.[28] There are many dimensions to this subject more important than the ethical question about prolongation of life.[29] But given the remarkable supportive and resuscitative devices now available, it is not surprising that this single point is gathering a literature all its own. A few examples will reflect the major drifts of the discussion.[30]

Merle Longwood notes that the answer we give to the ethical issues related to death will depend on the meaning we give to death.[31] He sees two different ways (ideal-types) in which Christian tradition has at-

[28] Cf., e.g., E. Mansell Pattison, "Afraid to Die," *Pastoral Psychology* 23 (1972) 41–51; Geoffrey Gorer, "The Pornography of Death," in *Death, Grief and Mourning* (Garden City: Doubleday, 1967).

[29] For a general essay on the ethical problems raised by technology, cf. Hans Jonas, "Technology and Responsibility: Reflections on the New Tasks of Ethics," in *Religion and the Humanizing of Man*, ed. James Robinson, pp. 1–19. This volume contains the plenary addresses of the International Congress of Learned Societies, Sept. 1–5, 1972.

[30] An interesting report on the life-death issue of infants suffering from meningomyelocele and on euthanasia in certain other cases of defective infants is that of E. Freeman, "The God Committee,'" *New York Times Magazine*, May 21, 1972, pp. 84 ff.

[31] Merle Longwood, "Ethical Reflections on the Meaning of Death," *Dialog* 11 (1972) 195–201. The whole issue is devoted to a study of death.

tempted to interpret death. These differing emphases correspond roughly to the writings of Paul and John. In the first ideal-type, death, as intimately related to sin, is not a natural phenomenon. It is unnatural, abnormal, opposed to God; it is the "wages of sin" and is the enemy. In the second perspective, death is viewed as an accepted part of the natural fabric of created order. It is a necessity for the continuation of creation and history. Longwood proposes that these emphases are not mutually exclusive alternatives but rather complementary perspectives that provide correctives to each other. In our culture we have overemphasized the strand of death-as-enemy,[32] and this shows in the decisions made in medical practice—for instance, in the impersonal and almost brutal scene of a comatose patient surrounded by intravenous stands, suction machines, oxygen tanks, with tubes emanating from every natural and several surgical orifices. If this view of death were balanced by the second perspective, "then when the dying process has begun, a person can be helped to die with dignity, respect and a minimum of suffering." As it is, our "terminal wards" in hospitals are, Longwood shrewdly observes, the institutionalized expression of our inability to relate meaningfully to those who have entered this final stage of life.

When he faces the question of euthanasia for the terminally ill and intolerably suffering patient, Longwood leans heavily in the direction of Bonhoeffer, Barth, and traditional Catholic moral theology, but is ultimately content to say that our answers to the entailed questions reflect our understanding of the moral meaning of death. Longwood does not say it, but his article fairly screams a single conclusion and one I think is absolutely correct: until our culture has a healthy Christian attitude toward death, it cannot trust the answers it gives and must give to the many extremely difficult questions involved in *any* acceptance of positive euthanasia.

A different point of view is advanced by psychiatrist J. William Worden.[33] If one had only the choices between unbearable pain, an undignified death before one's family (brought about by surgical intervention to kill pain), and the chance to end life with a pill, "one would be hard pressed not to choose the latter."

In the past few years several Catholic moral theologians have probed into the possible liceity of "hastening the dying process" by acts of

[32] Emil J. Freireich writes: "In my opinion death is an insult; the stupidest, ugliest thing that can happen to a human being." Cf. "The Best Medical Care for the 'Hopeless' Patient," *Medical Opinion*, Feb., 1972, pp. 51–55.

[33] J. William Worden, "The Right to Die," *Pastoral Psychology* 23 (1972) 9–14.

commission and inched closer to Worden's point of view.[34] The prodigious Paul Ramsey is not one who allows a passing probe to expire unattended by the rather massive care he brings to such questions. Are there, he asks, any exceptions to our duty always to care for the dying?[35] He finds two. First, there is the case of those "irretrievably inaccessible to human care." The duty to care for those people is suspended, Ramsey believes, because of their inaccessibility to any form of care. When a patient is in this condition, the "crucial moral difference between omission and commission as a guide to faithful actions has utterly vanished."

The second instance is that of the dying person undergoing deep, prolonged, and intractable pain. Ramsey's reason is the same as that given for the first instance: a terminal patient beyond the reach of available palliatives "would also be beyond reach of the other ways in which company may be kept with him and he be attended in his dying. . . ."

Ramsey's analysis of our duty only to care for the dying is the finest statement of this matter I have ever seen. It is shot through with human and Christian good sense and highlights the compassion that euthanasiasts have mistakenly claimed exclusively for their view. What is to be said of Ramsey's exceptions? Since he admits that his second instance is very likely a supposable class without any members, I shall limit myself to the first class. In theory, I think Ramsey has good reason for his exception. If our duty is to care for the dying and if they are no longer within the reach of care, it would seem to follow that *nemo tenetur ad impossibile*. And when the duty to care ceases, the difference between omission and commission would seem to lose moral meaning; for the stricture against commission (positively causing death) is but a negative concretization of our duty to care.

Before this conclusion is accepted, however, several discussable difficulties should be cleared away. First, is the permanently and deeply unconscious person dying? Nothing in Ramsey's analysis seems to demand this. Would it make any difference if he were or not? Once he is

[34] Kieran Nolan, "The Problem of Care for the Dying," in Charles E. Curran, ed., *Absolutes in Moral Theology* (Washington, D.C.: Corpus, 1968) 253; Thos. A. Wassmer, "Between Life and Death: Ethical and Moral Issues Involved in Recent Medical Advances," *Villanova Law Review* 13 (1968) 765–66; Charles E. Curran as in *Sign*, March, 1968, p. 26. For "death as a process," cf. Robert S. Morrison, "Death: Process or Event?" and Leon Kass's response, *Science* 173 (1971) 694–702 and also 175 (1972) 581–82.

[35] Paul Ramsey, *The Patient as Person* (New Haven: Yale Univ. Press, 1970) pp. 157–64.

beyond care, he is beyond care, whether he is dying or not. Secondly, there is the notion of inaccessibility to human care. This inaccessibility is understood by Ramsey in terms of some kind of communication. One might argue that our duties of caring are limited not by the possibilities of communication but by the self-consciousness of the patient. Helmut Thielicke, arguing that it is self-consciousness that is the characteristic sign of human existence, suggested that consciousness of self can find expression in dimensions beyond our hermeneutical grasp. "It is conceivable that a person who is dying may stand in a passageway where human communication has long since been left behind, but which nonetheless contains a self-consciousness different from any other of which we know."[36] If this were the case, would genuine caring demand that we not put an end to this self-consciousness?

Thirdly and much more substantively, even if we accept inaccessibility as a limit on our duty to care, Ramsey is positing an exceptional instance for whose existence there is very probably no reliable evidence—and, it would seem, there can be no evidence. The only conceivable source of certainty that a person is beyond the reach of human care is, I would think, the one who experienced care and now no longer does so. But this source of certainty is excluded by the very nature of things. Ramsey says that moralists cannot say whether there are such cases as he posits, but "this would be for physicians to say." On what grounds would physicians make this judgment? They would have to guess, would they not? They are in no better position than anyone else to tell us whether the patient is experiencing anything or is beyond care. Ramsey admits that we should not lightly assume that the comatose patient is not aware of the sound of voices, the touch of a loved one's hand, etc. "But must it be assumed," he asks, "that this is always so?" No, it need not be assumed. When evidence to the contrary undermines the assumption, it is dissipated. But, once again, where does the evidence come from? What or who tells us whether our assumption is "light" or well founded? Perhaps Ramsey would have us set up commonly accepted criteria for determining when a patient can be judged to be beyond the reach of care. That is a different matter and it might possibly satisfy as an answer to the problem raised here.

This difficulty, not frivolous, raises a further point. When we have no concrete cases on which to build our exception-making clauses, or at least no evidence for them, the exception tends to gather in instances that have no place there at all. That this can erode our adherence to the

[36] Helmut Thielicke, "The Doctor as Judge of Who Shall Live and Who Shall Die," in Kenneth Vaux, ed., *Who Shall Live?* (Philadelphia: Fortress, 1970) pp. 147–94.

original principle seems clear. Ramsey would certainly have something to say to these remarks, and we would all profit by having it said.

P. R. Baelz, Regius Professor of Moral and Pastoral Theology at the University of Oxford, discusses the various possible structures of a Christian moral judgment on euthanasia.[37] Some Christians, for instance, will hold voluntary euthanasia to be intrinsically evil. Others, while denying that it is intrinsically evil, believe it might be forbidden either on the grounds that the general good will be better served by a proscribing rule than by permitting alternative decisions, or that the delicate structure of the doctor-patient loyalties and expectations will be damaged if exceptions are allowed. A third attitude might discriminate between individual cases. Baelz takes no position but simply unpacks some of the issues involved in any of the positions taken.

Harvard's Arthur J. Dyck reviews the underlying presuppositions of the ethic of euthanasia and rejects them utterly.[38] Some are: an individual's life belongs to that person to dispose of as he or she wishes; the dignity attaching to personhood by reason of freedom to make moral choices demands also the freedom to take one's own life; there is such a thing as a life not worth living whether by reason of distress, illness, physical or mental handicap, etc.

Dyck then outlines an ethic of "benemortasia," a term he invents to escape the ambiguities involved in the term "euthanasia."[39] This ethic does not oppose the values of compassion and human freedom. Rather it differs from euthanasia in its understanding of how these values are best realized. Certain constraints on our freedom actually enable us to increase our compassion and freedom. One such constraint, clarified in

[37] P. R. Baelz, "Voluntary Euthanasia," *Theology* 75 (1972) 238–51.

[38] Arthur J. Dyck, "An Alternative to the Ethic of Euthanasia," in Robert H. Williams, ed., *To Live or to Die: When, How and Why?* (forthcoming).

[39] For instance, in "The Right to Choose Death" (*New York Times*, Feb. 14, 1972, p. C29), O. Ruth Russell rightly criticizes keeping dying incurables alive by artificial means when they want to die. A few paragraphs later she refers to "the assistance of a physician in mercifully terminating his life." "Passive" and "active" euthanasia are qualifiers that attempt to avoid this confusion, but the fact remains that the term "euthanasia" is used to describe indiscriminately procedures that have, in the minds of very many, decisive moral differences. E.g., while Cheryl A. Forbes clearly distinguishes passive from active euthanasia (this latter is rejected), still at one point removal of artificial support systems ("pulling out the plug") is referred to as "practicing euthanasia" ("Death: No More Taboos," *Christianity Today* 16 [1972] 833). The same is true of the discussion of Lord Raglan's bill in the House of Lords (1969); cf. *Proceedings of the Royal Society of Medicine* 63 (1970) 659–70 and *Journal of the American Medical Association* 214 (1970) 905–6. Normal L. Geisler distinguishes mercy-dying and mercy-killing. He repudiates this latter in all instances and bases his rejection on a rather fundamentalist reading of biblical passages; cf. *Ethics: Alternatives and Issues* (Grand Rapids: Zondervan, 1971) pp. 231–49.

the Decalogue-covenant, is that against killing, the act of taking human life. This constraint does not mean that killing may never be justified. Where death results from our action, "we can morally justify the act of intervention only because it is an act of saving a life, not because it is an act of taking a life. If it were simply an act of taking a life, it would be wrong."

Dyck insists on the distinction between "permitting to die" and "causing death." When should a decision be called a deliberate act to end life or "causing death"? Dyck's answer: when the act has the immediate intent of ending life and has no other purpose. Causing one's own death, he argues, does violence to oneself and harms others. It repudiates the meaningfulness and worth of one's own life. Moreover, it is the ultimate way of shutting out all other people from one's life, of irrevocably severing any actual or potential contact with others. However, when a dying patient chooses to forgo medical interventions that prolong dying or to accept drugs that alleviate pain, he is not choosing death but how to live while dying. It is our Christian task to support a person in his dying, not to encourage his suicide.

Dyck's ethic of "benemortasia" is a careful and balanced formulation of moral attitudes and judgments that have been traditional in Catholic circles for some years. His essay leans heavily on the distinction between permitting to die and causing death, and that between direct and indirect intention in our actions. These distinctions have a prima-facie descriptive validity that recommends them to common sense. But are there limits to their usefulness? That is, does the patient ever arrive at a point when the distinction becomes meaningless, as Ramsey argued? Dyck gives no hint that he thinks so.[40] If there is a single weakness to his study, it is one that plagues all moral writing on this subject: lack of a profound and precise understanding of the moral relevance of these distinctions. Dyck does not enlarge our understanding of this matter in his otherwise very fine presentation. We shall know the limits of the distinctions in question—if limits there be—only when we have grasped more satisfactorily the moral relevance of the descriptive difference between commission and omission, direct and indirect.

Daniel Maguire asks whether there are circumstances in which we may intervene creatively to achieve death by choice, whether by positive act of omission or commission.[41] Maguire puts the question to four different dying situations: the irreversibly comatose patient now sustained

[40] Neither does John R. W. Stott, who distinguishes the capacity to become human from "the human being who has become deprived of human powers." To this latter we may allow a natural death, but we may not directly kill him ("Reverence for Human Life," *Christianity Today* 16 [1972] 852–56).

[41] Daniel Maguire, "The Freedom to Die," *Commonweal* 46 (1972) 423–27.

by artificial means; the conscious patient whose life is supported by means of (e.g.) dialysis or iron lung; the conscious but terminally ill patient now supported by natural means; self-killing in a nonmedical context.

Where the patient is irreversibly comatose and the "personality is permanently extinguished," Maguire contends that without justifying reason it is immoral to continue artificial supportive measures. Furthermore, he endorses Ramsey's opinion that in these instances it is a matter of complete indifference whether death gains victory by direct or indirect action. As for the gravely ill but conscious patient whose life is artificially supported, Maguire asserts that "we owe them in justice and charity the direct or indirect means to leave this life" with dignity and comfort if their artificially supported life becomes unbearable to them.

What about the conscious and terminally ill patient whose life systems are functioning naturally? Maguire's answer: "direct action to bring on death in the situation described here may be moral." He rejects the contrary absolutist stand on the grounds that this practical prohibition has not been proved, and cannot be. And since it has not been proved, it must be said that "its absoluteness is at the very least doubtful. And then in accord with the hallowed moral axiom *ubi dubium ibi libertas*, we can proclaim moral freedom to terminate life directly in certain cases."

Maguire's essay represents an attempt to provoke discussion. Anyone familiar with the agonizing problems discussed here, with the sophisticated and sometimes dehumanizing life-support systems currently available, and with his own human and intellectual limitations will realize the difficulty and delicacy of the discussion and approach it with an extra measure of tentativeness. That being said, I should like to detail some difficulties I find in Maguire's study.

The notion of "the permanently extinguished personality" raises the same question occasioned by Ramsey's reference to a patient "irretrievably inaccessible to human care." Here, however, I should like to explore the question of the proof for the practical conclusion that we ought never terminate innocent life by direct action. Maguire contends that this must be proved, but that it has not been and cannot be proved.[42]

[42] In an interesting if complicated article Lonnie D. Kliever uses the model of Stephen Toulmin (*The Uses of Argument*) to approach the writings of Joseph Fletcher and Paul Lehmann. Toulmin was convinced that all rational arguments were measured by the analytic paradigm. To break the power of this model in moral argument, Toulmin replaces the mathematical model with a jurisprudential one in which logical form becomes a matter of proper procedure rather than necessary connections. Rational argument ("proof") in this model is more like a legal case than a geometric proof. Cf. "Moral Argument in the New Morality," *Harvard Theological Review* 65 (1972) 53–90.

That is probably true, but only if one understands and accepts a certain idea of proof. The only proof that I know of for any practical moral assertions is different from what Maguire might easily be implying and resembles a convergence of probabilities that leads us to rest satisfied with an assertion until it has been shown to be either humanly unwise (as absolute) or to rest on false or now-changed suppositions. Put another way, we build exception-clauses into concrete behavioral norms when we see clearly that a higher human value is being compromised, or at least can be, by failure to allow for exceptions. To do this with intellectual rigor and satisfaction, it seems that we must grasp clearly two things: the reason why the behavioral norm is generally valid in the first place, and the particular conflicting value that puts a limit on this validity. Specifically, why is it generally true that we should not directly terminate innocent human life? And what competitive value leads us to conclude that what is generally valid is not valid in some instances?

This same problem occurs with Maguire's analysis of suicide. He says: "It may not be excluded that direct self-killing may be a good moral action, in spite of the strong presumptions against it." Until we know exactly what these presumptions are and why they are strong, are we in any position to assert that direct self-killing may be a good moral action? I do not see how.

Maguire has not answered these questions with the clarity necessary. He does offer one attempted "proof" for the practical absoluteness of the prohibition against direct termination of innocent life: the cracked-dike argument (if X is allowed, then Y and Z will also be allowed). This is rejected for two reasons. First, it ignores the real differences between X, Y, and Z. Secondly, it is fallacious to say that if an exception is allowed, it will be difficult to draw the line and therefore no exception should be allowed. Good ethics is the art of knowing where to draw the line. On this basis Maguire regards the practical negative as "doubtful," and where there is doubt, there is freedom.

Maguire has, I believe, moved too fast here. Granted, good ethics is a matter of knowing where to draw the line. But good methodology is showing why and with what criteria the line is drawn here rather than there. While agreeing with Maguire's analysis of the vulnerability-to-logic of all wedge arguments, the cracked-dike approach as he presents it is not the only form of moral reasoning available to support the possible practical absoluteness of the type of normative statement involved here. We must seriously examine the possible usefulness of the traditional notion of *lex lata in praesumptione periculi communis*. Perhaps a concrete prohibition like the one in question cannot be "proved," but it might well be the conclusion of prudence in the face of dangers too

momentous to allow the matter to the uncertainties and vulnerabilities of individual decision. In other words, it might be the type of conclusion we *ought* to hold as exceptionless even though it cannot be proved theoretically to be such.

The notion of a presumption of universal danger is one most frequently associated with positive law. Its sense is that even if the act in question does not threaten the individual personally, there remains the further presumption that to allow individuals to make that decision for themselves will pose a threat for the common good. For instance, in time of drought, all outside fires are sometimes forbidden. This prohibition of outside fires is founded on the presumption that the threat to the common good cannot be sufficiently averted if private citizens are allowed to decide for themselves what precautions are adequate. Hence the individuals are held liable in spite of the efficacy of individual precautions, for the primary presumption of danger still holds.

Is there place for a notion such as this as a support for the practical absoluteness of the prohibition against directly causing death in terminal situations? I am not at all sure. The matter has not received much attention, though moral reasoning very similar to this has been used now and then.[43] Its usefulness and validity will depend at least partly on how one assesses the importance of the matter and the dangers associated with it at a given point in history. Maguire's rejection of the necessary connection of X, Y, and Z is theoretically true. But practically, is it a realistic account of the many extremely important and delicate questions associated with direct termination of the terminally ill patient? Possibly not.[44]

What are some of these questions? Longwood has stated them as well as anyone:

How does one know whether a patient is only temporarily depressed and might change his mind about wanting to die in a day, a week or a month? What if the

[43] Paul Ramsey, "The Case of the Curious Exception," in G. Outka and P. Ramsey, ed., *Norm and Context in Christian Ethics* (New York: Scribner's, 1968) pp. 67–135.

[44] A classic text in this respect is Leo Alexander's statement about Nazi medical cases. "Whatever proportion these crimes finally assumed, it became evident to all who investigated them that they had started from small beginnings.... It started with the acceptance of that attitude, basic in the euthanasia movement, that there is such a thing as life not worthy to be lived. This attitude in its early stages concerned itself merely with the severely and chronically sick. Gradually the sphere of those to be included in this category was enlarged to include the socially unproductive, the racially unwanted and finally all non-Germans. But it is important to realize that the infinitely small wedged-in lever from which this entire trend of mind received its impetus was the attitude toward the non-rehabilitable sick" ("Medical Science under Dictatorship," *New England Journal of Medicine* 241 [1949] 39–47, at 44–45).

physician made a mistake in diagnosing the hopelessness of a case? If euthanasia were to be permitted, what effect would it have on the doctor-patient relationship? Who would make the decision as to when euthanasia should be administered? The patient? The patient's family? The doctor? If one decides that the patient should make this decision, are patients in fact capable during such severe crises of 'consenting' to their own death? If the family is involved in the decision, would this encourage them to 'weigh' heavily considerations of costly hospital care or children's education sacrificed against the sufferer's life? Would some unscrupulous persons be tempted to request the ending of another's life if they stood to gain large insurance benefits or an inheritance from the patient's will? Or would a society that allows euthanasia begin to measure all of life according to some qualitative standard or utilitarian calculus, cheapening life and preparing the way for the easy disposition of all those who fall below the minimal standard or because of age or illness are no longer useful or are otherwise a burden upon society?[45]

One might reason that an enormous good is at stake in the answer to these questions, and that they are unanswered questions and are destined to remain so, and *for this reason* that it is more humanly reasonable to regard the direct termination of any human life as a practical absolute. At least this approach deserves serious attention before it is concluded that the prohibition in question is "at the very least doubtful."

The question of how we treat dying patients and, by inference, patients trying to be born, reflects an underlying conviction about the make-up of humanhood. Joseph Fletcher tackles this metaethical question with his customary verve and flare.[46] He first makes precise the sense of the question. It is not whether defective fetuses, defective newborns, and moribund patients are human lives; they certainly are human. The problem, Fletcher argues, is whether we are to assign personal status to them. "What is critical is personal status, not merely human status.... It is not what is natural but what is personal which has the first-order value in ethics."

On this premise Fletcher sets out to establish an operational profile of personhood. He lists fifteen positive human criteria and five negative. With no importance in the ordering, the positive criteria are: minimal intelligence (I.Q. "below the 20-mark, not a person"), self-awareness, self-control, a sense of time, a sense of futurity, a sense of the past, the

[45] Longwood, *art. cit.* (n. 31 above) pp. 200-201.

[46] Joseph Fletcher, "Indicators of Humanhood: A Tentative Profile of Man," *Hastings Center Report* 2 (1972) 1-4. The full text of this paper will appear in *Proceedings of the Conference on the Teaching of Medical Ethics* (Government Printing Office, forthcoming).

capability to relate to others, concern for others, communication ("completely and finally *isolated* individuals are subpersonal"), control of existence ("to the degree that a man lacks control he is not responsible, and to be irresponsible is to be subpersonal"), curiosity ("to be without affect, sunk in anomie, is to be not a person"), change and changeability, balance of rationality and feeling, idiosyncrasy (a distinctive individual vs. a cloned carbon copy), neocortical function.

Fletcher's negative assertions are: man is not nonartificial, essentially parental, essentially sexual, a bundle of rights, a worshiper. In explanation of these negative assertions, Fletcher includes ideas well known to those familiar with his writings. Item: all rights are "imperfect" and may be set aside if human need requires it. Item: "A baby made artificially, by deliberate and careful contrivance, would be more *human* than one resulting from sexual roulette—the reproductive mode of the subhuman species." This tenet is, in my judgment, utterly ridiculous.

Fletcher admits that he has not produced a gospel of personhood and that more questions need to be asked. For instance, how are we to rank the items in this profile? Which are essential, which only optional, etc.? But he is convinced that we are apt to find good answers from medical science and the clinicians rather than from the humanities. "Divorced from the laboratory and the hospital, talk about what it means to be human could easily become inhumane."

Anyone who would attempt an even tentative personhood inventory is trying to catch, bottle, and display what most men have regarded as ultimately a mystery. But Fletcher is nothing if not courageous. I am in sympathy with the felt need to attempt what he has attempted. No additions, subtractions, or qualifications of his listing will be attempted here. That task can be left for those who accept the key metaethical assumption made by Fletcher in this essay.

I do not. Fletcher's purpose is to build an operational notion of personhood for use in medical decisions about abortion, euthanasia, etc. That is, those who do not achieve personhood according to his, or some such, criteria are candidates for these procedures. In other words, personhood in this context means protectable humanity. This reveals the assumption with which I have problems. Fletcher states (of a fetus) that the question is not whether it is a life or even whether it is a human life. "The question is whether we may assign personal status to fetal life. . . ." And later: "What is critical is personal status, not merely human status." Fletcher has nowhere shown us that this is the crucial question. His equation of protectable humanity with personhood remains a metaethical assumption. There are still very many who believe

that human life prior to and regardless of its share in the *bene esse* that some call "personhood" makes profound claims on our loyalty and care—indeed, the more profound because of the weakness, dependency, and vulnerability due to a lesser share in this *bene esse*. It is the pride of Christian tradition and practice that such have been viewed and treated as our neighbor in greatest need. Fletcher has rushed right over this and assumed that it is not merely human life that we ought to respect and protect, but only a certain qualitative level of such life. Fetuses, beware!

This is not to deny that life and death decisions based on the quality of life are necessary in contemporary medicine. They are, and perhaps frequently. It is only to say that the weight of Christian tradition and wisdom has been to keep as wide as possible the category of protectable humanity and to urge that life-death decisions should be (1) restricted to dying patients; (2) about allowing to die; (3) left to the individual concerned, if possible. Fletcher is clearly going in a different direction. His distinction between protectable humanity and personhood assaults or at least undermines each of these contentions. Briefly, he has excluded from the category of protectable humanity many who really belong within this category.

In ethical reflection one of the greatest and most difficult tasks is to identify the cultural shaping of our moral judgments. Our temptation is unwittingly to inject into our notion of the human what our culture dictates. If the culture has a pronounced functional evaluation of man, those who are weakest and most defenseless will suffer and eventually get excluded from protectable human status. This has happened in Fletcher; for if the matters of euthanasia and abortion are solved in terms of his inventory, abortion has ceased to be a moral problem at all. When that happens, I think we are in serious trouble.

These are examples of but a single question touching death and dying. This and similar questions cannot be dealt with adequately in isolation from an over-all understanding of the meaning of death, as Longwood noted. This raises a final and very unsettling point. There is a virtual consensus in recent literature that in America we have successfully conspired to repress death into the realm of the unreal. As Richard Doss has pointed out, this denial of death has brought about a separation of death from life. "The dying are isolated from the living and given a new status of patient instead of person. The ageing are isolated geographically by their move to the 'leisure worlds' and 'sunset villages.' The dead are isolated in a realm of unreality created by modern funeral practices."[47] This repression constitutes the atmosphere in which our moral

[47] Richard W. Doss, "Towards a Theology of Death," *Pastoral Psychology* 23 (1972) 15–23, at 16.

reflection on the more practical ethical questions occurs and it is bound to affect our deliberations. If this is so, clearly our first moral task is to acknowledge and then challenge the cultural attitudes and values that generate and support this repression and prevent clear and Christian thinking about death. This task is far more important than any particular moral conclusion about preserving or not preserving life. Indeed, it is simply essential if our more detailed ethical assertions are to be something more than symptoms of our cultural malaise. Failure to attack this problem at its source means that our practical normative statements will remain isolated, useless, and dangerous moralisms.

Daniel Callahan, in a very thoughtful essay, has underlined this dimension of the ethics of biomedicine.[48] He argues that a satisfactory resolution of the moral problems posed by the life sciences must be cultural. Our decisions are not simply the result of "reasons"; man feels, senses, imagines, relates. At this level he acts from "reasons" that have sunk so deeply into the self that they inform the arational or unwitting side of man as much as the rational. Callahan believes that recently it has been the gospel of unlimited technological progress that has above all formed man's self-image and informed his unwitting responses. Until these values can be lifted out, examined, and altered where necessary, we will not have an ethical system capable of meeting the problems of the life sciences. Callahan concludes with a paragraph that would be an appropriate conclusion to this section:

> To my mind, the least interesting piece of information about any person's ethical views is his conclusions, where he comes out on this or that problem. The most interesting part lies in the dynamics of moral decision-making, the way in which the issues are conceived in the first place, the ingredients which are used and the way they are mixed. It is at that point that a person's whole way of looking at the world is revealed; and it will be his whole way of looking at the world which will shape his conclusions. But the finding of a viable way to do this is both an individual problem and a cultural problem, and both must be solved simultaneously.[49]

PREMARITAL SEXUAL RELATIONS

That there has been a sexual revolution in the past decade seems beyond doubt.[50] Certainly there has been a significant modification in the

[48] Daniel Callahan, "Living with the New Biology," *Center Magazine* 5 (July–Aug., 1972) 4–12. Cf. also his "Normative Ethics and the Life Sciences," *Humanist* 32 (Sept.–Oct., 1972) 5–7.

[49] Callahan, "Living with the New Biology," p. 12.

[50] *Time* 100 (Aug. 21, 1972) 34 ff.; George Gallup, "Is There Really a Sexual Revolution?" *Critic* 30 (March–April, 1972) 72–75. Cf. also David R. Mace, "The Sexual Revolution: Its Impact on Pastoral Care and Counselling," *Journal of Pastoral Care* 25 (1971) 220–32.

attitudes of at least some people, and this modification appears ill at ease with traditional Christian moral convictions. Therefore it is easy to understand why sexual morality has been the subject of a good deal of theological writing over the past months, notwithstanding John L. McKenzie's invitation to "popes, cardinals, bishops, priests (including monsignori, pastors, and theologians) and laymen like Joe Breig and Dale Francis" to abstain, so to speak, from excessive concern with sexuality and talk more about "other things like justice, mercy and faith."[51]

Andrew Greeley would probably second McKenzie's invitation;[52] for in an article not totally purged of splenetic vigor, he underscores the loss of credibility of official teachings attributable to their imprisonment in "certain rigid formulations" upheld by "the overwhelming force of a rigid, static, authoritarian church."[53] The enduring symptom of this is *Humanae vitae*,[54] which Greeley sees as an "appeal to pure authority, a pure authority which the Pope mistakenly assumed that he still had." This document is, Greeley insists, a dead letter simply incapable of dealing with "the massive world population problem or the development of sexual personalism that has occurred in the wake of the dramatic new insights of depth psychology." He calls for a whole new theory of sexual morality, one less concerned with specific negative prohibitions and more concerned with the fascinating religious symbolism of human love as an image of the relationship between Christ and His Church and vice versa.

Eugene Kennedy is not nearly so optimistic about the "dramatic new insights of depth psychology."[55] Rather he sees our state of confusion and uncertainty about sex as "almost staggering in its proportions and effects." Kennedy sighs and wonders "if science has not given us more white-coated bad advice ... than all the crimson-sleeved church-

[51] John L. McKenzie, "Q.E.D." *Critic* 30 (March-April, 1972) 9.

[52] Andrew Greeley, "Is Catholic Sexual Teaching Coming Apart?" *Critic* 30 (March-April, 1972) 30-35.

[53] Much the same attitude is found in Eugene Fontinell's "Marriage, Morality and the Church," *Commonweal* 97 (1972) 126-30.

[54] For some recent related writings, cf. R. M. Cooper, "Vasectomy and the Good of the Whole," *Anglican Theological Review* 54 (1972) 94-106; Kevin T. Kelly, "A Positive Approach to *Humanae vitae*," *Clergy Review* 57 (1972) 108-20, 174-86, 263-75, 330-47; W. Finnin and Donald Huisingh, "Population Control Begins with You," *Duke Divinity School Review* 37 (Winter, 1972) 32-39; Leon F. Bouvier, "Catholics and Contraception," *Journal of Marriage and the Family* 34 (1972) 514-22; James R. Hertel, "'Humanae vitae' Four Years Later," *Priest* 28 (1972) 18-26; J. F. Costanzo, S.J., "Papal Magisterium, Natural Law, and *Humanae vitae*," *American Journal of Jurisprudence* 16 (1971) 259-89.

[55] Eugene Kennedy, "The Great Orgasm Hunt," *Critic* 30 (March-April, 1972) 39-56.

men in history. . . . No religion has ever exceeded psychoanalysis in dogmatization."

James Hitchcock inteprets the sexual revolution as critically related to the apparent decline in concern for transcendental religion.[56] Christianity has always stood as a balanced voice for sexual restraint. Such restraint, in whatever context, is only justifiable and supportable, Hitchcock argues, for the sake of some larger purpose. "When the purpose itself comes to be doubted, the discipline begins to seem merely repressive and cruel." At this point our obvious cultural obsession with sex takes the form of a clinical therapeutic that states: personal self-fulfilment is impossible without an active sex life.

An atmosphere of ecclesiastical noncredibility, scientific myth, and cultural obsession is hardly conducive to enlightening theological reflection on sexuality. However, that reflection has continued and much of it puts heavy emphasis on premarital sexual relationships. Roughly and in general it can be said that two approaches are discernible: deontologically founded restatements of the classical tradition, teleologically argued modifications of this tradition. I shall gather a few examples of each approach from recent writings.

First, the restatements of the classical tradition. In a paper that he accurately assesses as "un modesto contributo di approfondimento in linea teologica e pastorale," P. Bongiovani repeats the rather standard arguments against premarital intercourse.[57] For instance, the procreative character of sexual intercourse demands that the couple be in a condition to render naturally secure the education of the child. Similarly, as an expressive act, sexual intercourse between the unmarried is an "existential lie," because there is a "donation of bodies" without a corresponding stable and definitive gift of the persons "which alone on the human plane can justify and guarantee the bodily gift." I am not arguing that these reflections are without their degree of validity, but only that they are not developed by Bongiovani beyond the condition in which he found them in other authors.

This is not true of the study of Richard R. Roach, S.J. In a very thoughtful essay, he contends that the orthodox tradition in Christian morality still makes the best sense.[58] He attempts to show this by exposing the meaning of sexuality in Christian tradition. All Christian

[56] James Hitchcock, "The Church and the Sexual Revolution," *America* 127 (1972) 197–201.

[57] P. Bongiovani, "Fornicazione e rapporti tra i fidanzati," *Palestra del clero* 51 (1972) 25–41.

[58] Richard Roach, S.J., "Sex in Christian Morality," *Way* 11 (1971) 148–61, 235–42.

thinkers insist on some degree of sexual restraint. But this restraint cannot be derived from the Christian doctrine of love without further specification; for the Christian command is to love as richly, deeply, and widely as possible. The result would therefore be not to restrain the use of sex but to encourage it. We must therefore find something more within the doctrine of love which, when related to sex, will build a Christian ethic. Since Christian love governs all Christian morality, we should expect to find one expression of Christian love, among the many possible, which coincides with an important characteristic of human sexuality. What is this special characteristic?

Since all expressions of Christian love require fidelity (the sign of faith), fidelity alone cannot be this characteristic, though obviously it is essential to married love. Roach concludes: "I suggest that according to the Christian tradition sex primarily expresses *exclusive fidelity*. . . ." Marriage does not, however, justify itself solely because it is a relationship of exclusive fidelity. Other interpersonal relationships could have this quality. "Marriage requires, rather, other additional justification through its social aims, which are greater than the personal aims of the faithful couple. These are the traditional aims of bearing and rearing children."[59]

Roach then adds two important points. First, the bearing and rearing of children "justifies" marriage as an institution, and not the individual marriage. Human and personal values "justify" the individual marriage. Secondly, apart from Christian faith the arguments for preferring monogamous marriage over other means for providing for children are inconclusive. That is, "it is fitting that children begin life in an institution and a society built up with such institutions designed to show forth sacramentally the exclusivity of God's love for man and the fidelity required in man's response."

In summary, Roach contends that sexual intimacy is the sign of exclusive fidelity, but that men and women may create this bond and give this sign of exclusive fidelity only because marriage has a further justification: "it is the basic unit of a society in which children are meant to be born and raised under a sign of the *one* relationship of *exclusive fidelity*, that between God and man."[60] This means, of course, that for Roach full sexual intimacy should be limited to the married state. When sex is legitimized by love alone or love in general, he argues, either we limit our loving, or we do not limit our sexual activity, or we choose not to be consistent.

Roach applies this conviction pastorally to several areas. Here his re-

[59] *Ibid.*, p., 157. [60] *Ibid.*, p. 158.

marks are very perceptive and realistic. For instance, he points out, as Hitchcock had done, that a contemporary cultural assumption either consciously held or unconsciously assumed is that "bad sex is better than no sex." If this assumption is operative, there is a tendency to evaluate any mental or moral obstacle in the way of premarital intimacy as a hang-up. While his own evaluation of premarital relations is within the classical tradition, Roach rightly notes that there is a scale of greater and lesser evils where sex is concerned. Premarital (when marriage is to follow) relations are preferable to extramarital, homosexual fidelity to homosexual promiscuity, etc.; for "the more fidelity that one expresses in the uses or non-uses of sexuality, the more easily God may use the occasion as an instrument of his grace."

John M. Finnis, in a careful article that escaped my attention earlier, derives the radical immorality of certain sexual acts from their relationship to the basic value of procreation ("the procreative good").[61] A sexual act can involve either an inadequate response to, or a basic closure to, this good. Premarital intimacy, e.g., involves an inadequate openness to procreation because "procreation may follow but not within an assured *communio personarum*."

The interesting feature of Finnis' study is that it is not a piece-by-piece analysis of different sexual acts but the elaboration of an entire ethical theory. Finnis follows closely Germain Grisez's account of the origin of moral obligation, but adds interesting and enlightening Christian nuances to it. According to this account, there are basic values that define the scope of man's possibility, that appeal to man for their realization. The natural law is nothing more than the conclusions of practical reason about how a person ought to relate to these values.[62] As Finnis puts it:

When one of these irreducible values falls immediately under our choice directly to realize it or to spurn it, then, in the Christian understanding we must remain open to that value, that basic component of the human order, as the only reasonable way to remain open to the ground of all values, all order. To choose di-

[61] John M. Finnis, "Natural Law and Unnatural Acts," *Heythrop Journal* 11 (1970) 365–87.

[62] Recent literature on the natural law includes: Jerome G. Hanus, O.S.B., "Natural Law—Indispensable or Not?" *American Benedictine Review* 23 (1972) 85–97; David-Hillel Ruben, "Positive and Natural Law Revisited," *Modern Schoolman* 49 (1972) 295–317; Thomas Rukavina, "Natural Law and Veatch's Recent Book," *New Scholasticism* 46 (1972) 384–401; Eugene F. Miller, "Political Philosophy and Human Nature," *Personalist* 53 (1972) 209–21; F. Gerald Downing, "Ways of Deriving 'Ought' from 'Is,'" *Philosophical Quarterly* 22 (1972) 234–47; Philippa Foot, "Morality as a System of Hypothetical Imperatives," *Philosophical Review* 81 (1972) 305–16.

rectly against it in favor of some other basic value is arbitrary, for each of the basic values is equally basic, equally and irreducibly and self-evidently attractive.[63]

Thus, of life he says: "So, no suicide, no killing of the innocent: for human life is a fundamental value." The Christian grasp of this law of reason is distinctive in its concern for the *form* of one's choices, that is, "its adherence to these premoral values . . . in certain circumstances *whatever the foreseeable consequences* on the horizontal plane of history." Finnis grants, however, that there is often room for dispute about whether a choice is indeed directly and positively against a basic value, whether it has such and such a form or not. But he resolutely rejects any understanding of moral norms that would make room for a calculus where the basic values are concerned.

Finnis then applies this normative theory to the area of sexuality. He rejects all the arguments which build on the unitive (expression of total giving, etc.) character of sexual intercourse.[64] What eventually makes sense of the conditions of the marital enterprise, its stability and exclusiveness, "is not the worthy and delightful sentiments of love and affection which invite one to marry, but the desire for and demands of a *procreative* community, a family." Therefore it is sensible to reserve complete and procreative self-giving to the context of a stable and exclusive union. But this does not show that all sexual intercourse must be reserved to that context. How establish this latter? Finnis grants that we have the capacity to give meaning to our acts, and therefore we might regard sexual intimacy as a sign only of regard or friendship. Ultimately, however, our choice must take account of a plain fact, "viz., that intercourse may bring about procreation." We can accept this fact, ignore it, proceed regardless of it, or try to reverse it. "But in any case, one is willy nilly engaged, in sexual intercourse, with the basic human value of procreation."[65] And in Finnis' judgment, premarital relations involve an inadequate openness to this value.

But what if procreation is contraceptively excluded? Finnis sees this as "always, and in an obvious and unambiguous way . . . a choice directly and immediately against a basic value." What, then, if the intercourse is certainly and naturally sterile? Finnis argues, weakly I believe, that all sexual activity is a kind of reminder of the procreative potency

[63] *Art. cit.*, p. 275.

[64] For an interesting discussion of such formulations, cf. William F. May, *A Catalogue of Sins* (New York: Holt, Rinehart and Winston, 1967) pp. 130–37. See also Michael Taylor, S.J., ed., *Sex: Thoughts for Contemporary Christians* (Garden City: Doubleday, 1972).

[65] *Art. cit.*, p. 383.

of full sexual intercourse, and is sufficient to bring a sensitive person "within the range of the procreative value for that value to make its ordinary imperious claim . . . to a sufficient openness and respect toward it."

Finnis' study is carefully wrought. His account of the origin of moral obligation and the meaning of natural law (reasonableness) is very persuasive and easily amenable to the Christian symbols to which he relates it. With no desire to challenge his normative conclusions, I believe, however, that there are some unanswered problems in his general theory.

The problem centers around the matter of choice "directly and positively against a basic value." Finnis admits that there is room for dispute about whether a choice actually is directly against a basic value or not. But he does not pursue the matter and ask why there is room for dispute, and what the methodological implications of this fact might be. The crucial question one must raise with both Grisez and Finnis is: What is to count for turning against a basic good, and why? At this point I find them both unsatisfactory. Finnis argues that whenever one positively suppresses a possible good, he directly chooses against it. And since one may never do this, he argues, there are certain actions that are immoral regardless of the foreseeable consequences. This is a sophisticated form of an older structuralism. A careful study of Christian moral tradition will suggest that an action must be regarded as "turning directly against a basic good" only after the relation of the choice to all values has been weighed carefully.

An example will illustrate this. Finnis states: "So, no suicide, no killing of the innocent: for human life is a fundamental value." Why does he insert the word "innocent"? After all, even the lives of the criminally guilty are fundamental values. The reason Finnis can insert the term "innocent" and thus delimit those killings that involve a choice directly against a fundamental value is that he has first weighed the life of the criminal (or combatant, aggressor) against other possibly competitive and more urgent values and decided that when a more urgent value (e.g., the common good) is threatened by a human life, then taking *that* life need not involve one in choosing directly against a basic value, regardless of the structure of the action involved. Is it not some such calculus that leads to the restriction "innocent"?

Finnis realizes that this approach involves a calculus, a balancing of possible goods and values, and he fears this. He says: "The human mind is capable of revising the meanings it attributes to acts in order to escape the characterization of its acts and choices as directly opposed to a basic value." It is true that the human mind is capable of both the sub-

tlest and grossest types of rationalization to distort the meaning of its conduct. But this only means that the process of revising meaning is risky, not that it is unnecessary or disallowed, unless our view is that reality is always so neatly ordered that it never involves us in conflicts and tragic choices. In the constant effort to clarify what is to count as a choice directly against a basic value, a calculus seems certainly called for at times. Our real problem is to discover the criteria and controls to keep this unavoidable calculus or revision of meaning fully human and Christian, and to prevent our slipping into policies that are only symptoms of a desire to avoid discomfort. It is precisely here that we need the wisdom and checks that a believing community can generate by its reflection and discernment, a community led and challenged by a healthily functioning magisterium.[66]

In view of these reflections, one can challenge Finnis' assertion that "the choice to exclude the possibility of procreation while engaging in intercourse is always and in an obvious and unambiguous way . . . a choice directly and immediately against a basic value." If not every killing involves one in a choice against a basic good, but only killing of the "innocent," then not every suppression of procreative potential need involve one in directly choosing against the basic value of procreation. What would seem to involve such a choice is the *unjustified* exclusion of procreation. It is precisely at this point that Finnis' argument against premarital sexual relations is somewhat vulnerable; for to the objection that procreation can be prevented in premarital relations he insists that this prevention always involves a choice against a basic good. Not clear.

Bernard Häring is the final example of the classical approach.[67] He states his agreement with the traditional norm but believes it has not always been well argued, or presented with pastoral prudence. For the Christian, Häring asserts, marriage is a sacrament. It is the expression of an irrevocable covenant of fidelity, of a total sharing of life, and it is within this covenant that sexual union achieves its full integration and a special share in sacramental significance. As a community of love and covenant fidelity, marriage is ordered to the vocation of parenthood. Hence sexual union is only true and genuine where the partner is accepted and loved (at least basically and in principle) with a view to possible parenthood. But a true yes to the parental vocation and to its responsible exercise is only possible within the covenant bond of mar-

[66] Cf. Jerome Murphy-O'Connor, O.P., "Moral Discernment," *Doctrine and Life* 21 (1971) 127–34.

[67] B. Häring, "Voreheliche geschlechtliche Vereinigung?" *Theologie der Gegenwart* 15 (1972) 63–77.

riage. From this perspective premarital intercourse always retains a negative quality in Häring's judgment.

Häring admits that many people have real difficulties in understanding and accepting this traditional norm. He attributes this to a process of radical desacralization, whereby sexuality has been ripped from the context of a truly sacred function in marriage and dissolved into a multitude of more or less human purposes and its use then asserted as a basic right even of the unmarried. The major emphasis of his very balanced article is on the need for patience and understanding when dealing with those who do not accept the traditional norm. Both pastors and theologians must disown a gavel-pounding moralism of attitude and build upon the positive, if incomplete, insights that contemporary youths bring to this problem.

Now for some modifications of the classical tradition. It is probably inaccurate to refer to the positions that follow as "modifications" of the traditional norm, for they really accept the norm but vary in their applications of it. For instance, Franz Böckle had earlier argued that a true understanding of sexual intercourse, as a total gift of love, demands marriage if sexual expression is to be true to its full meaning.[68] However, he saw in canon 1098 an opportunity to face the problems of many youths who could not as yet marry. This canon asserts the validity and liceity of marriage contracted with only two witnesses if the pastor, bishop, or delegated priest cannot be approached without grave inconvenience. A broad interpretation of this extraordinary form of marriage would include under it, according to Böckle, the situations of many modern youths not yet able to go through a full ecclesiastical wedding. This opinion of Böckle was echoed by V. Schurr.[69] K. Kriech carries the analysis a step further and claims that the demand of ecclesiastical form for marriage falls under the principle *lex non obligat cum gravi incommodo*.[70] Thus the sexual relations of those who cannot marry may appear juridically as premarital but are really marital.[71]

These early probings have been pursued in some recent literature. Several years ago Johannes Gründel outlined his approach to the ques-

[68] F. Böckle and J. Köhne, *Geschlechtliche Beziehungen vor der Ehe* (Mainz: Matthias-Grunewald, 1967) pp. 7–36.

[69] V. Schurr and H. V. Pohlmann, "Vorehelicher Sexualverkehr," *Theologie der Gegenwart* 11 (1968) 207–16.

[70] K. Kriech, "Vorehelicher Geschlechtsverkehr in moraltheologischer Sicht: Eine Zwischenbilanz," *Schweiberische Kirchenzeitung* 19 (1970) 274–78. Cf. also John F. Dedek, *Contemporary Sexual Morality* (New York: Sheed & Ward, 1971) pp. 41–42, for a similar analysis.

[71] Paul Ramsey, "A Christian Approach to the Question of Sexual Relations Outside of Marriage," *Journal of Religion* 45 (1965) 100–118.

tion, an approach very close to that of Böckle.[72] The distinctive characteristic of a true inner self-gift of one person to another—that which is proclaimed in sexual intercourse—demands a permanent bond. Therefore sexual relations are inappropriate without the marital consent (*Ehewille*). And since marriage is so important a social institution, "this consent needs public assertion before society in so far as possible." Formally, Gründel asserts, marriage begins where this consent is publicly proclaimed and legally sanctioned by the appropriate authority. However, the actual existence of this consent need not always coincide with the formal public statement of the consent. Rather it can take shape in growing stages. Gründel then says: "Without wishing to contest the legitimate place that belongs to the formal legal marriage contract, it is an unanswered question whether and how far there are responsible forms of sexual intimacy that already contain this stable marital consent but have not yet completed the legal consent."[73] Ultimately, therefore, Gründel would disapprove of strictly premarital sexual intercourse but he refuses to identify this with preceremonial intercourse, or at least he states that the matter is an "unanswered question."

C. Jamie Snoek rightly insists that sexuality must be socialized and institutionalized.[74] But what form should this take in our culture? After having noted that there is nothing precise in the biblical precepts on the point,[75] Snoek proposes a re-examination of the notion of *matrimonium in fieri*. Concretely, in the traditional concept of marriage there are three distinct elements: the yes of the partners, the yes of the Church, consummation. Snoek then states: "In view of the greater continuity felt today to exist between engagement and marriage, I should ask whether in some circumstances, it would not be permissible for the partners to place the consummation before the assent of the Church."[76] Snoek is certainly leaning in one direction. But he leaves mysteriously undeveloped what he means by the "greater continuity felt today be-

[72] Johannes Gründel, "Voreheliche Sexualität aus der Sicht des Moraltheologen," in *Lieben vor der Ehe?* ed. F. Oertel (Essen: Fredebeul & Koenen, 1969) pp. 66–81.

[73] *Op. cit.*, p. 76.

[74] C. Jaime Snoek, C.SS.R., "Marriage and the Institutionalization of Sexual Relations," in *The Future of Marriage as an Institution* (*Concilium* 55; New York: Herder and Herder, 1970) pp. 111–22.

[75] Bruce Malina, "Does *Porneia* mean Fornication?" *Novum Testamentum* 14 (1972) 10–17, concludes that "there is no evidence in traditional or contemporary usage of the word *porneia* that takes it to mean pre-betrothal, pre-marital, heterosexual intercourse of a non-cultic or non-commercial nature, i.e., what we call 'fornication' today."

[76] This is opposed by V. Schurr, who sees in it the figure and reality of clandestine marriage ("Wieder klandestine Ehen?" *Theologie der Gegenwart* 13 [1970] 172–74).

tween engagement and marriage" as well as the notion of "some circumstances." At least many Americans might desire a long conversation with Snoek on this "greater continuity" before proceeding further. As for the future, Snoek believes that while monogamous marriage must remain the ideal institutional setting for sexual relations, still the validity of new patterns of behavior will "depend on the extent to which they contribute to the greater stability of marriage and the family."

Francis V. Manning is fairly close to the analysis of Snoek.[77] In a long study he acknowledges and passes in review three general viewpoints: premarital sex is (1) always wrong, (2) almost never immoral, (3) sometimes permissible. It is this last position that Manning studies in a variety of formulations (Harvey Cox, British Council of Churches, S. Keil, V. Punzo, R. F. Hettlinger, W. N. Pittenger). He then expresses his own view. It is a view hard to detail because it is composed of several statements whose compatibility is not immediately obvious. Manning clearly views "the reservation of coital intimacy for the married state" as the ideal, something to be striven for. Why so? His reason must be gathered from oblique phrases such as "appropriate expression of the love that exists" and "the sole place in which it can uniquely fulfill its human meaning: the existential bond of marriage."

But once he has stated the normative ideal, he begins to qualify it. First, marriage is not a moment; it is a process. As he puts it:

> Like most of life's decisions, becoming married is not an instantaneous action, but a process that takes time. At a certain point in the process coitus becomes an appropriate expression of the love that exists and of the will to place all that one is in the service of the other. How is this point to be determined? The couple must judge for themselves. . . . As a *general* rule of thumb, however, it might be suggested that the couple should have manifested to others their sincere *intention* to marry, and that the ceremony itself is not too far distant.[78]

The second qualification is that "this [ideal] does not mean that refraining from coitus is always best for every couple prior to marriage, for individual differences, weaknesses, pressures etc. have to be taken into account." At another point Manning speaks of reserving sexual intercourse "*more or less* exclusively for the sole place in which it can uniquely fulfill its human meaning."[79]

Aside from the fine pastoral observations within which Manning situ-

[77] Francis V. Manning, "The Human Meaning of Sexual Pleasure and the Morality of Premarital Intercourse," *American Ecclesiastical Review* 165 (1971) 18-28; 166 (1972) 3-21, 302-19.

[78] *Ibid.*, p. 317, emphasis added.

[79] *Ibid.*, p. 319, emphasis added.

ates his opinion, I find the moral reasoning inconsistent and puzzling. First, if the existential bond of marriage is "the sole place in which it [sexual intimacy] can uniquely fulfill its human meaning," then how is it in any way clear or consistent to say that the "certain point in the process [when] coitus becomes an appropriate expression" is the manifestation to others of the *intention* to marry? Manning would answer: marriage is not a moment but a process. And when the intent to marry has been manifested to others, the process is sufficiently far along to say that sexual intimacy is its appropriate expression.

Will this stand up? I think not. The intention to marry, however sincere and intense, is not constitutive of the existential bond of marriage, for the simple reason that this intention, as experience has often shown, can be, often is, and not infrequently should be revoked. This is the weakness of the notion of *matrimonium in fieri* proposed by both Manning and Snoek, and less explicitly by Gründel. The intention to marry is, indeed, part of the process leading to marriage. But the process leading to marriage cannot be converted that easily to read marriage-as-process. And unless this conversion can be made, it seems inconsistent to propose the intention to marry as the moment when sexual intimacy is appropriate.

Behind this there lurks, I suspect, an overreaction to the notion of the marriage ceremony. Every mature and reflective person knows that a ceremony does not "make the marriage" in this broader sense. Similarly, we may well have oversold the significance of the ceremony in the past to the neglect of the stability, maturity, sincerity, and authenticity in the personal relationship. But the contemporary trend is an individualistic neglect of the important social and ecclesial dimensions of marriage. Treating the ceremony as if it were *merely* a ceremony—a thing that is easy to do when the emphasis falls so heavily on marriage-as-process—is an unhealthy symptom of an eventually destructive individualism.

My second problem with Manning's position is pastoral and touches the exceptions he introduces. If marriage is "the sole place in which [sexual intercourse] can uniquely fulfill its human meaning," then why should sexual intimacy be reserved "*more or less* exclusively" to this sole place? Similarly, after stating that reservation of intercourse to marriage is the ideal, Manning states that this does not mean that "refraining from coitus is always best for every couple prior to marriage." Why not? Manning answers by making reference to "individual differences, weaknesses, pressures etc." This should be spelled out in much greater detail. And this spelling out ought to take full cognizance of two facts that experience has pretty well established: (1) that the major task of the engaged is to get to know each other's strengths, weaknesses, in-

terests, to drain off those elements in the relationship that stifle communication—a task likely to get sidetracked by the experience of full sexual intimacy; (2) that the engaged (inexperienced) are the very ones likely to overemphasize the importance of sexual intimacy in the growth of their relationship.

Marciano Vidal objects against both the broad interpretation of canon 1098 suggested by Böckle-Schurr-Schillebeeckx and the notion of *matrimonium in fieri* as proposed by Snoek-Manning-Gründel.[80] He grants that the extraordinary form is quite acceptable in theory, and its application to some restricted cases quite proper. But he rejects its application to the generality of cases under discussion, because marriage is a sacramental and therefore ecclesial reality. A theological solution that reduces the ecclesial aspects of so many marriages to a minimum is unacceptable. As for *matrimonium in fieri*, Vidal sees this as a recrudescence of clandestine marriage, a practice that fails to do justice to the ecclesial dimension of marriage. Behind the recent suggestions concerning implicit marriage there lurks, he believes, an exaggerated personalism, a modern version of the old consensualist theory of marriage involving a regression to a theology of marriage we have long since abandoned as inadequate.

Vidal then outlines the structure of his own moral-theological reflection on the problem. It builds upon the utter necessity of institutionalizing sexual relationships. Marriage is, he insists, the institution within which the values of sexual authenticity are best realized. But prior to marriage two different types of unions can be distinguished: regressive and progressive. The former do not realize and do not even tend to realize the values of marriage, whereas the latter do contain an effective tendency toward the ideal. If premarital relations occur within the progressive type of union, they should be viewed pastorally in terms of their tendential value, i.e., accepted in their actuality without institutionalizing them.

Thus far some recent literature. It is an interesting literature fleshed out with a good deal of common sense and pastoral understanding. Now to a personal reflection. Häring is correct when he insists that this problem is not the most important of moral problems, and not even the most important problem in sexual morality. But how it is approached and discussed can reveal a whole attitude to sexual morality, and indeed to all moral problems. All the authors cited above are basically at home with the classical Christian tradition that reserves full sexual intimacy to marriage (though some tinker with the definition of marriage). I am, too. In

[80] Marciano Vidal, "Moral de las relaciones sexuales prematrimoniales," *Razón y fe*, June, 1972, pp. 517–32.

this sense the problem is above all pastoral, as Manning has rightly emphasized. Contemporary youths and young adults are not going to make their decisions in terms of the judgments of their elders. That much is clear. Not only have we disappointed them too often and too long, but education by edict has probably had its day. I agree with Manning that what we need here is a different form of communication, not prescription and preachment. One form of communication is the open, patient, nonjudgmental exploration with young adults of the meaning of marriage and human sexuality, as Häring suggests. Another form is lived example by the few so that "its value can be sensed by others, catching them up in the web of authenticity, and winning them to a challenge worth the courage required to meet it" (Manning).

Yet the constant temptation is moralism. The basic problem with moralism is that it bypasses and therefore effectively subverts the processes leading to understanding. This is as true of the new exceptionism ("Thou mayest if...") as it was of an older negativism ("Thou shalt not..."). For this reason, the attempts to approach the phenomenon of premarital intimacy through appeal to the extraordinary form of marriage or to the notion of *matrimonium in fieri* can easily be judged as thinly disguised neolegalisms. Valid as these notions might be in theory and for some scattered instances, they approach a widespread practice that has its roots in deep attitudinal shifts through tight exception-making casuistry. This too easily plays host to the sexual obsessionism of our culture and thereby denies our youth a full if gradual exposure to the challenge of the values found in Christian tradition.

But the avoidance of moralism does not doom us to silence. The question that must be put to our generation is this: In what circumstances should the sexual experience of intimacy occur if sexual language is to retain its viability as truly human language?[81] Behind such a question is the common-sense conviction that we are quite capable of trivializing sexuality and depriving ourselves in the process of an unparalleled form of sharing and growth. A sex-obsessed culture such as ours is particularly liable to be trapped into banalization, and there are many who argue that we have already gone a long way toward emptying sexual exchange of its nourishing and humanizing capabilities.

The answer given by Christians to the question stated above is, of course, clear, even though it is elaborated in a variety of ways, as we have seen. It is simply this: sexual expression is the language of relation-

[81] For some interesting suggestions on the discovery of moral norms, cf. Philipp Schmitz, S.J., "Normenfindung in der Sexualmoral," *Stimmen der Zeit*, March, 1972, pp. 165–76; P. Schmitz, "Freisein in der Entfremdung," *Theologie und Philosophie* 47 (1972) 229–44.

ship. It gets its full human meaning from the relationship it expresses and fosters. And the relationship which provides us with our best opportunity to integrate and humanize our sexuality is the covenant relationship of marriage; for it is friendship that generates constancy, loyalty, fidelity. And these are the qualities that allow sex to speak a truly human language.

If sex is to have any chance at all to help us bridge the separateness of our lives and to escape the loneliness and isolation of our individuality, it cannot be lived merely in the present. It must celebrate the past and guarantee and nourish the future. It is as affirmation and promise that sexual exchange achieves quality. It has been a Christian conviction that it is a relationship lived in the promise of permanency that prevents the collapse of sexual expression into a divisive, alienating, and destructive trivialization. This is not, obviously, a terribly popular idea these days; but we must face squarely the fact that this could well be all the more reason why its strong countercultural statement is more necessary than ever now—if only that statement is constructed to invite understanding and aspiration rather than obedience.

It has been said that sex is the easiest language to speak but the most difficult to make meaningful. I would add "to keep meaningful." For Americans are notoriously the clinicians of quality where quality escapes the mere clinician. We are constantly in danger of using sexuality in essentially autonomous (independent of relationships) and depersonalizing ways: to support our insecurity, to mask or assuage our frustration, to express our anger and vindictiveness, to prop our masculinity or femininity, to promote upward mobility, to secure a husband, etc. At a recent symposium between Catholics and humanists, Lester Kirkendall adverted to the changing meaning of sexual acts on college campuses. They are now viewed, he reported, as "an experience in closeness and intimacy." Is there something to fear here? The relief of loneliness can easily be one more "use" of sexuality and perhaps the most subtle form of its autonomy and depersonalization. The dehumanization of life in our large urban conglomerates generates a desperate need for nearness and closeness. At a time when marriage is in a state of crisis and when the cultural gospel is that sexual expression is required for self-fulfilment, it seems clear how our overriding need for nearness and closeness will be met. But is it not the almost universal human experience that sex does not lead to and create closeness and intimacy, but rather that the loyalty, constancy, and fidelity of covenanted friendship allow sex to speak the language of intimacy and to be an experience of closeness? It is precisely a world with an overwhelming need for nearness and closeness that is likely to slip its grasp on the values of sexuality and to use genital sex as a self-defeating medicine for loneliness.

When all is said and done, the root crisis behind this discussion is not precisely the "shifting sexual attitudes" or "the new permissiveness" of the pollsters. The more we speak of sex, the less we address what I think is the real problem. It is plainly and simply the meaning of marriage. Marriage is the crisis. If men and women in increasing numbers are abandoning the desirability of the permanent relationship of exclusive fidelity,[82] then clearly the meaning of sexual relationships before marriage is bound to be affected. Therefore it is the man-woman relationship and the conditions for growth in intimacy that we ought to be discussing.

Eugene Kennedy has stated this very well. He writes:

> What we have not grasped nearly enough are the distinctive qualities of human exchange which give meaning to sexual experience. When we fail to place marriage in the context of our more generalized efforts to become human we emphasize sex in a naive and sentimental way.... It is the foundation and atmosphere of trust and concern, the repeated cycle of dying and rising in order to grow together that we must understand in order to see sex in perspective and to speak with any deep and moral sensitivity about marriage.[83]

It is this type of thing that we must learn to explore with young adults if the values underlying the Christian tradition are to have any chance to attract them.

THE SOCIOPOLITICAL MISSION OF THE CHRISTIAN

In his letter to Cardinal Maurice Roy in early May of 1971 Pope Paul VI stated: "It is to all Christians that we address a fresh and insistent call to action.... It is not enough to recall principles, state intentions, point to crying injustices and utter prophetic denunciations; these words will lack real weight unless they are accompanied for each individual by the livelier awareness of personal responsibility and by effective action."[84] This rather widely overlooked document deserves a place among the great papal statements on social questions.[85] It forces us to ask several questions. What is the exact character of a Christian's involvement qua Christian in social and political life? What is the social

[82] Eugene Fontinell, "Marriage, Morality, and the Church," *Commonweal* 97 (1972) 126–30. The replies to Fontinell are more interesting and substantive than his own piece.

[83] Eugene Kennedy, "Fidelity Remains Vital," *Commonweal* as in n. 82 above.

[84] "Octogesima adveniens," *Catholic Mind* 69 (1971) 37–58. The document is followed by a perceptive commentary by George Higgins.

[85] Cf. C. Mertens, S.J., "La responsabilité politique des chrétiens dans la lettre de Paul VI au Cardinal Roy." *Nouvelle revue théologique* 94 (1972) 183–94.

mission of the institutional Church qua Church? These questions have deservedly received increasing attention in recent literature.[86]

Since the preparation of the last edition of these "Notes," the Synod released its fine document "Justice in the World."[87] The statement builds on several skeletal assertions. (1) There is the notion of social sin. The synodal statement never uses that precise term,[88] but it refers repeatedly to "personal sin and its consequences in social life," "unjust structures," "sin in its individual and social manifestations," "the social dimension of sin." (2) The Synod asserts that action on behalf of justice is "a constitutive dimension of the preaching of the gospel." (3) Why? Because in the Christian message love of God and neighbor are inseparable. And love of neighbor is inseparable from justice to the neighbor. (4) The Church's specific responsibility is not to offer concrete solutions in the social, economic, and political spheres. Rather it is to defend the dignity of the human person by denouncing injustice wherever it appears and by positively witnessing to justice through her own structures and manner of life. The one criticism that could be brought against the synodal statement is that it did not get sufficiently down to specifics.[89]

Is there anything new in this? Peter Henriot, S.J., argues that the theme of social sin is new, at least in the sense that it has never before been so clearly explicated in an authoritative Roman document.[90] Henriot then asks how the Church should be socially involved. Since social sin is the object of involvement, the actions of the Church should be seen in terms of conversion from social sin. There are three approaches to conversion: prophetic word, symbolic witness, and political action.

[86] E.g., the entire issue of *Christus* 19 (1972) is devoted to the notion of liberation and political action. See also Dorothee Sölle, "The Role of Political Theology in Relation to the Liberation of Men," in *Religion and the Humanizing of Man* (cf. n. 29 above) pp. 131–42; *Toward a Discipline of Social Ethics*, ed. Paul Deats, Jr. (Boston: Boston Univ. Press, 1972). The entire issue of *Lumière et vie* 105 (1971) 2–139 is devoted to "Options politiques de l'église."

[87] *Catholic Mind* 70 (March, 1972) 52–64. For the theology involved in the prepartory documents, cf. P. Cosmao, O.P., "Théologie sous-jacente au document de travail du Synode épiscopal sur la justice dans le monde." *Documentation catholique* 68 (1971) 638–40.

[88] The Canadian bishops do in their excellent statement issued at their April 17–21, 1972 meeting in Ottawa; cf. *Catholic Mind* 70 (Oct., 1972) 57–61.

[89] Thus Vincent McNamara, "The Church, Promoter and Exemplar of Justice and Community," *Furrow* 23 (1972) 578–92. In a fine and forthright article McNamara states: "It is a well-known fact that many hoped that the synod document would condemn specific injustices rather than engage in generalities. This does involve taking sides, opting for the poor, offending people. But this is the very tradition which the Church has inherited in this matter from the prophets and Christ" (p. 587).

[90] Peter J. Henriot, S.J., "Social Sin and Conversion: A Theology of the Church's Social Involvement," *Chicago Studies* 11 (1972) 115–30.

The prophetic word is denunciation of injustice wherever it appears. The major obstacle to social change is our failure to perceive the sinfulness of the situation. This failure in perception is rooted in the values and behavioral standards of our culture.[91] Hence the prophetic word shatters the images and mindsets that shade our perception of reality. To the objection that we are often prevented from speaking out by "lack of knowledge of all the facts," Henriot urges Schillebeeckx' notion of a "contrast-experience." This is the experience of a concrete social evil (racism, war, torture, hunger) to which the Christian can only respond: "This should not be so." The individual may not have all the facts, but he can know, from the values which the gospel expects to be integral to the life of a follower of Jesus, that this particular evil must not be allowed to continue. From this conviction there arises the moral imperative for a political stand. Henriot faults the American bishops for not speaking more specifically in the 1960's on the war. Their reason: they lacked sufficient information to make a concrete judgment. Though this might have been true when it was first uttered, Henriot believes the bishops should have taken the steps necessary to get the information.

Symbolic witness refers simply to acting out concretely in our own individual and community lives the values of justice. Henriot refers this above all to a sparing-sharing life-style in a consumer society. Finally, there is political action. Since social sin is a structural phenomenon, conversion is possible only through the political process. Therefore he urges "the acceptance of political action as a *religious imperative*." As for priests in political office, Henriot does not push the idea, but he argues that the synodal exclusion of it has to be read in the context of the Church's already deep involvement in political action, i.e., with a grain of salt.[92]

In another article Henriot repeats several of these emphases but turns to the specific political responsibility of the priest.[93] By "political responsibility" he means "all efforts to affect public policy, to speak to the issues of public values, to have an impact on the constitution and

[91] Our moral catechesis both reflects and supports these values. Archbishop J.-A. Plourde, in his address to the Synod on Oct. 19, stated: "Its [the Church] moral teaching must at all costs stop giving privileged treatment to private ethics, wherein sin is seen primarily as a private matter, rarely as association, consciously or not, with the forces of oppression, alienation and physical violence" ("Making Justice a Reality," *Catholic Mind* 70 [1972] 7).

[92] For a contrary view, cf. Donald Wuerl, "The Priest as Politician," *Priest* 28 (1972) 52–59; his arguments deserve serious attention. Cf. also "An Interview with Daniel Berrigan," *Commonweal* 96 (1972) 376–82.

[93] Peter J. Henriot, S.J., "Politics and the Priest," *Commonweal* 96 (1972) 495–98.

operation of the structures of society." Political responsibility, therefore, is social concern taken seriously precisely because we relate effectively and efficiently in the United States to the policies and processes that deal with injustice and poverty through political responsibility. From the synodal statement that action on behalf of justice is a constitutive dimension of preaching the gospel he argues that all priests must be socially concerned and involved.

Henriot then proposes three models of priestly action: working politically to change social structures, serving as advocate (not just arbitrator) for the poor and powerless in political disputes, living according to a sparing life-style that has political effects both in its symbolic value and through its sensitizing influence.

Henriot's emphasis on social sin and the need to get at the structures that perpetuate it is right on target and badly needed. Particularly important is the notion of advocacy for the poor and powerless. A beautiful example of this is the action of Mgr. Huyghe, Bishop of Arras, and his priests.[94] They publicly denounced the injustice done to 2,200 factory workers in an area of northern France. When accused of meddling in politics, the bishop responded with a magnificent statement that stands as a model of what advocacy ought to mean. Bishop Huyghe granted that his social gesture on behalf of the workers had some political import, but added: "I could have ceased to stand with those who are victims of the recession. This abstention would also have been a political act, less conspicuous perhaps, but heavy on the conscience. All actions of 'engagement' are ambiguous. Speaking out is a political act, certainly. But silence? Whether it be that of prudence or fear, it is also a political act."

Because the basic lines of Henriot's message are so important and so utterly valid for the American scene, a few fringe points can be disengaged for comment. First, there is the reference to the passing of the specialized "social-action priest." The possible implication of this reference is that all priests must now be active *in that way*. Or at least it is possible that Henriot will be read in this sense. If he actually intended this implication, then the matter seems overstated. Because social action is a constitutive dimension of preaching the gospel, it does not logically follow that every priest must or should be involved in it in the rather intense and full-time sense suggested by yesterday's social-action priest. What does follow is that each priest ought to look at his own work, talents, and concrete situation and seriously ask whether at the three model-levels mentioned by Henriot he is doing the best he can, whether he has not shaped and channeled his priestly attitudes and

[94] "L'Eglise fait de la politique," *Documentation catholique* 69 (1972) 329–31.

apostolate with his eyes closed to the existence of social sin. What Pope Paul said of every Christian is true of priests: "Let each one examine himself to see what he has done up to now, and what he ought to do."[95]

Secondly, there is the matter of advocacy. After distinguishing legitimately between the role of arbitrator and advocate, Henriot urges the priest to enter political controversies as an advocate for the poor and powerless. Politically, what does this advocacy mean? It means, he says, that the priest "has the obligation to become very particular, very concrete." He "speaks out in favor of a particular political program," and takes "a definite side in a controversy over a specific solution to a social program." To those who object that this would be divisive, Henriot states that Catholics must be educated "to accept the fact that a priest's choice of one political option among several does not mean that it is the *only* choice for the Christian community."

Here I think something more must be said. Certainly the priest ought to be an advocate for the poor and powerless (and not just an arbitrator) and this advocacy should be particularized in concrete policy judgments. But there comes a point when taking a side over "a specific solution to a social program" changes advocacy into arbitration—arbitration between what is the better strategy for advocacy. Henriot obscures this by contrasting advocacy with the *status quo*, as if most political decisions conformed to one or other alternative. Many, if not most, political judgments do not fit this rather desperate either-or option. They are often concerned with the most effective form of advocacy. When the question concerns not whether the poor should be helped, etc., but what is the more effective way of achieving this, we are dealing with strategy within advocacy. The options are not advocacy vs. nonadvocacy, but this form of advocacy vs. that form. I believe one could question the wisdom and ultimate effectiveness of a priest's putting the moral authority of his priesthood into politics at this point. Why? For the simple reason that by giving to a particular strategy the moral support of this priesthood, he is thereby saying to some unavoidable extent that this is indeed the only choice for a Christian. Otherwise why should he espouse it publicly qua priest?

The Chilean bishops made this point clearly.[96] Eighty priests conducted a press conference stating their intention to align themselves with the socialist government. They stated: "The profound reason of our involvement is our faith in Jesus Christ, which deepens, renews, and incarnates itself in historical circumstances. To be Christian is to

[95] "Octogesima adveniens," *Catholic Mind, loc. cit.* (n. 84 above) no. 48.
[96] "L'Eglise et le socialisme," *Documentation catholique* 68 (1971) 636–37.

be in solidarity. To be in solidarity at the moment in Chile is to participate in the historical project that its people are outlining." The Chilean bishops, after strongly supporting the whole liberation movement and work supportive of it, insisted that their priests not take public "partisan political positions." They added: "The political choice of the priest, if—as in this case—it is presented as a logical and ineluctable consequence of his Christian faith, implicitly condemns every other option and constitutes a blow to the liberty of other Christians." They see in this a regression to an outmoded clericalism. The French bishops seem to have been moving in the same direction in their deliberations.[97] They wonder if the priest's first duty is not rather to arouse Christians to their political responsibilities.

This point demands serious attention. The more one's political activity is viewed as a faith involvement—and this is strongly emphasized in recent literature—the more does it seem to exclude other options. And when a priest qua priest espouses the position, the more does it appear as a faith involvement. That is why it seems important to distinguish between political positions that represent advocacy (in contrast to those that do not) and those that represent only strategic choices within an over-all advocacy posture.[98] Strategic-advocacy options are often rooted in ideological and party differences, a fact that means that the priest would be immersed in purely partisan politics. At the very least, this matter needs a good deal more discussion than it has yet received.

The point made here is that the effort to view human problems and to respond to them from the perspectives of the weakest and most oppressed members of society should avoid identifying any concrete option or strategy of advocacy with God's kingdom, any particular economic, political, or social program with the gospel. In an age when the transcendent has been almost totally immanentized,[99] it is all too easy to approach a concrete form of advocacy as if we were the agents of the

[97] *Documentation catholique* 68 (1971) 645.

[98] This is the sense, I believe, of the Synod's statement contained in the document on "The Ministerial Priesthood": "In circumstances in which there legitimately exist different political, social and economic options, priests like all citizens have a right to select their personal options. But since political options are by nature contingent and never in an entirely adequate and perennial way interpret the gospel, the priest, who is the witness of things to come, must keep a certain distance from any political office or involvement" (*Catholic Mind* 70 [March, 1972] 44). Similarly, Vatican II argued that "in building the Christian community, priests are never to put themselves at the service of any ideology or human faction" (*The Documents of Vatican II*, p. 546). The general character of these statements is, however, to be noted.

[99] For a provocative discussion of this, cf. Walter B. Mead, "Restructuring Reality: Signs of the Times," *Review of Politics* 34 (1972) 342–66.

eschaton. C. Penrose St. Amant has made this point well in noting that self-interest and sin affect not only structures but the estimates, judgments, and political strategies of those who would modify them.[100] If an unconcerned pietism is unchristian, one-eyed concretism can itself be a disguised idolatry that forgets who man is. This point has been made by Pope Paul VI, the Synod, and the Canadian bishops.[101]

This discussion will undoubtedly continue, as it should, and it is bound to open on the larger question of the relation of Church and state. There are probably those who believe that the traditional form of American separation is in a stage of transition, or ought to be. Not so R. Coste. The involvement of the Church in politics has always been, in his judgment, a very delicate affair.[102] The Church should not become "une église politisée." Otherwise a politico-religious amalgam will occur, leading us backwards to the days of the sacral city, which "misunderstood the revolutionary and liberating disjunction willed by Christ between the political and ecclesial community." Coste contends that the Church has no general political responsibility, but that she cannot remain a total stranger to politics. Her responsibility in politics is exactly the same as it is in the economic, cultural, and social sphere: prophetic and diaconal.

Finally, there is, in the call for universal priestly political involvement and in a very concrete way, some assumption made about how structural change occurs. Henriot's assumption would have to be that lasting structural changė occurs through political activity. Others might put the emphasis elsewhere. And this difference provides an excellent opportunity to draw out the theological implications and limitations of human effort toward the kingdom.

For instance, Garry Wills, arguing that the best way to effect cultural change is to work outside the system, states that change comes through prophets. He further argues that prophets cannot be educated, programmed, or produced. But they can be stunted "by exerting this tremendous pressure which tells them that if they want to make a change they can do it only within the system."[103]

[100] C. Penrose St. Amant, "The Christian Ministry and Social Responsibility," *Southeastern Baptist Theological Seminary Bulletin* 21 (1972) 3–15.

[101] "Octogesima adveniens," *loc. cit.*, no. 50; "The Ministerial Priesthood," *loc. cit.*, p. 44. The Canadian bishops state that "without espousing any particular program, we invite Canadians to accept the social goal of an equitable redistribution of income" (*Catholic Mind, loc. cit.*, p. 59).

[102] R. Coste, "L'Eglise et le défi du monde," *Nouvelle revue théologique* 94 (1972) 337–64.

[103] Garry Wills, "Working within the System Won't Change Anything," *Center Magazine*, July–August, 1972, pp. 34–37, at 36.

This could easily be interpreted as a charter for the socially dormant conscience and as a direct rejoinder to Henriot. Actually, both Henriot and Wills are right. Lasting structural change does seem to occur through prophetic persons and actions.[104] But prophetic persons do not "just turn up," as Wills maintains, not at least if our view of history is informed by Christian hope. It is here that the attitudes accompanying social involvement have theological implications. Though God's ways are mysterious, do we not have to believe—to avoid presumption—that He allows us prophets only if we nonprophets have done what in us lies?[105] *Facienti quod in se est Deus non denegat gratiam.* The task of overcoming the present belongs to man; but it is also given him by God. If Christian social involvement is to avoid Pelagian arrogance, it must be deeply stamped with the conviction that the final validation and transformation of human effort is God's doing. This point is forcefully underlined by both James E. Wood, Jr.[106] and Arthur G. Gish.[107]

If individuals and the community are to be morally responsive to the cry for liberation, they must hear it. Patrick Kerans, S.J., argues convincingly that how we hear a message depends on the images that shape and control our perceptions of reality.[108] For instance, we can hear the theology of liberation as an invitation to negotiate with potential competitors. Behind this is the controlling image of man as a forceful, creative entrepreneur. According to this image, men make shrewd business deals with each other, with profit as a motive. They deal from strength, etc. Kerans feels that it is this poker-game model that is negotiating (and vitiating) relations between North and South America. It is a dominance-dependence model. The dominance is achieved not pri-

[104] The literature on revolution continues to grow. The most useful recent piece is the excellent study of James F. Childress, "Nonviolent Resistance and Direct Action: A Bibliographical Essay," *Journal of Religion* 52 (1972) 376–96. Cf. also Michael Wallace, "The Uses of Violence in American History," *American Scholar*, Winter, 1970–71. pp. 81–102; Maurits de Wachter, "Ethics and Revolution," *Irish Theological Quarterly* 39 (1972) 43–59; Jesús García Gonzalez, "Development and/or Liberation?" *Lumen vitae* 27 (1972) 11–34; Gerard J. Hughes, "A Christian View of Revolution," *Way* 12 (1972) 222–32.

[105] Perhaps this is a poor way of formulating the point. C. G. Arevalo, S.J., states it as follows: "What man does, bears, in God's design, an intrinsic relationship to God's kingdom as it will be given" ("Love in the Service of Hope," *Philippine Studies* 20 [1972] 417–37, at 430).

[106] J. E. Wood, Jr., "A Theology of Power," *Journal of Church and State* 14 (1972) 107–24.

[107] Arthur G. Gish, *The New Left and Christian Radicalism* (Grand Rapids: Eerdmans, 1970) p. 134.

[108] Patrick Kerans, S.J., "Theology of Liberation," *Chicago Studies* 11 (1972) 183–95.

marily by military or economic coercion, but by our ability to control the key images in such a way that the existing dominance seems a wise and good arrangement.

Over against this model he proposes that we must, as Christians, begin with the fundamental Christian mystery of forgiveness. "Then we will be led to try to understand the political dimension along with all the other dimensions of human life in the light of the controlling image of brother forgiving brother." Thus he views the call for transformation of the system as a call for new controlling images of men and reality.

Kerans makes an important point. If structural sinfulness is maintained and supported by controlling images of man and reality, a basic ethical task is to get at those images. This notion is so important and so often overlooked that a restatement may be in place. It is said that "structures are sinful, structures enslave, and therefore structures must be changed." This is certainly true, but unless the term "structure" is unpacked a bit more, we will not appreciate the enormity of the ethical task in the social sphere.

"Structures" can be understood as either operational or ideological. Operationally understood, they are things like zoning laws, welfare systems, international monetary systems, tax systems, trade agreements, health delivery systems, and so on. They are the concrete patterns of behavior that make up a person's environment. This environment is made up of interrelated sets of communities: political, social, economic, familial, religious. Our well-being is determined by the harmonious functioning of these communities. Hence they can be liberating or enslaving.

The operational structures enslave when the ideological structure implicit in them and supportive of them enslaves. The ideological structure enslaves when some value other than the individual persons who constitute these communities is the organizing and dominating value. By "organizing" I mean that it is this value that generates reciprocal expectations, patterns of actions, decisions, policies.[109] By "dominating" I mean that individuals are subordinated to this value. This process need not be and most often is not explicit or conscious. But it is this value-scale that generates and maintains the reciprocal expectations etc. that feed and support unjust operational structures. When Kerans refers to controlling images, he is referring to something very close to what have been called here ideological structures. It is these that have to be changed if unjust operational structures are to be altered permanently.

[109] It seems that Edward Schillebeeckx has in mind an analysis very close to this in "The Christian and Political Engagement," *Doctrine and Life* 22 (1972) 118–27, at 122.

For instance, it can be argued that the single dominating and organizing value in American culture is economic—the good life. Our American culture promotes and rewards this and thereby educates to it. Even our universities have capitulated to this value. Too often they simply train for the job market. Practically, then, this means that other values will be pursued and promoted only within this overriding priority. Thus, justice in education, housing, medical services, job opportunity is promoted within the dominance of the financial criterion—"if we can afford it," where "afford" refers to the retention of a high level of consumership. The dominance of the economic value is the root of enslavement, the ideological structure.

It is not suggested here that the operational structures do not merit direct and decisive action. They obviously do. But the lasting success of this action is inseparable from modification of the ideological structure. It is precisely here that the prophetic witness of a sparing-sharing use of material goods assumes its importance. This life-style is not just good example, alongside of other more practical and direct tasks. It appears to be an essential way of getting at a society's value assumptions, and hence becomes a social ethical responsibility of the first magnitude, a point made sharply by the Synod, the Canadian bishops, and Henriot.

But it is not the only way. Among several ways for the Christian community to exercise influence on the decisions made in society, James Gustafson mentions the impact on the ethos or cultural values of a society.[110] Gustafson sees this occurring as a somewhat unintended effect of a concerted effort to achieve a direct aim. For instance, the anti-war movement had a direct aim (immediate end to the war) but also indirectly brought about rather massive shifts in widely-held values. Throughout his study Gustafson is attentive to an aspect of social morality that is easily neglected: the moral affections. Unless there is the awakening and expansion of vigorous moral sensibilities, responsible social action will not occur. From this perspective Gustafson sees the problem as one of developing more imaginative forms of communication than the sort of moral reasoning ordinarily associated with theological ethics.[111] I agree, but I do not think we have found these forms.

In an excellent study, J. Bryan Hehir puts heavy emphasis on just this point.[112] Moral awareness or moral consciousness is a prerequisite

[110] James M. Gustafson, "Ethics and Faith in the Life of the Church," *Perkins School of Theology Journal* 26 (1972) 6-13.

[111] For some educational suggestions toward this end, cf. T. A. Mathias, "Education for Social Change," *Social Action* 22 (1972) 237-46; Joseph J. Blomjous, "Christians and Human Development in Africa," *African Ecclesiastical Review* 14 (1972) 189-201.

[112] J. Bryan Hehir, "International Affairs and Ethics," *Chicago Studies* 11 (1972) 197-208.

for serious moral analysis or action. One major difficulty in achieving social justice is the constriction placed upon our moral imagination, our capacity to sense and see an issue from a perspective other than our own. This privatizing of the imagination is, Hehir argues, aided and abetted by technology and language. For example, "surgical air strike" is a phrase that really shields the untrained observer from the reality of what is described, just as "terminating a pregnancy" is sanatized language that constitutes a barrier to the development of moral consciousness. As for technology, it places a mechanical shield between ourselves and the effects of our acts, and therefore tends to shrivel our consciousness.

The problem of moral consciousness can be partially[113] met through the mediation of those who have been involved in social thought and work. A fine example of this mediation is the paper entitled "The Quest for Justice" published by the Center of Concern under the principal authorship of William R. Callahan, S.J.[114] One of the intriguing features of this concrete response to the synodal challenge is the attitude taken toward Catholic identity. Since Vatican II, American Catholics have experienced a dissolution of many of the structures, attitudes, behavioral patterns that gave them identity as Catholics. The authors suggest that the most powerful and relevant quest which could build this unity and identity in our time is the quest for justice.

These are some recent writings on the sociopolitical responsibility of Christians. What they both call for and reflect is a healthy shift in the focus of our moral concern. Pope Paul left no doubt about this when he stated: "These are questions that because of their urgency, extent, and complexity must, in the years to come, take first place among the preoccupations of Christians. . . ."[115]

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[113] "Partially" because a strong case can be made for saying that moral sensibility needs, in most cases, some direct experience of the deprivation, suffering, and injustice experienced by others. Cf. José C. Blanco, S.J., "Aggiornamento and the Works of Liberation," *Philippine Studies* 20 (1972) 439–48, at 447.

[114] William R. Callahan, S.J., *The Quest for Justice*, published by the Center for Concern, Washington, D.C., 1972.

[115] "Octogesima adveniens," *loc. cit.*, no. 7.