

CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY: 1976

As has become usual, the literature touching moral theology is so vast that an adequate survey is impossible. For instance, in the past months there are interesting entries on liberation theology,¹ the Church and politics,² fundamental moral theology,³ and bioethics.⁴ I shall limit

¹ J. Salguero, O.P., "Concetto biblico di salvezza-liberazione," *Angelicum* 53 (1976) 11-55; Brian V. Johnstone, "Eschatology and Social Ethics: A Critical Survey of the Development of Social Ethics in the Ecumenical Discussion," *Bijdragen* 37 (1976) 47-85; Francisco F. Claver, S.J., "The Christian Gospel and Human Rights: A Praxis Perspective," *Catholic Mind* 74, no. 1305 (Sept. 1976) 14-23; Philip J. Scharper, "The Theology of Liberation: Some Reflections," *Catholic Mind* 74, no. 1302 (April 1976) 44-51; Robert Faricy, S.J., "Salvation, Liberation and Christian Responsibility," *Chicago Studies* 15 (1976) 105-18; Robert T. Osborn, "Jesus and Liberation Theology," *Christian Century* 93 (1976) 225-27; Dow Kirkpatrick, "Liberation Theologians and Third World Demands," *Christian Century* 93 (1976) 456-60; J. Deotis Roberts, "Contextual Theology: Liberation and Indigenization," *ibid.*, pp. 64-68; Dorothee Sölle, "Faith, Theology and Liberation," *Christianity and Crisis* 36 (1976) 136-41; Jürgen Moltmann, "An Open Letter to Jose Miguez Bonino," *ibid.*, pp. 57-63; Clark H. Pinnock, "Liberation Theology: The Gains, the Gaps," *Christianity Today* 20 (1975-76) 389-91; G. Caprile, "I cristiani e l'ordine temporale," *Civiltà cattolica* 127 (1976) 584-92; Ph.-I. Andre-Vincent, O.P., "Les 'théologies de la libération,'" *Nouvelle revue théologique* 98 (1976) 109-25; Fr. H. Lepargneur, O.P., "Théologies de la libération et théologie tout court," *ibid.*, pp. 126-69; R. P. André-Vincent, "Libération des hommes et salut en Jésus-Christ: Un document de l'épiscopat," *Pensée catholique*, no. 160 (Jan.-Feb. 1976) 57-65; Enrico Gilardi, "Teologie politiche e della liberazione: Osservazione metodologiche," *Scuola cattolica* 104 (1976) 137-91.

² U.S. Catholic Conference, "Political Responsibility: Reflections on an Election Year," *Catholic Mind*, 74, no. 1306 (Oct. 1976) 2-9; Paul Weber, S.J., Kent A. Kirwan, "Christian Values and Public Policy: A Proposal," *Chicago Studies* 15 (1976) 199-209; James Armstrong, "The Politics of Abortion," *Christian Century* 93 (1976) 215-16; Paul Abrecht, "The U.S. Christian and the World Struggle," *Christianity and Crisis* 36 (1976) 186-91; John B. Anderson and Archie Penner, "Get Active Politically? [Two Views]," *Christianity Today* 20 (1975-76) 658-60; "Carter and the Bishops" [editorial] *Commonweal* 103 (1976) 611-12; Ferdinand Klostermann, "Kirche und Politik," *Diakonia* 7 (1976) 73-76; Gervasio Gestori, "Fede e politica nei congressi nazionali della Democrazia Cristiana," *Scuola cattolica* 104 (1976) 211-42; Giuseppe Angelini, "Ideologia, prassi politica e fede," *ibid.*, pp. 243-68; Wolfgang Seibel, S.J., "Kirchliche Erklärungen im Wahljahr," *Stimmen der Zeit* 101 (1976) 433-34.

³ W. Conn, "Bernard Lonergan's Analysis of Conversion," *Angelicum* 53 (1976) 362-404; Daniel C. Maguire, "Credal Conscience: A Question of Moral Orthodoxy," *Anglican Theological Review*, Supplementary Series 6 (1976) 37-54; Timothy E. O'Connell, "A Theology of Conscience," *Chicago Studies* 15 (1976) 149-66; Douglas John Hall, "Towards an Indigenous Theology of the Cross," *Interpretation* 30 (1976) 153-68; Joseph Sittler, "Space and Time in American Religious Experience," *ibid.*, pp. 44-51; Enda McDonagh, "Technology and Value Preferences," *Irish Theological Quarterly* 43 (1976) 75-90; James F. Bresnahan, S.J., "Rahner's Ethics: Critical Natural Law in Relation to Contemporary Ethical Methodology," *Journal of Religion* 56 (1976) 36-60; David J. Leigh, "Newman,

myself to four areas: (1) Christianity and morality; (2) norms and conscience; (3) theologians and the magisterium; (4) the "Declaration on Certain Questions concerning Sexual Ethics."

CHRISTIANITY AND MORALITY

How does Christian faith relate to moral reasoning? There are many ways of phrasing this question: What is the relationship of moral theology to moral philosophy? Is there a specifically Christian ethics? Does Christian faith add material content to what is in principle knowable by reason? Is Christian morality autonomous? Is Christ the ultimate

Lonergan and Social Sin," *Month* 9 (1976) 41-44; Alfred H. Wiater, "Ethik und Naturwissenschaften," *Die neue Ordnung* 30 (1976) 171-78; P. Toinet, "Conscience et loi objective," *Nouvelle revue théologique* 98 (1976) 577-91; Henry B. Veatch, "The Rational Justification of Moral Principles: Can There Be Such a Thing?" *Review of Metaphysics* 29 (1975) 217-38; Luis Vela, "Consciencia y ley," *Sal terrae* 64 (1976) 483-90; Hans Jürgen Baden, "Moralismus und Moral," *Stimmen der Zeit* 101 (1976) 445-56; E. Schweizer, "Ethischer Pluralismus im Neuen Testament," *Theologie der Gegenwart* 19 (1976) 13-17; Friedo Ricken, S.J., "Die Begründung moralischer Urteile nach R. M. Hare," *Theologie und Philosophie* 51 (1976) 344-58; Wm. E. May, "What Makes a Human Being to Be a Being of Moral Worth?" *Thomist* 40 (1976) 416-43; Walter G. Jeffko, "Action, Personhood, and Fact-Value," *ibid.*, pp. 116-34; Ralph McInerny, "Naturalism and Thomistic Ethics," *ibid.*, pp. 222-42; Walter E. Conn, "H. Richard Niebuhr on 'Responsibility,'" *Thought* 51 (1976) 82-98; F. Furger, "Katholische Moraltheologie in der Schweiz," *Zeitschrift für evangelische Ethik* 20 (1976) 219-31; Christofer Frey, "Natürliche Theologie und christliche Ethik," *ibid.*, pp. 1-24.

⁴ Cf. *Linacre Quarterly* (passim) and *Hastings Report* (passim) as well as the *Journal of Medical Ethics*. In addition: "A Vatican Statement on Sterilization," *Catholic Mind* 74, no. 1306 (Oct. 1976) 13-14; Stanley Hauerwas, "Having and Learning How to Care for Retarded Children: Some Reflections," *ibid.*, 74, no. 1302 (April 1976) 24-33; Lawrence B. Casey, "A Statement on the Case of Karen Ann Quinlan," *ibid.*, 74, no. 1301 (March 1976) 12-18; Thomas C. Oden, "A Cautious View of Treatment Termination," *Christian Century* 93 (1976) 40-43; Kenneth Vaux, "Beyond This Place: Moral-Spiritual Reflections on the Quinlan Case," *ibid.*, pp. 43-45; Cathie Lyons, "The Quinlan Decision," *Christianity and Crisis* 36 (1976) 103-4; Douglas K. Stuart, "'Mercy Killing'—Is It Biblical?" *Christianity Today* 20 (1975-76) 545-47; "Should Karen Ann Quinlan Be Allowed to Die?" [editorial], *ibid.*, p. 33; A. Fonseca, "Sterilizzazione obbligatoria in India?" *Civiltà cattolica* 127 (1976) 153-65; S. Lener, "Sui diritti dei malati e dei moribondi: È lecita l'eutanasia?" *ibid.*, pp. 217-32; Donald P. Warwick, "Compulsory Sterilization in India," *Commonweal* 103 (1976) 582-85; Daniel C. Goldfarb, "The Definition of Death," *Conservative Judaism* 30 (1976) 10-22; Seymour Siegel, "Updating the Criteria of Death," *ibid.*, pp. 23-30; Patrick Verspieren, "La muerte y el morir en la era tecnológica," *Criterio* 49 (1976) 167-73; John Giles Milhaven, "Christians and the Permanently Mentally Ill," *Critic* 35, no. 1 (Fall 1976) 10-13, 95; James M. Childs, Jr., "Euthanasia: An Introduction to a Moral Dilemma," *Currents in Theology and Mission* 3 (1976) 67-78; Robert M. Cooper, "Abortion: Privacy and Fantasy," *Encounter* 37 (1976) 181-88; William May, "Ethics and Human Identity: The Challenge of the New Biology," *Horizons* 3 (1976) 17-37; Kevin O'Rourke, "Active and Passive Euthanasia: The Ethical Distinctions," *Hospital Progress* 57, no. 11 (Nov. 1976) 68-73; S. C. Papenfus, "Christianity and Psychiatry: Some Ethical Considerations," *Irish Theological Quarterly* 43 (1976) 211-16; Patrick

norm for the morally good and right, and in what sense? These questions may appear academic, at the margin of real life. Actually the proper answer to them (and as I have worded them, they may represent substantially different questions) is of great importance.

For instance, the answer affects public policy. Public policy, while not identical with sound morality, draws upon and builds upon moral conviction. If Christian faith adds new material content to morality, then public policy is even more complex than it seems. For example, if Christians precisely as Christians know something about abortion that others cannot know unless they believe it as Christians, then in a pluralistic society there will be problems with discussion in the public forum. The answer affects the Church's competence to teach morality authoritatively, and how this is to be conceived and implemented. Thus, if Christian faith adds material content to what is knowable in principle by reason, this could provide support to a highly juridical notion of the moral magisterium. Also affected is our understanding of what has been traditionally called "the natural law." Similarly, the very processes we use, or do not use, to judge the moral rightness or wrongness of many concrete projects (e.g., donor insemination, *in vitro* fertilization, warfare, poverty programs, apartheid) can be affected. Our relationship to Marxists can be deeply influenced by this discussion.

Several interesting articles directly touch this matter, e.g., those of William Van der Marck, Vernon Bourke, and Daniel Maguire.⁵ Others do so indirectly. Perhaps the best way to exemplify its importance is through a study by Norbert Rigali, S.J.⁶ He tries to discover the historical meaning of the *Humanae vitae* controversy, i.e., to see how future historical theology may view the matter. Future theologians will ask: How convincing was the case for change? Rigali's conclusion: *Humanae vitae* was a fitting historical response, because the challengers failed to prove their case.

Rigali faults the papal commission's report on two major points. First, the report shows a Western, technological bias in neglecting the possible

Logan, "The Right to Die," *Month* 9 (1976) 199-202; Leonard J. Weber, "Moral Decisions in Medical Situations," *New Catholic World* 219 (1976) 214-17; Charles E. Curran, "An Overview of Medical Ethics," *ibid.*, pp. 227-32; Ronald G. Alexander, "Can a Christian Ethic Condone Behavior Modification?" *Religion in Life* 45 (1976) 191-203; Albert Keller, S.J., "Sterbehilfe und Freiheit," *Stimmen der Zeit* 101 (1976) 253-60; Josef Georg Ziegler, "Prinzipielle und konkrete Überlegungen zum Problem der Euthanasie," *Trier theologische Zeitschrift* 85 (1976) 129-49.

⁵ Daniel Maguire, "Catholic Ethics with an American Accent," in *America in Theological Perspective*, ed. T. M. McFadden (New York: Seabury, 1976) pp. 13-36; William Van der Marck, "Ethics as a Key to Aquinas' Theology," *Thomist* 40 (1976) 535-54; Vernon J. Bourke, "Moral Philosophy without Revelation," *ibid.*, pp. 555-70.

⁶ Norbert Rigali, S.J., "The Historical Meaning of *Humanae vitae*," *Chicago Studies* 15 (1976) 127-38.

moral demands of harmony with nature. "Is it self-evident that the religious-ethical notion of harmony with nature should simply vanish in the presence of the notion of human control over nature?" Secondly, the commission restricted its considerations to natural law. However, there is more to Christian morality. Thus the proponent of change would in addition have to do one of two things: "(1) He must disprove the traditional view that there can be Christian secular obligations which arise from a source beyond natural law, namely, charity. (2) Or he must prove that charity cannot require in this particular matter of sexual morality any behavior other than that required by natural law."⁷ In either case the proponent of change must "engage in the theological analysis of the supernatural virtue of charity," an analysis untouched by the commission.

Rigali then turns to what he thinks ought to be future developments in moral theology regarding contraception if Christ is put at the center of the moral life. In general, moral theology must become "the science of the life of Christ," the perfect revelation of what Christian life ought to be. "Christian morality must become identified with doing the will of the Father and following Christ rather than with observing the moral law."

In this perspective the new moral theology will not be just adaptation of traditional formulas; it becomes a "science of the life of striving." Different persons are at different stages and levels in this growth process toward the ideal, perfect charity. For this reason "no one is existentially obligated to do the impossible and live as if he or she were already perfect in charity." The new moral theology will realize this. Thus it will do two things. First, unlike the papal birth-control commission (which spoke of contraception as involving a "negative element of physical evil"), the new theology "will see it as including a *morally* negative element": the act is incompatible with Christian perfection, with a "degree of charity possible in this world." Secondly, however, it will know that there is a difference between being incompatible with Christian perfection and being incompatible with a particular state of striving toward that perfection.

Thus the new moral theology will take the perfect love of Christ as its measure. It will examine all matters in light of this love and the different moral obligations that are generated by its progressive stages. "It will relegate to philosophy, or consign to its own corollaries, considerations of moral matters in terms of natural law. Then the new moral theology will have become at long last *theology* instead of philosophical ethics."⁸

No Christian wants seriously to deny that Christ should be at the

⁷ *Ibid.*, p. 133.

⁸ *Ibid.*, p. 136.

heart of the moral life. But how this is understood and formulated is important. It is what the discussion on the specificity of Christian ethics is all about. For this reason I should like to put some questions, perhaps even objections, to Rigali.⁹

First, there are the notions of charity, natural law, and moral law as he uses them. I believe they are confused. For instance, Rigali contrasts the natural law with charity as follows: "Distinguishing the natural from the supernatural, moral theology noted ethical obligations which it considered to be founded exclusively on supernatural charity, not on natural law. It taught, for instance, that an act of almsgiving, although not demanded by justice, can be required by charity."¹⁰

Moral theology did indeed teach that almsgiving can be required by charity. But the charity of which it spoke was not first of all *supernatural* charity. The natural law, as it has been commonly formulated, includes not simply obligations of justice but also of charity. For example, F. Hurth and P. M. Abellán write: "All moral commands of the 'New Law' are also commands of the natural moral law. Christ did not add any single moral prescription of a positive kind to the natural moral law. . . . That holds also for the command of love. . . . The ethical demand to love God and one's neighbor for God's sake is a demand of the natural moral law."¹¹

Therefore, by restricting natural law to justice claims, Rigali effectively makes all claims of charity supernatural (his term), "founded exclusively on supernatural charity." This is not the traditional understanding of natural law on this matter. Thus, when Rigali says that after showing that contraception was not contrary to natural law, the proponent of change still had another task ("disprove the traditional view that there can be Christian secular obligations which arise from a source beyond natural law, namely, charity"), he is appealing to a nonexistent tradition; for tradition denied that there are "Christian secular obligations which arise from a source beyond natural law." And in the process of making this claim, Rigali is annexing all charity claims to Christian revelation in a way that would render other religious traditions a bit uncomfortable.

Something similar happens with the term "following Christ." Rigali

⁹ There are some minor arguable points in the study. E.g., Rigali refers to traditional Catholic teaching in these terms: "Artificial contraception is *per se* contrary to natural law" (p. 128). Most theologians understand *per se* to mean "as a general rule." But this was not the tradition; rather, contraception was seen as intrinsically evil.

¹⁰ *Art. cit.*, p. 132.

¹¹ F. Hurth, P. M. Abellán, *De principiis, de virtutibus et praeceptis* 1 (Rome: Gregorian Univ., 1948) 43. This thesis is the traditional one. It is found in Suarez, Genicot, Vermeersch, Zalba, etc. It is also broadly shared by non-Catholic authors like Bultmann, Cullmann, E. Troeltsch. Cf. B. Schüller, S.J., "Zur Diskussion über das Proprim einer christlichen Ethik," *Theologie und Philosophie* 51 (1976) 331.

states: "Christian morality must become identified with doing the will of the Father and following Christ rather than with observing the moral law." The same contrast ("rather than") appears here that was noted between natural law and charity. But it is a valid contrast only if one restricts "observing the moral law" in a way that the tradition did not: to justice claims, or to minimal negative prohibitions. Actually, most theologians would and should equate "doing the will of the Father" with "observing the moral law." So it is only by restricting the term "moral law" that Rigali can make it *appear* that Christianity makes specific claims that "moral law" does not.

My second problem is closely connected with the first: relegating to philosophy "moral matters in terms of natural law." (By natural law I understand those moral claims that are referred to as *naturaliter nota*¹² and the more detailed, even if changeable, applications of these claims as derived through discursive reasoning.¹³) The problem with Rigali's suggested relegation is at least twofold. First, a certain separationism ensues wherein "the law revealed by Christ" has nothing to do with the *naturaliter nota*. I think this is an inadequate account of things, as the Pauline catalogues of vices and virtues suggest, and, when pushed, could imply some highly dubious things about Christology. Secondly, the major moral problems of our time (e.g., racism, poverty, deprivation of civil rights, warfare, violence) are approachable through considerations that fall within the domain of what we call natural law. This does not mean that Christian perspectives cannot illumine and reinforce these considerations; they can. But to relegate to philosophy all "moral matters in terms of natural law" is easily to isolate theology from any influence on our major moral problems. Is not our challenge rather to illumine the undoubted relationship between the *naturaliter nota* and the following of Christ, and in this sense to bring them closer together? This point has been made by any number of commentators on the "Declaration on Certain Sexual Questions" (see below).

My third question to Rigali concerns his analysis of an "act intrinsically incompatible with a degree of charity possible in this world." That is how he describes a contraceptive act and, I would think, by extrapolation any action involving nonmoral evil. Using the measure of charity (or following of Christ etc.), this action must, he says, be seen as "including a *morally* negative element" (whereas theologians commonly speak of this negative element as "physical evil," "nonmoral evil," "ontic evil," as did the papal commission). This "morally negative element" consists in the fact that such "imperfect behavior" (Rigali's phrase) is "incompatible with a degree of charity possible in this world" or "Christian perfection."

¹² A. Vermeersch, *Theologia moralis* 1 (Rome: Gregorian Univ., 1947) nos. 146 ff.

¹³ For further discussion of this point, cf. Bourke (n. 5 above).

I have several problems with this formulation.¹⁴ I agree that there is a "moral duty to transcend what is imperfect," to strive constantly to achieve a personal and world situation where these imperfections are unnecessary. Indeed, that is the very thrust implied in the usage "nonmoral *evil*." But to call imperfect acts "*morally* negative" and to attribute this to incompatibility with perfection (charity) is to relate the conflicts we experience to our imperfection in charity rather than to creaturely limitation and an imperfect world. Imperfect acts, if one does not smuggle in the notion of *morally* imperfect, are incompatible with a *perfect world*, i.e., one without objective conflict, not with the fulness of charity.

Let me use an example. Carcinoma may require a mastectomy or an amputation. Everyone admits that such an operation visits a disvalue or physical (nonmoral, ontic) evil on the person and in this sense is an imperfect act. Yet everyone admits that this life-saving surgery is justified. Now if Rigali's formulation is correct, we should say that it has "*morally* negative elements," and precisely because it is incompatible with "a degree of charity possible in this world." But no one would say that, because no one would relate the existence of possibly metastatic carcinoma and the physical evils (surgery) it necessitates to an individual's¹⁵ nonachievement of a "degree of charity possible in this world." Even saints can get cancer and require surgery. Therefore, the physical evils visited by mastectomy are incompatible not with "a degree of charity possible" but with a perfect world where no conflicts occur. Much the same has been said for centuries about other nonmoral evils, such as killing in self-defense, *falsiloquia*, taking another's property, etc. Their possible justification is related to the conflictual character of some human situations.

Rigali could respond that contraception is different: it is a *moral* evil. But that is, of course, the matter in dispute. One does not solve that dispute by stipulation; otherwise we have a begged question.

My second problem: if Rigali's formulation were correct, the justification for *any* imperfect act (involving nonmoral evil) would be found by examining the state of one's charity. Not only is this an impossible measure, but it diverts attention from the very factors that ought to be considered, scil., the values in conflict. In summary, then, when Rigali sees a contraceptive act, and, in principle, any imperfect act, as incompatible with a possible degree of charity, and as thereby having a "*morally* negative element," he has gotten us very close to the notion of

¹⁴ I say "formulation" because practically Rigali comes out where most theologians do today; for he admits that imperfect acts can be compatible, if not with perfection, with "the striving, at any stage, for a yet unattained Christian perfection" (p. 136).

¹⁵ I say "individual's" because a long and honored tradition relates sickness and death to original sin.

necessary sin. We should distinguish two things: the determination of what is right and wrong (and this is related to the conflictual character of reality) and the ability to do what is right (and this is or could be related to one's growth in charity).

I address these as questions to Rigali; for it is essential that Christ be the center of the moral life, but it is not clear that the "future developments" he describes should be part of this centering.

In contrast to Rigali, Henry Allard, S.C.J., cites no. 51 of *Gaudium et spes*: "moral behavior does not depend only on a sincere intention and the evaluating of motives, but must be judged by objective standards. These are drawn from the nature of the human person and his acts."¹⁶ On this basis Allard suggests that we must incorporate knowledge from the sciences into moral theology (psychology, biology, sociology of knowledge). As an example of psychological knowledge useful to moral theology, he cites the appreciation of the various stages of the individual's growth (infancy, puberty, adolescence, adulthood, old age). "Each stage has its own specific features which constitute objective criteria to determine the nature of the human person." On this basis he proposes the notion of "limited responsibility," which differs fundamentally, he argues, from diminished responsibility in traditional moral theology. "Various stages of growth" is a notion different from "imperfection in charity," though it is not altogether clear what "limited responsibility" means in Allard's presentation.

Vernon J. Bourke asks "whether ethics may be autonomous in relation to Christian ethics."¹⁷ After reviewing the question as treated by any number of philosophers (Frankena, Richard Brandt), he concludes that "a philosophical ethics working in the service of moral theology must have its own independent validity." As for the relationship of such an ethics to Christian realities, Bourke states somewhat tantalizingly that it "is open to development on a higher level of human experience, in terms of the spiritual values inherent in Christianity." I say "tantalizingly" because his "open to development" does not specify the relationship.¹⁸

This discussion on the specificity of Christian ethics is livening up in Europe, particularly in Germany. Dietmar Mieth (Fribourg) gives a

¹⁶ Henry Allard, S.C.J., "Recent Work in Moral Theology: In Defense of Objective Morality," *Clergy Review* 61 (1976) 191-95.

¹⁷ Bourke, *art. cit.*, p. 558.

¹⁸ Cf. *ibid.*, p. 570. In the course of his study Bourke misunderstands my statement that "there is no such thing as a natural law existentially separable from the law of Christ, and there never was" (*Norm and Context in Christian Ethics*, ed. Paul Ramsey and Gene Outka, p. 241). Of this and similar statements (e.g., by George Regan) Bourke argues: "These and similar writers so restrict the scope of natural law that it becomes available only to those who know the law of Christ and are supernaturally elevated by divine grace" (p. 565). Bourke reads us as saying that the natural law is *knowable* only

report.¹⁹ Everyone admits, he notes, that faith and ethics have something to do with each other. They cannot be separated, but they must be distinguished. This European discussion is often couched in terms of autonomy (a term rooted in developments in philosophical ethics since Kant) and theonomy (attributable especially to Tillich). Thus some recent theologians discuss the question in terms of "an autonomous moral in a Christian context."

Such an autonomous morality has been presented in its most detailed form by Alfons Auer (Tübingen). Similar positions have been developed by Joseph Fuchs, R. Hofmann, Dietmar Mieth, Franz Böckle, Bruno Schüller, and others. The first attack on such positions, issued by Gustave Ermecke, has been intensified by the addition of B. Stoeckle, K. Hilpert, J. Ratzinger, and Hans Urs von Balthasar to the list of attackers.²⁰

Mieth first presents some general theses representative of the direction of those arguing for an autonomous morality. Then he shows how these have been distorted by the dissidents. Finally he reviews their alternatives and concludes with some rules about theological discussion, which he feels are being violated by Stoeckle, Ratzinger, and others. For example, critics should present the position they oppose in a manner recognizable to those who hold it; there should be no nameless allegations; and so on.

The most basic thesis of the autonomous-ethics theologians is that *Christian* ethics does not consist in insights available only to believers. Rather, Mieth reports, the specific character is located in a new horizon of meaning ("im Sinne eines neuen Sinnhorizontes") and a specific intentionality. They do not deny the competence of the magisterium for the entire moral order, as Ratzinger asserts. Rather they (especially Auer) suggest that the magisterium expresses itself in an *original* way in the area of the intentionality and horizon of meaning specific to Christians, but only in a *subsidiary* way in the realm of innerworldly reality. Thus "a statement of the magisterium will be less necessary the more autonomous morality itself offers arguments, and all the more necessary the greater the deficiency of ethical awareness."²¹

However, Mieth claims, Stoeckle and Ratzinger distort these writ-

by Christians. That is not the point. What we are asserting is that there is a single existential order of salvation, and that the natural moral law, however understood and derived, must not be conceived as separate from it but immersed in it. This point is made repeatedly by Fuchs in his studies on natural law.

¹⁹ Dietmar Mieth, "Autonome Moral im christlichen Kontext," *Orientierung* 40 (1976) 31-34. *

²⁰ Cf. Joseph Ratzinger, *Prinzipien christlicher Moral* (Einsiedeln: Johannes Verlag, 1975). Ratzinger's essay is also published (without footnotes) in *Problems of the Church Today* (Washington: U.S. Catholic Conference, 1976) pp. 74-83.

²¹ Mieth, *art. cit.*, p. 32.

ings. Thus, Ratzinger is simply wrong in asserting that "an autonomous moral in a Christian context" leaves no room for a magisterium. Moreover, Mieth believes, the only difference between Ratzinger and Auer on the function of the moral magisterium is the pejorative language Ratzinger uses to describe the positions of Auer, Küng, and others.

When Schürmann, Ratzinger, and Balthasar (Mieth regards Balthasar as the most extreme separatist of all) get around to formulating what they believe the specific Christian character of morality to be, they indulge in generalities which Mieth finds "not false but of little help." As an example, he cites Balthasar's statement that the absolute norm of the crucified Christ "makes himself present as the only norm in every situation."

Since Ratzinger had cited Schüller as among those holding to a "rationalistic thesis," Schüller recently returned to this discussion by directly engaging Ratzinger, Schürmann, and von Balthasar.²² The traditional thesis has been that moral rules incumbent on a Christian are materially identical with the precepts or prohibitions of so-called natural law. Ratzinger *et al.* deny this, and for two reasons that Schüller lifts out. First, God's and Christ's love is presented as a *standard* of our love. Thus Ephesians 5:1: "Be imitators of God as His dear children. Follow the way of love, even as Christ loved you." This implies that only by referring to Christ's behavior and preaching can a Christian learn how to behave morally, a conclusion drawn explicitly by Schürmann and Balthasar. The second reason: as experience shows, faith is reliable, but reason is not. We need only recall the blunders made by philosophers throughout history to see this unreliability.

In a long and careful rejoinder, Schüller argues that these objections fail to draw two important distinctions. The first objection fails to distinguish between parenesis and normative ethics; the second fails to distinguish the truth value (or validity) of moral judgments and the genetic explanation of true and false moral judgments. A word about each.

To the first objection Schüller argues: the referring of the moral law to the gospel has nothing to do with normative ethics but is a specific sort of parenesis. To establish this, he notes that the golden rule (always treat others as you would want them to treat you) can be formulated parenetically in two ways, retrospectively and prospectively. Retrospectively: you have been treated well by others; therefore you ought to treat others well. Biblically it would be: obedience is required by recalling God's doing good to us—gospel and law. Prospectively: treat others well and you will be treated well by others. Biblically it would be: obedience is required by recalling God's judgment—law and judgment.

²² Bruno Schüller, S.J., "Zur Diskussion über das Proprium einer christlichen Ethik," *Theologie und Philosophie* 51 (1976) 321-43.

Once we include among those "others" God and Christ, it becomes clear that the famous relation between gospel and law is an application of the golden rule in its retrospective form: God or Christ has treated you well; therefore you ought to treat others well (e.g., Eph 4:32). The main point of this first type of parenesis is not the concept of imitation (Christ's love is the moral standard) but the concept of grace (Christ's love is the ground of our love). Even as it touches imitation, it is like the golden rule, parenetic, i.e., it supposes the matter of normative ethics settled and exhorts to performance.

It is because these authors, especially Ratzinger,²³ confuse and identify normative ethics and parenesis that they think the traditional thesis (no new material content unavailable to reason) robs the Christian message of its specifically Christian character. Schüller grants, of course, that "Christ is the concrete categorical imperative" (Balthasar), that his "behavior is the example and measure of serving and self-giving love," that his word is "the ultimate decisive moral norm" (Schürmann). He insists only that with such statements one does not raise the issue of *how* one originally knows God's will, "whether through faith alone as a distinct manner of knowing or through human reason. Jesus' word is the 'ultimate decisive norm' even when one accepts the fact that 'Christus sua auctoritate haec praecepta (naturalia) denuo confirmavit et maiorem vim obligandi eis addidit.'"²⁴ Where morality is concerned, Schüller argues, Scripture is largely parenesis. That is why so many rich and excellent studies in biblical ethics never come to grips with the problem of normative ethics.

Schüller's second distinction is between the truth value or internal validity of moral judgments and the genetic explanation of true and false judgments. Thus we may distinguish between: (1) Christian ethics in the normative (truth value) sense—what Christ said and did. In this sense this ethic is absolutely true. (2) Christian ethics in the genetic-historical sense—e.g., St. Thomas' interpretation of what Christ said and did. In this second sense it remains questionable whether the ethic is truly Christian. Indeed, this level includes heresies.

Similarly one can distinguish (1) philosophical ethics in the normative sense, scil., the law of reason, and (2) philosophical ethics in the genetic-historical sense, scil., Kant's understanding of this. It is an open question whether this latter is correct.

In saying that faith is more reliable than reason, Ratzinger confuses

²³ Schüller shows that Ratzinger mistakes parenesis for normative ethics. An indication of this is that Ratzinger unaccountably relates deontological theories (of normative ethics) with parenesis by recalling the gospel. He relates teleological theory with parenesis by recalling the judgment to come. Actually these theories have nothing to do with parenesis; they are concerned with normative ethics.

²⁴ From Hurth-Abellan (n. 11 above) p. 43.

these two levels. Reason is more reliable than faith if philosophical ethics is taken in the normative sense and Christian ethics in the genetic-historical sense. However, faith seems more reliable if taken in the normative sense and philosophical ethics in the genetic-historical sense. With this in mind, Schüller recalls that the traditional teaching on concrete moral norms (i.e., revelation does not add anything concretely to them) concerns only the epistemological status of norms, not the sociological, historical, psychological conditions that may hinder reason from arriving at true value judgments. This is overlooked by Ratzinger, Balthasar, and Schürmann.

In a lecture (Nov. 12, 1975) before the theological faculty of the Johannes Gutenberg University (Mainz), Polish theologian Tadeusz Styczen took a different point of view.²⁵ He argues that the proliferation of writing on this subject is symptomatic of the fact that "we are not clear enough on where the problem itself lies." Concretely, he argues that if we have no clear and clean-cut picture of ethics as a theory of moral obligation, we will remain unclear about the specific character of *Christian* ethics.

What, then, is the essence of moral obligation? Styczen proposes three different understandings, each with "a particular shape that cannot be reduced to the others": the deontological, the eudaimonist, and the personalist. For instance, those who explain moral obligation in terms of God, the author of moral law (Christians), or in Hegelian terms of history (Marxists) are classed as deontologists. Or again, a eudaimonist theory of moral obligation would include all those who explain the moral ought by appeal to man's final end—whether this be said to be self-fulfilment, happiness, or "status omnium bonorum aggregatione perfectus" (Boethius). In this category would be almost all Thomists (with the exception of J. Maritain and Joseph de Finance) and those Marxists who are uncomfortable with the Hegelian interpretation of morality. The personalist ethic derives moral obligation ultimately from nothing other than the affirmation of the person. If other considerations play a role (e.g., authority commanding this affirmation), they are not constitutive. "The one and only constitutive for the moral 'must' is that one person reveals himself simply as a person to another, that is, as no mere thing that can be used as means to end, but as a self-value *sui generis* or as an end in himself."²⁶ The representatives of this ethic would include Jesus himself.

Styczen concludes: "The consequence of this [threefold differentiation] is that the question about the specifically Christian character of ethics

²⁵ Tadeusz Styczen, "Autonome und christliche Ethik als methodologisches Problem," *Theologie und Glaube* 66 (1976) 211–19.

²⁶ *Ibid.*, p. 217.

or about its autonomy, as well as the question about their mutual relationship to each other, is a different problem than has been thought the case up to now." It is only the third type of analysis of moral obligation that can, Styczen suggests, be completely autonomous.

Perhaps Styczen has something; but I am not sure what it is. The question is whether the revealed word engages in normative ethics, and if it does, whether this normative ethics is beyond what is accessible to human reasoning processes, *whatever be the understanding of obligation undergirding these reasoning processes*. And if this normative ethics is beyond human reasoning processes in principle, just what is it? The answer traditionally given is that there is indeed something specifically Christian in Christian ethics, but it is not at the level of normative ethics (concrete behavioral norms). The denial of this is relatively recent (Ratzinger *et al.*), and to deal with that denial one need only show, as Schüller has done convincingly, that the reasons they adduce pertain to the level of parenthesis, not normative ethics. In other words, it is not clear to me that Styczen has clarified the question.

There are probably many ways of viewing and formulating this matter; no one way ought to claim a monopoly. My own tentative view, expressed elsewhere²⁷ and drawing on several sources, can be summarized as follows. With regard to those claims that are considered to apply to all men, Christ added nothing new. This means that at this level there is a material identity between Christian moral demands and those perceivable by reason. At this level, then, whatever is distinctive about Christian morality is found essentially in the life style, the manner of accomplishing the moral tasks common to all persons. The experience of Jesus is regarded as normative because he is believed to have experienced what it is to be *human* in the fullest way and at the deepest level. Christian ethics does not and cannot add to human ethical self-understanding as such any material content that is, in principle, strange or foreign to man as he exists and experiences himself.

Therefore, the Christian tradition is, or better, ought to be, an outlook on the human, a community of privileged access to the human. The Christian tradition is anchored in faith in the meaning and decisive significance of God's covenant with persons, especially as manifested finally in the saving incarnation of Jesus Christ and the revelation of his final coming, his eschatological kingdom, which is here aborning but will finally only be given. Faith in these events, love of and loyalty to their central figure, yields a decisive way of viewing and intending the world, of interpreting its meaning, of hierarchizing its values, of react-

²⁷ Richard A. McCormick, S.J., "The Insights of the Judaeo-Christian Tradition and the Development of an Ethical Code," in *Human Rights and Psychological Research*, ed. Eugene Kennedy (New York: Crowell, 1975) pp. 23-36.

ing to its apparent surds and conflicts. In this sense the Christian tradition only illumines human values, supports them, provides a context for their reading at given points of history. It aids us in staying human by underlining the truly human against all cultural attempts to distort it. In other words, it steadies our prethematic gaze on the basic human values that are the parents of more concrete rules and ethical protocols.

In summary, we do not, I believe, find concrete answers in revelation to the complex moral problems of the day. We do find a world view that informs our reasoning—especially as this reasoning touches the basic human values. This world view is a continuing check on and challenge to our tendency to make policies and choices in light of cultural enthusiasms that sink into and take possession of our prediscursive selves. Such enthusiasms can reduce the good of life to mere adjustment in a triumph of the therapeutic, collapse an individual into his functionability, exalt his uniqueness into a lonely individualism or crush it in a suffocating collectivism. In this sense it is true to say that the Christian tradition is much more a value-raiser than an answer-giver.

Ultimately, then, the Christian tradition involves two assertions. First, it admits that our reasoning processes are “*primi hominis culpa obtenebrata*” (DB 1670) and that revelation is necessary so we can know “*expedite, firma certitudine et nullo errore admixto quae in rebus divinis humanae rationi per se impervia non sunt*” (DB 1786). Secondly, it refuses to bypass or supplant human deliberation and hard work in developing normative ethics. Thus normative ethics is reasoning informed by faith, not replaced by it. If we look for more in our tradition, we will not, I think, find it. But if we settle for less, we are in trouble.

NORMS AND CONSCIENCE

Several studies deal with moral norms and their relation to conscience. Jeremy Miller, O.P., of Emory University, has a tidy summary of Rahner’s approach to decision-making.²⁸ Rahner found both an essentialist ethic (which sees individual choices as merely instances of general moral norms) and a situational one (which sees the individual as absolutely unique and thus denies any general moral norms) inadequate. He moves between the two extremes with his formal existential ethic, precisely because an individual is more than an instance of commonly shared humanity. The person is unique and this uniqueness roots in the spirit.

This uniqueness of the person means two things. First, there are times when the application of general moral norms (“the conclusion of

²⁸ Jeremy Miller, O.P., “Rahner’s Approach to Moral Decision Making,” *Louvain Studies* 5 (1975) 350-59.

the syllogistic technique") still leaves open several "permitted possibilities." Still, among these possibilities "there is only one choice at this moment expressing how God calls one." Secondly, even if the application of a general norm yields what one ought to do here and now, still this one imperative "could be realized with the most diverse inner attitudes." Thus Rahner's distinction between a principle and a prescription. This latter is directed to the concrete person in a concrete situation. Because it calls one in that person's uniqueness, a prescription "is beyond the reach of general normative maxims explicative of an essence, *though not in contradiction to them*, for, of course, it cannot be really distinct from what in the individual is the individualized realization of the universal essence."²⁹ The morally-demanded response of a unique situation is what Rahner means by an existential ethic.

Where such prescriptions are concerned, conscience recognizes them; it does not formulate (i.e., create) them. Thus, for Rahner, conscience has two functions: (1) it brings to our awareness the relevant moral principles for a situation and applies them; (2) in the individual sphere, conscience enables the individual to hear God's call to him alone (prescription). How does conscience recognize a prescription? Here, Miller notes, Rahner relies heavily on Ignatian discernment of spirits, especially the experience of peace and consolation.³⁰

Miller finds this faulty for three reasons. First, the method requires too much time for ordinary moral decisions. Secondly, how many are really receptive to the consolations against which one weighs a hypothetical choice? Thirdly, and above all, Rahner asserts an irreducibly self-evident character to God's speaking to the individual. "I am sure because I am sure." Miller sees this as unduly reducing the possibilities of self-deception. Therefore he feels that at this level Rahner underlines the problem but does not solve it. "That his proposal is existential separates it from the essentialist ethic. That it might be formalized separates it from situation ethics. But it remains a *project*."³¹

E. Hamel, S.J., does not speak of a "formal existential ethic," since his study is much more biblical than Miller's.³² But he arrives, through a fine study of spiritual discernment in St. Paul, at remarkably similar perspectives. His essay is concerned with discernment of God's will. He points out that in the New Testament Church there was a double teaching, internal and external. The internal refers to the teaching of

²⁹ These are Rahner's words cited in Miller, p. 355.

³⁰ For an interesting study on Ignatian discernment, cf. Michael Buckley, "Structure of Ignatian Rules for Discernment," *Theology Digest* 24 (1976) 280-85.

³¹ Miller, *art. cit.*, p. 359.

³² E. Hamel, S.J., "La scelta morale tra coscienza e legge," *Rassegna di teologia* 17 (1976) 121-36.

the Lord, in the Spirit, given interiorly to each individual. The external refers to the divine demands externalized especially in the words of the apostles. These are not two separate sources of knowledge of God's will, but complementary ways in which the Spirit influences the Christian to discover God's will.

As for the first and chief source of discernment, it is the Spirit within us deepening agape. "The facility of the Christian in growing to better discernment of God's will depends on the growth in him/her of this divine gift." As it deepens and abounds, so the moral and spiritual sense of discernment (knowledge by connaturality) grows. And Paul underlines the communitarian aspect of this search for God's will.

As for external laws, these are secondary. They do not substitute for conscience but aid it by illuminating it. But Paul's emphasis is heavily on the capacity of the Christian to discern. Thus St. Thomas, commenting on Paul, insists that the principal element of the new law is the presence of the Spirit. Hamel sees two operations of the Holy Spirit: aid in applying external norms, of seeing their importance, and aid in discerning within the total situation "the personal invitation *hic et nunc* offered by God." Two dangers are to be avoided: legalism (the only way to know God's will is revealed law) and inspirationism (the Christian has a kind of personal "direct line" to God's will). "The Pauline way avoids these excesses. For the apostle, the discovery of God's will is not something automatic, exclusively charismatic; it is the result of a process of spiritual discernment, realized in the heart of the community, guided by a double teaching, internal and external."³³ Hamel's study is refreshing and, like Miller's, it points the moralist's attention to the profound importance of the notion of discernment in the moral-spiritual life.

Normative ethics presupposes a method of analyzing human behavior. And where the discussion is of method, the name of Joseph Fletcher is rarely long absent from the discussion. Fletcher's *Situation Ethics* has been around almost ten years now, yet he continues to get precious little peace and quiet from his commentators. Two recent entries review his methodology and may serve as contrasts to what has been occurring in the Catholic community of moral theologians. Seton Hall's Gerard J. Dalcourt discusses the pragmatism of Dewey and the situationism of Fletcher (I shall treat only Fletcher here).³⁴ After describing the basic characteristics of Fletcher's position, he notes its strengths and weaknesses. Among the former is Fletcher's emphasis on the concrete situation and the increase in moral sensitivity it can foster; after that,

³³ *Ibid.*, p. 136.

³⁴ Gerard J. Dalcourt, "The Pragmatist and Situationist Approach to Ethics," *Thought* 51 (1976) 135-46.

Dalcourt finds little to recommend in Fletcher's variety of situationism.

Some of the weaknesses are the following. First, to hold as he does that love is the sole absolute is untenable, because it just does not work; for love is not an objective and effectively consistent guide to moral judgment. Even if Fletcher admits, as he does, that love must be guided by wisdom and knowledge, "this would bring him back to the sort of objective morality which he refuses to allow." Again, "love as absolute" fails the very pragmatic test this ethic insists on. Why? "Love is certainly one of our very greatest goods. But its value is a function of what is loved." Thus love itself is really only an instrumental, not an absolute, good. It does not tell us what constitutes a full and satisfying life, but is "rather a necessary precondition to the application of the pragmatic test."

Then there is the nominalism espoused by Fletcher. According to this theory, we cannot grasp the nature of things intellectually or make certain, universal, and necessary statements about them. Dalcourt objects: "But if this is so, then the situationist has no grounds for affirming, as he does, that we should always act in a loving way. For, to apply such a general rule we would have to understand the nature and consequences of love and other acts."³⁵

Dalcourt details other objections, most of them quite well known; but his article is a very useful synthesis. At this point, an aside. In many contemporary discussions (especially oral) the term "situationism" or "situation ethics" is used and almost always as a condemnatory philosophical category. Thus the word functions as a kind of polemical sledgehammer. Actually, the term is almost totally useless. Before it takes on meaning, one must know the methodology and conclusions it is meant to describe, and the validity of the methodology and conclusions. *Those* are the real issues, and they are not illumined by referring to them as "situationist." Rather, the real issues are bypassed by such usage. To illustrate dramatically what I mean, I would argue that the moral theology of St. Thomas is "situationist" in a very real and profound way. But by saying that I achieve two things, neither of which is very helpful: I fail to reveal what I mean by the term, and I associate Aquinas with a term that has acquired sinister connotations. For the sake of disciplined discourse, we ought either to abandon the term or always qualify it to the point where it has meaning: e.g., the situation ethics of Fletcher, of Aquinas, of Gustafson. I am for abandoning the term, because I think it realistically beyond rehabilitation – and unnecessary; for once the qualifier has been added ("of J. Gustafson"), what does the term add or illumine?

James J. Walter studies the end-means problematic in Fletcher's

³⁵*Ibid.*, p. 144.

writings, especially his repeated usage of the axiom that the end justifies the means.³⁶ Building on Eric D'Arcy's *Human Acts: An Essay on Their Moral Evaluation*, Walter contends that Fletcher is involved in a process of "description and redescription" in order to show that the end justifies the means and to discredit absolute norms. Fletcher repeatedly does two things: he describes a physical action in synthetic value terms (lying, adultery, suicide) and he redescribes the action in terms of intention or consequences.

Take the case of Mother Maria. She chose to die in a gas chamber in place of a young ex-Jewish girl in the Nazi camp of Belsen. The young girl had been arrested by the Gestapo on the charge that she was running an underground escape route for Jews. Fletcher calls Mother Maria's action "suicide," but he also calls it "sacrificing her life on the 'model' of Christ." By first classing the action within a species term ("suicide"), then redescribing the action in terms of the intention, Fletcher makes it appear that lying, adultery, etc. can be justified.

Now what is wrong with this? Walter argues: "His initial description of these physical activities never entails a consideration of the relevant circumstances which are connected with the activities." Thus, actions are *first* called murder, adultery, lying (synthetic value terms) independent of circumstances and intention. Walter continues: "It is only in his re-characterization or re-description of the act that he refers to the relevant circumstances, for example, the intention." In other words, Fletcher never really determines the meaning of such terms as "suicide" and "lying" in their *moral* sense, but constantly uses these value terms to describe only the physical or external aspects of activity. Walter sees this as dualistic, scil., the subject and his/her physical activity are separated from each other. I agree. A useful study.

Some basic aspects of normative ethics have also occupied Catholic moral theologians in the past decade. During this period, at the invitation of Vatican II, Catholic moral theologians have been re-examining certain aspects of their discipline. It is no secret that some of the results have not been to the liking or comfort of all in and out of the Church.

Paul Quay, S.J., has made this re-examination the object of a long study.³⁷ He focuses on six moral theologians³⁸ and sees their writings—what he calls a "theology of values"—as attempts to "'relativize' so-called 'absolute prohibitions' against defrauding laborers, adultery,

³⁶ James J. Walter, "Joseph Fletcher and the End-Means Problematic," *Heythrop Journal* 17 (1976) 50-63.

³⁷ Paul M. Quay, S.J., "Morality by Calculation of Values," *Theology Digest* 23 (1975) 347-64.

³⁸ The six mentioned are Joseph Fuchs, Richard McCormick, Giles Milhaven, John Dedek, Charles Curran, Bruno Schüller.

abortion, and the like." He states explicitly that his purpose is "to show that, whatever their intentions, the shift is important, inept, and often deleterious."

Quay first summarizes "the elements in their argument." Moral norms embody and protect values. While these norms are not absolute, it is highly unlikely that "any congeries of oppositely directed values" will arise that will countervail them. In principle, however, the idea is that a moral agent looks at all the values of two alternative courses of action and "sums these values." Quay continues: "That is judged to be bad which has a negative total value; and that to be good which has a positive total value." Having decided what course of action embodies the "greatest total value," the agent directs his intention to the positive total value. Quay gives abortion as an example. "One may rightly will an abortion, for example, but only when the death of the child is seen as but one of many premoral elements whose values when summed result in an overriding positive value for the action as a whole."³⁹

Quay's response to this "thread" or direction is twofold. First, it overlooks the fact that there are elements in human situations not reducible to values. He mentions several: qualitative difference between values, relations of cause and effect, persons and their uniqueness. Quay then specifies these. For instance, he notes that premoral good cannot be treated simply as a positive value. A value is not just what is good for men, but *what is good for him in terms of his needs, desires, purposes*. Thus, standing as it does in relation to one's already accepted goals, it implies the possibility of weighing and exchange. This is not true of the good. The same analysis, Quay argues, is true of the terms "premoral evil" and "disvalue." They are not the same. By treating them as such, the "value theologians" get involved in seeing "the determination of moral good as a merely quantitative process." As Quay words it: "Everything can in principle be evaluated and scaled in accord with utility, worth and price; as values are balanced, exchanged, and traded off for one another, the moral judgment becomes a commerce and merchandizing in human conduct and Christian behavior."⁴⁰

This mercantilist spirit and calculus, Quay argues, cannot deal adequately with the relation of cause and effect and the realities of human intentionality. For instance, "The values, individual and aggregate, of someone's dying and my escaping with my life would seem to be the same, all else being equal, whether there is a causal link between them or not." Furthermore, this approach, in putting a value on persons, does not deal adequately with the uniqueness of persons. Indeed, in regarding a person as a "value for others," it is contrary to the gospel.

³⁹ Quay, *art. cit.*, p. 349.

⁴⁰ *Ibid.*, p. 352.

Secondly, Quay attempts to show the unfortunate consequences of confounding irreducible values. For instance, whose values are to count, the individual's or someone else's? On what grounds? Again, systems built on a "quantitative summing of values" can submerge the individual in favor of relatively minor values touching millions of others. The many objections Quay levels cannot be detailed here, but he concludes that the approach of these theologians is no different from "the crudest sort of empiricism." I think it fair to say that Quay sees the basic error of these theologians in the reduction of premoral goods and evils to values and disvalues. Once this move has been made, everything follows: the weighing of values (including persons) against other values, the quantitative summing up of net values, the neglect of causal relations, intentionality, and intrinsic consequences.

Any serious study that concludes that the recent direction taken by some theologians is "inept, even deleterious," "no different from the crudest sort of empiricism," "to undo the gospel," must be taken with utmost seriousness. I intend to do that; for there are probably many who share the fears that lie behind this study and therefore there is real danger that it will be taken seriously. First, an introductory remark. Quay has adopted a device unfamiliar to the academic community: an indictment of individual theologians, without citation or footnote references, in terms of global or over-all tendencies. Though Quay may repeatedly disown the fact, and insist that he is concerned only with a "global tendency" or a "flaw which, to different degrees and in different manners, is found in the works of each of these men," the impression is unavoidable that each is vulnerable to the alleged implications Quay adduces. The serious theologian is justifiably uncomfortable with such lumping; for if one denies the allegation, Quay can always say: "Yes, but Milhaven (or Fuchs, or Curran) words it that way." If one is going to level such utterly serious moral indictments against *individuals*, careful documentation is called for. Having noted that, I turn to a few specifics in as fair a way as possible, though it would be impossible in so short a space to attend to all the deficiencies I believe are present in Quay's study.

1) *Relativizing so-called absolute norms.* Quay asserts that several moralists "have been seeking to eliminate 'absolutely binding' moral norms." His examples: defrauding laborers, adultery, abortion, "and the like." Here several remarks. First, there is a confusion here between fact-description (*Tatsachenbegriff*) and value-description (*Wertbegriff*). "Defrauding laborers," like adultery, murder, theft, is a value-description; indeed, a morally pejorative one. To state the contemporary discussion as if it were an attempt to justify what has already been labeled as morally wrongful is to indulge in circular discourse closely resembling

homiletics. The issue is: What concrete conduct is to count for murder, for "defrauding laborers," etc.? And on what criteria, with what implications? Quay's study repeatedly confuses such questions.⁴¹

Secondly, what recent Catholic theologians are attempting is to approach their own tradition from within the tradition itself, not with some outside system. Acknowledging the undeniable achievements of that tradition and the over-all validity of its value judgments, they are testing its formulations at key points to see whether the formulation accurately conveyed the substantive value judgment. These theologians could be wrong in their analysis, but to neglect the task is to freeze moral theology in a way repudiated by Vatican II. This effort does not deserve to be labeled "seeking to eliminate 'absolutely binding' moral norms," even if elimination is the outcome of the rethinking; for such language seems to impute motives.

2) *Good and value (evil and disvalue)*. Quay faults recent theologians for not distinguishing these notions carefully. Failure to do so leads to assessing certain goods as values for man in terms of his needs and goals. In other words, it makes what is good for man a measurable and hence negotiable thing. This is at the heart of Quay's objection, for from it follows everything else he says.

I cannot answer for all the indicted theologians individually; but I can say that the contemporary discussion uses "pre-moral good" and "value" *synonymously* (as also "pre-moral evil" and "disvalue"). There may be a dictionary difference in the notions and words, and indeed the difference Quay describes: value implies value to man in terms of his needs and desires. But that is not the way these terms are used by Schüller, Fuchs, myself *et al.* We understand by "value" an intrinsic good to man, not something that is good simply because it is evaluated as such by human beings.⁴² And it is only if pre-moral good and evil are understood as value

⁴¹ The same confusion is notable in Quay's treatment of sexuality. He notes that "an act of sexual perversion . . . damages the properly human personality of the agent." If one knows this and still performs the act, then "he intends these [harms]." Quay then concludes: "To call these negative values and to perform the action for some extrinsic good is simply to do evil that good may come." So it is — at least it is to do pre-moral evil. But the entire issue is, what forms of sexual conduct are to count as "perversion"? One does not define the action as "perversion" and then set about seeing how we can justify it; for "perversion" = morally unjustifiable.

⁴² In this respect cf. Ph. Delhaye, "A propos de '*Persona humana*,'" *Esprit et vie* 86 (1976) 197. He writes: "Il existe une liste universelle des valeurs capables de susciter l'attention et l'amour de tous les êtres humains et dès lors objectivement fondées. Elles sont, *en même temps*, des 'biens-en-soi' et des 'valeurs-pour-nous.' Pourquoi? Parce qu'elles prennent naissance dans les exigences, les besoins, l'inspiration à la dignité de tous les êtres humains" (emphasis added). Cf. also a declaration of the German bishops, "Les valeurs fondamentales de la société et le bonheur humain," *Documentation catholique* 73 (1976) 868-71.

and disvalue in *Quay's* sense that the multiple aberrations he details would follow. If one is going to enter and understand contemporary moral discourse, the terms used must be accepted as the authors use them, not as one thinks they ought to be used.

There is a long and honored tradition identifying "pre-moral good" and "value" in the philosophical community. It can be found in contemporary philosophers such as William Frankena. It is used repeatedly in Vatican II. Take the Decree on the Apostolate of the Laity: "All of these [elements of the temporal order] not only aid in the attainment of man's ultimate goal but also possess their own intrinsic value. This value has been implanted in them by God, whether they are considered in themselves or as parts of the whole temporal order. 'God saw all that he had made, and it was very good.'"⁴³ Here "value" = "own intrinsic value" = "implanted by God" = "good." In a similar vein Paul VI spoke recently of the "value of every human life."⁴⁴ The recent pastoral letter of the American bishops (*To Live in Christ Jesus*) repeatedly uses value and good synonymously. With such impeccable precedents, I will continue with peaceful grammatical and philosophical conscience to use these terms synonymously, and hence to deny that usage of value (as identical with pre-moral good) collapses the "what is good for man" into a negotiable thing in the way Quay adduces. Once that has been said, most of Quay's subsequent objections fade into the genre of *non sequitur*.

3) *Quantification of values*. Quay repeatedly asserts that the determination of moral goodness (the more accurate term is "rightness") for value theologians is a "merely quantitative process." Thus, over and over again we read of "greatest total value," "net positive values," "quantitative calculus," and so on. First, I know of no one who does this, who understands the resolution of conflict of values in such a quantitative sense. There are times, of course, when there is commensurability along quantitative lines. For instance—to use Philippa Foot's example—if one is steering a runaway tram and there are two directions in which it can be turned (both involving killing people), one ought to steer the tram in the direction where the smaller number will be killed, other things being equal. I believe there is a similar commensurability in some rare abortion decisions where the alternatives are to save one or lose two.

Secondly, the authors in question cannot be *made to say* that moral judgments are a "merely quantitative calculus." They do not understand the terms "value" and "disvalue" as Quay does, as goods (or evils) to persons only in terms of their needs, desires, purposes, and therefore as

⁴³ Cf. *The Documents of Vatican II* (tr. Abbott) p. 497.

⁴⁴ Address in St. Peter's Square, Sept. 26, 1976. Cf. *Catholic Chronicle* [Toledo] Oct. 1, 1976; cf. *L'Osservatore romano*, Oct. 7, 1976 (English edition).

goods that can be balanced, exchanged, and traded off. That there are serious and unresolved theoretical problems involved in the use of terms such as "the lesser evil," "proportionate reason," and so on, I do not doubt. But these problems are common to all philosophers and theologians who would, e.g., make *any* exception to the proscription "Thou shalt not kill." They are not restricted to the so-called "value theologians."

4) *Intentionality*. Quay believes that "they" seem overly insistent that all intentions be considered before a meaning is assigned to an action, rather than considering merely the "physical nature" of the action. To this he says: "Yet, who of moral theologians of past or present has held that the intention of the agent is less important than the physical structure of his action?" I shall not cite the many examples from manualist literature; let one suffice: self-stimulation for sperm-testing. This was explicitly condemned as *contra naturam* and illicit masturbation by many theologians, the Holy Office, and implicitly by Pius XII in my judgment. Very many contemporary theologians—I would say most of my acquaintance—believe that such a procedure for testing and treating infertility is a different human and moral act than masturbation as generally understood, and it is different precisely because of its purpose or intention. To Quay's question ("Who of moral theologians past or present . . . ?") I answer: very many, or, as we used to say, *consulas auctores probatos*.

5) *Moral evil and nonmoral evil*. Quay repeatedly overlooks this distinction. E.g., he writes: "One element of evil, not necessarily obvious or easily discernible, can vitiate a whole act. If I cannot choose to do something without willing directly, even if implicitly, what is evil, then the concrete act is evil. If, further, the evil is an intrinsic consequence of the action, then the action is intrinsically evil."⁴⁵

These statements hold ("the concrete act is evil") only if "what is evil" is understood as *morally* wrongful. There is, e.g., a long tradition that allows us to *intend* the deception of another (*falsiloquium*) if this is a necessary means for the protection, e.g., of the confessional secret. Similarly, we may *intend* the amputation of a leg when this is necessary to prevent spread of cancer. We may *intend* the death of the criminal as a necessary means in capital punishment (or so tradition argued) and in self-defense (as very many theologians argued against what is taken to be the Thomistic understanding of things). We may *intend* the pain of the child as we spank him/her pedagogically. Now these are all evils, but nonmoral in character. By stating, as he does, that the concrete act is evil "if I cannot choose to do something without willing directly . . . what is evil," Quay must *suppose* that the evil in question is *morally*

⁴⁵ *Art. cit.*, p. 361.

evil. But that is to overlook the distinction between nonmoral (ontic, premoral) and moral wrongfulness. Doing that, one begs the entire question of intentionality.

There is, then, a long tradition that nonmoral (tradition called them "physical") evil may be intended *in se sed non propter se*.⁴⁶ Two categories of actions were excluded from this: (1) actions *against nature* (certain sexual actions, e.g., contraception, masturbation); (2) actions wrong because of a *lack of right* (direct killing of the innocent, dissolution of a sacramental and consummated marriage). As Schüller has shown,⁴⁷ these actions were regarded as intrinsically evil because of the unnaturalness or lack of right. And it was for this reason that indirectness was required in the tradition when an action involved the death of an innocent person or sterilization of the sexual power. It is these qualities (unnaturalness, lack of right) that we ought to be discussing. One does not help the discussion by first describing the act as a "perversion" and *then* saying it ought never be directly willed.

Much else in Quay's presentation calls for comment,⁴⁸ but the above must suffice. I have spent a good deal of space on this article because it is important that recent probes and revisions by Catholic theologians be not misunderstood and distorted. Theologians such as Janssens, Fuchs, Schüller, Curran, Dedek, *et al.* may be wrong – that is a risk we all run; but first they must be properly understood.

For that reason it may help to cite two examples of what two of the indicted theologians think they are about. The first is drawn from a conference of European moral theologians held at Strasbourg.⁴⁹ There Franz Böckle stated several theses on moral norms. One was drawn from Schüller's writings and was stated as follows:

All ethical norms that concern interpersonal behavior rest on a judgment of preference. They are so many reflex and formulated applications of the following preference rule: 'Put in the presence of two concurring but mutually exclusive values, a person ought to examine which of the two merits the preference.' Concretely, therefore, what is involved is hypothetical imperatives, even if this does not always get expressed verbally.⁵⁰

⁴⁶ Cf., e.g., W. Brugger, *Theologia naturalis* (Pullach, 1959) p. 412.

⁴⁷ B. Schüller, S.J., "Direkte Tötung – Indirekte Tötung," *Theologie und Philosophie* 47 (1972) 341–57.

⁴⁸ E.g., his understanding of premoral evil. He insists that this refers to a "true privation of a *good called for*." This is not the way the notion is understood in contemporary moral discourse. Louis Janssens puts it as follows: "We call ontic evil any lack of a perfection at which we aim, any lack of fulfillment which frustrates our natural urges and makes us suffer. It is essentially the natural consequence of our limitation" ("Ontic Evil and Moral Evil," *Louvain Studies* 4 [1972] 134).

⁴⁹ Cf. *L'homme manipulé*, ed. Charles Robert (Strasbourg: Cerdic, 1974).

⁵⁰ *Ibid.*, p. 180.

Schüller wrote a brief reply indicating that he himself was not fully satisfied with this formulation, it being a first attempt.⁵¹ He restated the problem. Where concrete norms for conduct are concerned, some norms were interpreted as moral absolutes or in a deontological manner. He gives the two examples noted above (intrinsically evil because unnatural, e.g., contraception; intrinsically evil because of lack of right: direct killing of an innocent person). The reasons given by tradition for the exceptionless character of such norms involve, he believes, fallacies. In the case of contraception, the fallacy consists in the assertion that pre-established (natural) finalities of certain organs or functions are untouchable. In the case of killing, the fallacy consists in an undue restriction of human powers.

However, he continues, tradition has known other norms as well, teleological ones. These are understood as those which judge an act *also* by its consequences. The crucial problem is to discover the criteria that allow proper assessment of consequences. The great danger is naiveté; where this exists, the preference rule (above) is rendered unintelligible. One needs other rules as mediations of the preference rule. The moral-theological problem of today, as Schüller sees it, is to discover plausible teleological justification for norms in control of actions that were interpreted deontologically in the past. This is the case precisely because the traditional reasons adduced for deontological understanding of these norms will not bear scrutiny. Schüller does not regard this as discontinuous with traditional value judgments, if one is careful not to confuse a value judgment with a historical formulation of it.

My second example is Charles Curran. In an article that appears in *Concilium* (December 1976) in several languages, but not as yet in English, Curran relates recent writings by contemporary Catholic moralists to a similar discussion in the field of moral philosophy.⁵² He first points out that the objections of philosophers such as Rawls, Frankena, and Williams to "utilitarianism, teleology, or consequentialism" are threefold: (1) aspects other than consequences must be taken into account; (2) the good cannot be determined independently of the morally right; (3) not only the consequences of the action but also the way in which the actor brings about the consequences have moral significance. Thus to oppose utilitarianism, teleology, consequentialism (Curran uses the terms as synonymous), these philosophers need not maintain that certain actions are right whatever the consequences.

Secondly, Curran points out that the antiutilitarian argues that, in addition to consequences, other aspects of the action must be considered,

⁵¹ *Ibid.*, pp. 194-96.

⁵² Charles E. Curran, "Utilitarianism and Contemporary Moral Theology: Situating the Debates," forthcoming, as I write, in *Concilium*, Dec. 1976.

e.g., the obligation of fidelity in promise-keeping. Something other than consequences counts as important in assessing right and wrong, even if these other considerations do not yield an absolute behavioral norm. It is these other considerations that separate Frankena, Rawls, etc. from the utilitarian.

Thirdly, there is a third current in philosophical literature represented by G. E. M. Anscombe, who indicts all of contemporary philosophy because it is even willing to consider the possibility of exceptions based on consequences. Concretely, Anscombe condemns modern moral philosophy "for proposing a philosophy according to which the consequences of such an action could be morally taken into account to determine if one should do such an action." In other words, there are actions that are right or wrong whatever the consequences. Thus, in her terminology, W. D. Ross is a consequentialist.

In summary, then, Curran believes there are three positions. The first is properly described as utilitarian, strict teleology. The position of Anscombe *et al.* may be described as nonconsequentialism or even deontology. The second Curran calls "mixed teleology" or "mixed consequentialism." This second and middle position, Curran states, differs from strict teleology because it maintains the following points: (1) moral obligation arises from elements other than consequences; (2) the good is not separate from the right; (3) the way in which the good or evil is achieved by the agent is a moral consideration. Since such an opinion does not necessarily hold that certain actions are always wrong no matter what the consequences, it has been called consequentialism by Anscombe.

When I first encountered Curran's threefold division of positions within modern philosophy, I was pleasantly astounded. I had arrived independently at a similar division. Specifically, I had concluded to the usefulness of the following divisions: (1) absolute deontologists: Kant, Catholic tradition on certain points (e.g., contraception), Grisez, Anscombe; (2) absolute consequentialists: J. Fletcher, some utilitarians; (3) moderate teleologists: Ross, McCloskey, Frankena, Fuchs, Knauer, Schüller, Böckle, Curran, and a host of others.

Curran next asks where "reforming Catholic moral theologians" fit into this division. Exactly as I had, he concludes that "as the debate progressed it became quite evident that the reforming Catholic theologians, generally speaking, do not embrace utilitarianism or what Rawls, Frankena, Williams and others have called teleology or consequentialism." They are Curran's "mixed consequentialists" or my "moderate teleologists." Why? Because these theologians, in their explanations of *materia apta* (Janssens), commensurate reason (Knauer), proportionate reason (Schüller), insist that elements other than conse-

quences function in moral rightness and wrongness. I include myself among those who so insist.

Somewhat similarly, Schüller lists three general approaches.⁵³ (1) The moral rightness of all actions is exclusively determined by their consequences. (2) The moral rightness of all actions is always also but not only determined by consequences. (3) There are some actions whose moral rightness is determined in total independence of consequences. The first position, he notes, is called "teleological" or "utilitarian" (though Schüller argues that the latter term needs rehabilitation), the second and third "deontological." He regrets that there is no terminology distinguishing the second and third positions—a fact that does not disturb Anglo-American philosophers, since practically no one (except, e.g., Anscombe) holds the third position.

William May has, I believe, accurately identified the second approach listed by Schüller as a "mixed deontological" approach (Frankena's phrase).⁵⁴ It might just as well be called "moderate teleology," as I suggested above. Whatever the term used, the type of moral reasoning involved is shared by many moral philosophers and theologians, and is the type present in Catholic tradition except in the two general areas mentioned. May contrasts this with the approach of Ramsey, Grisez, and himself.

I think he is right in this contrast, but his development calls for comment at several points. First, May uses the preservation of life to illustrate his problems with the type of "mixed deontologism" he associates with Schüller, Janssens, Curran, and others. After noting my statement that life "is a value to be preserved only insofar as it contains some potentiality for human relationships,"⁵⁵ he writes: "In other words . . . life itself, in the sense of physical or biological life, is what an older terminology would have called a *bonum utile*, not a *bonum honestum*, whereas such relational goods as justice and friendship and compassion are 'higher' goods, *bona honesta*."⁵⁶

May is troubled by this usage. Among other reasons he adduces is that we are images of God, "and God is absolutely innocent of evil. He *permits* evil but does not directly intend it . . ." Furthermore, he sees a dualism in the position; for it considers life as a *conditional* good, whereas it is a *personal* good, "not something subhuman or subpersonal."

⁵³ Bruno Schüller, S.J., "Anmerkungen zu dem Begriffspaar 'teleologisch-deontologisch,'" *Gregorianum* 57 (1976) 315-31.

⁵⁴ William May, "Ethics and Human Identity: The Challenge of the New Biology," *Horizons* 3 (1976) 17-37.

⁵⁵ Richard A. McCormick, S.J., "To Save or Let Die," *Journal of the American Medical Association* 229 (1974) 172-76.

⁵⁶ *Art. cit.*, p. 35.

This is not the place for a prolonged discussion of the intricate matter of the direct and indirect voluntary, but several remarks are in order. First, to say that life is a good to be preserved insofar as it contains some potentiality for human experience is not to make life a *bonum utile*, a kind of negotiable thing, as Quay suggests. It is merely to talk about our duties – and especially the why of those duties – toward the preservation of a *bonum honestum*, the dying human person.⁵⁷ Secondly, I believe it is inaccurate to say what May says of God and evil (“God *permits* evil but does not directly intend it”) unless one distinguishes between physical (nonmoral) and moral evil. Finally, it seems inaccurate to contrast life as a conditional good with life as a personal good. The proper pairs are conditioned-unconditioned, personal-nonpersonal. Life is a personal good, yet it need not be, even as personal, unconditioned.

In conclusion, I would suggest that Paul McKeever has the matter very well in hand when he refers to contemporary Catholic discussions as an “evolution,” with an organic relation to the past, rather than a “revolution.”⁵⁸

THEOLOGIAN AND THE MAGISTERIUM

The Church is and ought to be a teacher of Christian morality; no one doubts this. But what is a matter of continuing adaptation and perennial dispute is how this is to be done most effectively. This “how” touches closely and sensitively on the very notion of magisterium, especially as the notion relates to several components in the Church, most particularly theologians. Thus the relationship of theologians and bishops will have a good deal to say about how Christian morality is conceived, implemented, and received in the Church.

This relationship has always been somewhat tense. Robert B. Eno, S.S., in a useful historical study of the early Church, passes in review some of the conflicts of the time.⁵⁹ It was in the third century that the Church saw the rise of what Eno calls “conscious theologizing.” The rise of theological reflection as another form of expertise or authority was

⁵⁷ Here an interesting text of Thomas is in place. “Some change could happen that would entirely take away a man’s happiness by hindering virtuous action altogether. For example, some sickness could cause madness or insanity or any other mental breakdown. Since happiness may not be attained except by living humanly or in accord with reason, when the use of reason is gone, human living is not possible. Consequently, in what concerns living humanly, the condition of madness must be equated with the condition of death” (*Commentary on the Nicomachean Ethics* 1 [Chicago: Regnery, 1964] 85).

⁵⁸ “Moral Theology: Evolution or Revolution?” *Priest* 32, nos. 7–8 (July–Aug. 1976) 12–13 (an unsigned editorial, but moral theologian Paul McKeever is editor).

⁵⁹ Robert B. Eno, S.S., “Authority and Conflict in the Early Church,” *Eglise et théologie* 7 (1976) 41–60.

almost bound to lead to tension with established authority, and that tension has been with us ever since. Eno has no pat answers to the problem except to hold up the patristic ideal stamping the consciousness of both theologian and bishop. The theologian is above all a churchman; the bishop is one who is above all concerned with *prodesse*, not *praeesse* (care for others, not precedence over them).

The magisterium, the Church's teaching function, will reflect the situation of the world in which it lives. How one analyzes this situation differs markedly, apparently with the preoccupations of the analyzer. Francis X. Murphy, C.S.S.R., reviews this situation, with its tensions and inconsistencies, through the attitudes and actions of Pope Paul VI, which he paints as full of tensions and inconsistencies.⁶⁰ George Kelly blames it all on dissenting theologians.⁶¹ In the face of such differences, I recommend an essay by Bishop B. C. Butler.⁶² It takes the form of a letter to a convert distressed by changes in the Church. He points out, with historical precedents and great compassion, how the shift to a more historical understanding requires patience. It is a cultural, not a faith, crisis. Incidentally, it is refreshing to see an intensely loyal Catholic bishop write that "it is possible to have grave reservations about particular papal decisions and policies" at the very time he is insisting on the indispensability of papal authority.

Paul VI has repeatedly addressed himself to this subject. For instance, in his general audience of Aug. 4, 1976, he reasserted the hierarchical structure of the Church as deriving from Christ.⁶³ He expressed his grave concern for those who deny "the existence within the Church of legitimate, or rather obligatory, authoritative functions," and in some of the strongest language he has ever used castigated those who sit in judgment on this hierarchical function. It is hard to believe he did not have Archbishop Lefebvre in mind.

Before turning to the longer, more systematic studies, I note several interesting entries. Cardinal François Marty (Paris) argues that the dialogue between theologians and bishops must be "institutionalized."⁶⁴ Jerome Theisen, O.S.B., proposes the notion of "reliability" as best

⁶⁰ Francis X. Murphy, C.S.S.R., "The Pope and Our Common Future," *Catholic Mind* 74, no. 1300 (Feb. 1976) 29-38.

⁶¹ George A. Kelly, "An Uncertain Church: The New Catholic Problem," *Critic* 35, no. 1 (Fall 1976) 14-26. One commentator (Andrew Greeley) referred to this article as "demented drivel." To this Kelly responded that "the article is serious." One hates to be confronted with such desperate alternatives; but if pressed, I would have to say the article is not "serious," represents the collapse of theological courtesy.

⁶² B. C. Butler, "Letter to a Distressed Catholic," *Tablet* 230 (1976) 735-36, 757-58.

⁶³ Cf. *L'Osservatore romano*, Aug. 12, 1976, p. 8 (English edition).

⁶⁴ Cardinal François Marty, "La charge particulière du théologien dans l'église," *Documentation catholique* 73 (1976) 572-75.

describing the Catholic attitude toward the ministry of the Holy Father.⁶⁵ In a study remarkably different in tone, Dario Composta (Pontificia Università Salesiana) insists, against what he takes to be the position of Franz Böckle, that the magisterium does not "merely inform" but teaches.⁶⁶

The following literature touching the relation of theology and the magisterium falls into two divisions: groups (International Theological Commission, Sacred Congregation for Catholic Education) and individuals (Coffy, Whealon, Palazzini, Congar, Dulles, Lanne).

During October 1975, the International Theological Commission met in Rome. The subject of its deliberations: the relationship between the magisterium and theologians. The Commission drafted twelve theses in an attempt to state this relationship.⁶⁷ In its introductory statement it noted that this relationship has shown considerable variations through history. In the patristic age, e.g., popes and many bishops were often the great theologians. At other times a greater separation of functions could be noted, research into matters of faith pertaining to the function of specialists. Faculties of theology were at times in conflict with popes—e.g., with John XXII on eschatology. This separation of expertise probably peaked in the Councils of Constance and Basle. At the thirty-fourth session of Basle (June 25, 1439) there were 300 doctors of theology, 13 priests, and 7 bishops.

The International Commission treats three points: (1) elements common to theology and the magisterium; (2) differences between theology and the magisterium; (3) principles of a trusting collaboration between the two. Under the second heading, the Commission points out that the magisterium "draws its authority from sacramental ordination." Theologians, on the other hand, owe their "specifically theological authority to their scientific qualification." The Commission admits that tensions can arise between theologians and the magisterium but sees this realistically as a vital creative force in the Church. It concludes by urging more efficacious dialogue and lists some threats to such dialogue.

Maurizio Flick, S.J., has provided a thoughtful commentary on this document.⁶⁸ He concentrates on the relationship between the magisterium and theologians. There are two functions the theologian performs in the Church: (1) he mediates between pope-and-bishops and the peo-

⁶⁵ Jerome Theisen, O.S.B., "Models of Papal Ministry and Reliability," *American Benedictine Review* 27 (1976) 270-84.

⁶⁶ Dario Composta, "Il magistero ecclesiastico informa o insegna la morale?" *Divinitas* 20 (1976) 199-203.

⁶⁷ "Theses de magisterii ecclesiastici et theologiae ad invicem relatione," *Gregorianum* 57 (1976) 549-63; also *Documentation catholique* 73 (1976) 658-65.

⁶⁸ Maurizio Flick, S.J., "Due funzioni della theologia secondo il recente documento della Commissione Theologica Internazionale," *Civiltà cattolica* 127 (1976) 472-83.

ple; (2) he contributes to the magisterium's formation of opinion. What I find refreshing about Flick's presentation is his ability to spell out these functions in a realistic, satisfying way.

As for the first function, he notes two objections against this notion of theology. First, it "reduces" the theologian to a vulgarizer of magisterial opinion. Flick responds convincingly in several ways, especially by showing the absolute necessity of an "ascending communication" ("divulgazione ascendente"), the need to relate basic ecclesial judgments to the community of the well-informed. The second objection sees this theological function as a kind of ideology – an approach which forms its positions to support the interests of an institution or movement. Not so, he says, because the theologian exercises his interpretative function in a *critical* way. Here Flick is especially good. This function requires that the theologian show not only the authority behind the teaching but also its incomplete and to-be-completed aspects. Indeed, where dogma is not involved, "the theologian can and ought (in particular circumstances) to manifest his own dissent."⁶⁹

The second task of the theologian, to precede and prepare the opinions of the magisterium, derives from the fact that revelation "is not to be considered as a static deposit . . . but is always confronted with new questions which demand that it be continually developed." In this development, the actions, opinions, and inclinations of the People of God have a special place, but not without discernment. In this discernment both the magisterium and theology have a true *authority*.

Flick next notes that the two functions of theologians (mediation and preparation) "are not separate," i.e., normally theological research reflects and supports both functions. Thus, in dealing with the crisis of the sacrament of penance, the theologian interprets the past teaching of the Church, but in doing so also suggests to the magisterium the proper way to explain reconciliation with the Church.

In trying to relate this double function of the theologian to the magisterium, Flick cites the interesting condemnation of George Hermes (*DB* 2738–40). Some of Hermes' disciples, so goes the anecdote, came to Rome to determine why he was condemned. A Roman official asked whether "they had come to the Holy See to instruct the Holy See or be instructed by it." Flick sees this as a false statement of the question, since it presupposes that the truth is in the prior possession of one of the conversationalists. After insisting on the need for dialogue, Flick shows that classical ecclesiology had the tendency to describe the relations of magisterium and theologians in juridical terms: "the duty and therefore the right of the magisterium to direct the entire theologi-

⁶⁹ *Ibid.*, p. 476.

cal project." The Commission has qualified this, and this switch in the methodological aspect of the question "constitutes the principal novelty of the document."

On February 22, 1976, the Sacred Congregation for Catholic Education issued a fifty-page document, "The Theological Formation of Future Priests."⁷⁰ Within it the relationship of the magisterium and theologians is explicitly treated. Several statements are made about theology and its relation to the magisterium. First, the Church has the "right and duty to demand of theologians a loyalty to the magisterium," which has the function of guaranteeing that research will promote the authentic building-up of the Body of Christ. Secondly, the *munus docendi* belongs to "the bishops united in collegiality with the supreme pontiff." This episcopal magisterium cannot be replaced by individual thought. The latter has the "limited function only of investigating, illustrating, and developing objective data which comes from God." Thirdly, theologians have the task of research and critical reflection. But "they can receive from the magisterium a share in its *munus docendi* (*missio canonica docendi*)." However, the magisterium must maintain its "authority to judge the relation of theological speculation to the word of God."

If I interpret this document correctly, its view of the relationship between theology and the magisterium seems to be that theology is at the service of the magisterium. This is a view explicitly rejected by Archbishop Coffy (see below) and the episcopal discussions that followed his study. As will be clear, Coffy sees the relationship as one of complementarity. Whatever the term used, the substantial idea is that both the magisterium and theology are at the service of the revealed word of God; they have the same tasks (*custos* and *promotor*) but from different levels, with different tools, and sometimes with different conversation partners.

The Congregation's perspective is one of subordination, wherein the official magisterium grants a share in its charge to theologians. Thus, the Congregation says that "the episcopal magisterium cannot be replaced by individual thought." True, and every theologian knows it and ought to admit it. But "replaced by" seems a defensive and uneasy way of framing the matter. One wonders why it was not immediately added that the magisterium cannot fulfil its function without theological thought.

Another problem sharpens the issue. The document states that the magisterium has the power to judge the conformity of the results of research etc. with revelation. Few would deny this; but the problem is more complex. If, as nearly everyone concedes, it is impossible to conceive and speak of revelation without a theology (i.e., the very

⁷⁰ *Origins* 6 (1976) 173-80, 181-90.

statement of revelation, *Glaubenssprache*, implies a theology, as is clear from the Gospels themselves), then clearly those who judge the conformity of theological research and reflection with revelation are doing so *with a theology*. That there are problems here is obvious. For instance, what is the theology of the Congregation for the Doctrine of the Faith when it issues a decree on human sexuality, or apostolic succession, etc.? Is it self-validating as a theology because it is official? I do not raise this question out of any desire to undermine the function of the magisterium. I raise it only to sharpen the issue and thus to strengthen the function of the magisterium in the Church. The question raised suggests that the real issue is not captured with words like "replaced by individual thought" etc. This is a juridical vocabulary that ends up pitting theologians competitively against bishops. The real issue is what form their indispensable co-operation ought to take if the word of God and its implications in our time are to be preached (*promotor*) and protected (*custos*).

In the spring of 1975, the third Symposium of European Bishops met outside of Rome to discuss the relationship of bishops and theologians. Archbishop Robert Coffy (Albi) delivered a very interesting paper, which first appeared in the *Bulletin du secrétariat de la Conférence épiscopale française* but is now available in *Orientierung*.⁷¹

Coffy proceeds in two steps: the problem, then suggestions toward a solution. Some of the causes of the problem are: the changing cultural climate, which demands a new faith-language (*Glaubenssprache*); theological pluralism involving different language, different philosophical assumptions, different use of empirical sciences; the demand by theologians that "the ecclesial office be executed in a new way" more in keeping with our time. Furthermore, the very understanding of the faith is involved.

Every understanding of the faith necessarily implies a theology. There are no sharp lines of demarcation between the faith and the theological understanding of the faith. This clarifies the reaction of theologians to certain interventions of the magisterium. Theologians have the impression that the magisterium imposes its own theology. Therefore they demand that the magisterium admit its theological preferences and then grant that it is not the only way to express the faith.⁷²

The most profound cause of the magisterium's problems Coffy sees in the very notion of revealed truth. In the recent past, perhaps under certain Platonic influences, revelation was conceived in a way that

⁷¹ Robert Coffy, "Lehramt und Theologie—die Situation heute," *Orientierung* 40 (1976) 63–66, 80–83.

⁷² *Ibid.*, p. 65.

allowed it to be encapsulated in objective formulated truths. Thus by the very statement of the question the magisterium was positioned to distinguish clearly between the true and the false. It conceived its task as comparing certain formulations with eternal truths thus conceived (*ewige Wahrheiten*). Our time, however, is much more sensitive to the historical character of truth—which means that magisterial interventions can no longer be beyond discussion, as they were thought to be in the past.

Against this background Coffy sees the relationship of theology to the magisterium as one of complementarity. Both the magisterium and theologians are involved as guardians (*custos*) and promoters (*promotor*) of the faith, not as rivals but in different ways. Coffy rejects the idea that theologians are in the service of the magisterium; both theologians and the magisterium are in service of the word of God. After insisting on respectful co-operation, he suggests that fewer magisterial interventions might be in order. In our time “must we not allow for a long-enduring, indispensable maturing process for many questions?” Clearly Coffy thinks so.

Coffy’s presentation was followed by individual discussion groups drawn up along common-language lines. This is reported by Ludwig Kaufman.⁷³ For instance, the bishops noted that pluralism existed not only among theologians but also among bishops. The suggestion was also made that episcopal conferences need theological commissions chosen by theological societies and faculties. Furthermore, there was broad agreement with Coffy that magisterial interventions ought to be reduced if the magisterium is not to undermine its own authority.

Archbishop John F. Whealon (Hartford) presents an interesting study of the magisterium, not the extraordinary magisterium, but the year-to-year reformable teaching of the pope, the college of bishops, and the local diocesan bishop in union with Rome.⁷⁴ After stating that relations between bishops and theologians ought to be better, Whealon makes several points. First, the priest (and bishop and deacon) are expected to “teach and preach as the Church’s doctrine only that which the magisterium has presented as the Church’s doctrine . . . not our own ideas or speculations, or the ideas and speculations of theologians.” Secondly, where do we find this teaching? “A rule of thumb for the Catholic laity is to accept the teaching of a deacon or priest if he is in agreement with the local bishop, and to accept the teaching of the local bishop if he is in agreement with Rome.”⁷⁵ Thirdly, Whealon sees the source of confusion

⁷³ *Ibid.*, pp. 83–84.

⁷⁴ John F. Whealon, “Magisterium,” *Homiletic and Pastoral Review* 76, no. 10 (July 1976) 10–19.

⁷⁵ *Ibid.*, p. 15.

in the contemporary Church as located in those priests who do "not reflect or express the official teaching in [their] public and private utterances." Finally, he adds a few afterthoughts on the magisterium. Statements of national episcopal conferences do not have juridical authority of themselves. They have "magisterial import only if accepted by the local bishop and taught by him to the local Church. A statement from another episcopal conference has no direct relevance for bishops, priests, and laity of another nation – and in every instance enjoys validity only if it is in harmony with Peter."⁷⁶

Archbishop Whealon then mentions the *imprimatur*. The guarantee that the faith is being safeguarded "is the *imprimatur* – a review of the manuscript by a *censor deputatus* who notifies the bishop that this manuscript holds nothing contrary to Catholic teaching." For this reason he faults the recently published *An American Catholic Catechism*. "It demonstrates sadly the lack of external discipline through an *imprimatur* granted after needed revisions were made." His judgment of the book is extremely severe, especially in its "cavalier attitude toward the magisterium."⁷⁷ In summary, then, Archbishop Whealon concludes, contrary to Archbishop Coffy and others, that "theologians are at the service of the magisterium."

I have cited this interesting study at some length because I believe it represents the approach of very many nontheologians and at least some bishops. It is in rather sharp contrast to the approach taken by Archbishop Coffy, Bishop Descamps, Congar, and Dulles (see below), as are the remarks of Cardinal Pietro Palazzini on the subject.⁷⁸

Specifically, what I miss in Whealon's reflections is a sense of magisterium rooted in the history of teaching in the Church such as one notes in Congar, Dulles, Coffy, and others. The sense of the term "magisterium" as defined by a single, recent, historically conditioned theological current and formulated only by recent popes is accepted as normative, as God's will for things. In other words, it seems to me that Archbishop Whealon has accepted a *theology* of the magisterium without attending

⁷⁶ *Ibid.*, p. 16.

⁷⁷ He states: "The special problem in this book is its occasional attempt to set up 'reputable theologians' as a second teaching authority in the Church, and its occasional presentation of the hierarchical magisterium as that which a Catholic should *in conscience be schooled not to obey rather than to obey* (pp. 181-187)" (emphasis added). A curious reader who consulted the pages referred to would discover that they were written by the author of these Notes. I shall leave it to the reader to determine whether the italicized words bear any relationship to the content of those pages. But one thing needs saying: the material presented there on the magisterium and theologians represents by far the dominant theological position in the Church today.

⁷⁸ Pietro Palazzini, "Roma e l'insostituibile magistero universale del Papa," *Divinitas* 20 (1976) 5-8.

to the possibility that there have been and still can be other such theologies. And the theology he adopts is precisely the theology identified by Congar, Dulles, and others as one which has a history dating to only the nineteenth century. I respect this view and its proponent; indeed, with many others, I have been brought up with it and still "think it," I am sure, in many ways without adverting to it.

The over-all approach, however, is heavily juridical and this appears in Archbishop Whealon's presentation of it. Item: the emphasis on the *imprimatur*. This too easily overlooks the fact that a *censor deputatus* will make his assessments within the confines of his own theology. Item: the attitude toward statements of national episcopal conferences. While they may have no juridical status, it seems clear that they are used by many episcopates as genuine teaching devices.⁷⁹ Furthermore, I know of no theologian who would accept Whealon's assertion that "a statement from another episcopal conference has no direct relevance for bishops, priests and laity of another nation." It has a great deal to say about the status of a particular conviction or formulation of conviction *in the Church as a whole*.

Finally, a one-sidedly juridical approach to the teaching office of the Church, while it has elements of truth, hides more problems than it solves. Item: it opposes the doctrine of the Church and the opinions of theologians. I believe all would admit that no theologian can speak for the Church; but that is not really the issue. The issue is the truth or, in the context of doctrine, the completeness or even accuracy of a particular officially-proposed teaching. If what is officially proposed is true up to the point where it is officially changed, then "officialness" has assumed a primacy in our thought patterns that distorts the teaching function of the Church and eventually the truth.

Concretely, was the teaching of *Mirari vos* and that of the Syllabus of Errors on religious liberty right until they were corrected by *Dignitatis humanae*? Or is it not that we came to see through experience and theological reflection what is right and then it could be authenticated by the magisterium? Even more concretely, what was John Courtney Murray to say when he was convinced of the truth of the doctrine eventually enshrined in *Dignitatis humanae*? Should he have said that it is not the doctrine of the Church but it is right—or it is not the doctrine of the Church and *therefore not right*? Surely not this latter. But unilateral emphasis on past formulated doctrine too easily leads to this *cul-de-sac*.⁸⁰

The more important point in all of this is that our problems in relating

⁷⁹ Cf. my "Abortion Dossier," THEOLOGICAL STUDIES 35 (1974) 312-59, where the point is made by many episcopates.

⁸⁰ Something similar could be said about Archbishop Whealon's criterion ("accept the teaching of the local bishop if he is in agreement with Rome"). The question immediately

the magisterium to theology depend on our ability to see the recent shape of the magisterium as but a single, culturally conditioned way of viewing the magisterium, and hence, too, its relationships to other segments of the People of God. If we fail here, we are victimized by ecclesiastical ideology, i.e., the use of time-conditioned formulations to support present practices and concepts in a way that sacralizes the *status quo* and thereby makes it difficult, if not impossible, to speak meaningfully of a *living* teaching office in the Church.

These brief footnotes on Archbishop Whealon's reflections are less a critique of the theology of these notions than an occasion for a respectful invitation to all of us (bishops, theologians, lay people) to be more open, not to lock ourselves into a single, historically-conditioned understanding of magisterium. In openness we may be able to discover understandings that are better calculated to serve the word of God in our time. And that is what this discussion is all about.

Yves Congar submitted a paper (really two papers) to the International Theological Commission, and his colleagues rightly urged him to publish it.⁸¹ What distinguishes the study is the profound historical learning out of which it originates. It is both detailed and ranging, and in both aspects richly documented. There is no way the study can be adequately digested; it can only be translated. All I can do here is indicate *some* points of interest and emphasis.

Let us start at the end of Congar's paper. He concludes his historical study as follows:

The relationship between theologians (*docteurs*) and the magisterium calls for a reconsideration. This supposes first that the status of the "magisterium" in the Church is made more precise, that it is not isolated in the living reality of the Church. . . . One cannot define the dependent condition of theologians solely with reference to the "magisterium," even though there is a truth here. In this domain, as in that of obedience, one ought not frame the question in two terms only: authority, obedience. It is necessary to think in three terms: above, the truth, the apostolic faith passed on, confessed, preached, celebrated; beneath it, at its service, the "magisterium" of the apostolic ministry and the work or teaching of theologians, as well as the faith of believers.⁸²

How did Congar arrive at this conclusion? Historically. He first

suggests itself: Rome at what time—under Pius XII perhaps? I mean to suggest, of course, that there are some formulations of the popes that are commonly qualified or rejected by nearly all theologians. And if that is the case, *when* was such qualification or rejection appropriate? Was it not when the matter became reasonably clear? But that is not simply convertible with "agreement with Rome."

⁸¹ Y. Congar, "Pour une histoire sémantique du terme 'magisterium,'" *Revue des sciences philosophiques et théologiques* 60 (1976) 85-98, and "Bref historique des formes du 'magistère' et de ses relations avec les docteurs," *ibid.*, pp. 99-112.

⁸² *Ibid.*, p. 112.

studies the use of the word "magisterium." Until the nineteenth century, the word signified the activity of one in authority in a specific area (*magister equitum, magister militum*). "Never before the nineteenth century did the word signify what we call 'the magisterium,' even though the reality existed."

Congar next approaches the forms which teaching in the Church assumed at various times. In the early Church there were *didaskaloi*, whose activity was more catechetical than speculative. In the second and third centuries the schools began to appear and with them a certain element of theological speculation. But from the same period "that which characterized the bishop is the *cathedra*, the chair." This was the guarantor of the transmission of the apostolic message. But, Congar argues, this was not conceived primarily as juridical authority "possessing a power to obligate, but as a function by which the Church receives the faith inherited from the apostles." The tradition, in the sense of transmitted truth, was the true authority. There was no statutory separation or opposition between pastors and doctors. Thus, Athanasius participated at Nicaea as a simple deacon.

The Middle Ages witnessed the full development of the schools and the birth of scholasticism – a form of doctrine analytic and questioning. Thus there was formulated the distinction between teaching that is scientific in character and that which is pastoral. Thus, too, Thomas' distinction between *magisterium cathedrae pastoralis* and *magisterium cathedrae magistralis*. This latter was a true public office in the Church, but one based on scientific competence, whereas the "pastoral magisterium is tied to the public office of *praelatio*, i.e., of superiority or authority." Thus it is from this time that we can date a "magisterium of theologians in the Church." Theological faculties judged doctrinal theses. Gerson affirmed the right of theologians "scholastice determinare ea quae sunt fidei." This development, Congar notes, took one-sidedly unhealthy turns (e.g., Council of Basle, 1439).

In the course of time, properly theological theses, the positions of theological schools, had a place in condemnations issued in the name of the faith itself (e.g., Luther). This development continued into recent times, so that Congar notes: "The encyclicals of Leo XIII and Pius XII are theological. They are not purely the expression of apostolic witness according to the needs of the time, but a *doctrine* of the 'cathedrae magistralis' incorporating data from natural law, human wisdom, and classical theology."⁸³

Congar traces the historical currents from Trent to our time, currents that led to Vatican I and subsequently to *Humani generis*, with the growing unilateralism represented in these developments. *Humani ge-*

⁸³ *Ibid.*, p. 105.

neris brought these developments to a high point in two ways: (1) "The ordinary magisterium of the pope demands a total obedience— 'he who hears you hears me.'" (2) "The (or one) role of theologians is to justify the pronouncements of the magisterium." Pius XII did not view the theologian as teacher, Congar notes, "except by delegation of the 'magisterium' and purely, narrowly at its service and under its control. Is this in conformity with that which nineteen centuries of Church life tell us about the function of the 'didaskalos' or doctor?" Congar's answer: "No, not exactly."

Congar sees in these developments a gradual supremacy of the *quo* (formal pastoral authority) over the *quod* (the word of God).⁸⁴ This was all the more threatening, he believes, because since 1832 the modern popes have done theology—and a theology identified with that of the Roman schools, "whose personnel was recruited and watched according to a well-defined line." Vatican II, however, has restored the supremacy of the *quod* over the *quo*, and with it raised afresh the question of the true magisterium of theologians.

This article is indispensable and will, I hope, eventually be made available in English.

Many of the same themes are taken up by Bishop A. L. Descamps in a very long study.^{84a} He describes what he calls the classical view of the relationship between theologians and magisterium. The task of the hierarchy is to preserve and define the essentials of revelation (the *minimum minimorum*) and its habitual mode of expression is preaching. Thus in the Middle Ages the episcopate was called the *ordo praedicatorum*. According to classical views, "the theologian—nearly always a priest—drew his authority from his share in the sacred power of the bishop, which could concretize itself in a more explicit delegation (*missio canonica*)." Both this *missio* and his own competence was subordinate to the magisterium.

These and other emphases, he states, have changed in our time. The response to authoritative pronouncements is much less obediential. Instead of the classical *missio canonica* (a product of mixing the episcopal teaching and jurisdictional functions), Descamps states that "in a sense every theologian—even the lay person—providing that that person works within the faith and in the communion of the Church, can be said to be called by God, by revelation, by the Church, even by the hierarchy."⁸⁵ Thus, without becoming an elite or challenging the princi-

⁸⁴ Cf. also Robert B. Eno, S.S., "Ecclesia docens: Structures of Doctrinal Authority in Tertullian and Vincent," *Thomist* 40 (1976) 96-115; John F. Quinn, "St. Bonaventure and the Magisterium of the Church," *Miscellanea Francescana* 75 (1975) 597-610.

^{84a} A. L. Descamps, "Théologie et magistère," *Ephemerides theologicae Lovanienses* 52 (1976) 82-133.

⁸⁵ *Ibid.*, p. 109.

ple of doctrinal authority, the theologian no longer views himself as "sent by the hierarchy" but as the "word-bearer of the People of God."

Avery Dulles, S.J., begins his forthright but courteous study of the magisterium and theologians by noting that the relationship is still fraught with tension, misunderstanding, distrust, and occasional bitterness.⁸⁶ Dulles notes two symptoms of this malaise. First, "certain official statements seem to evade in a calculated way the findings of modern scholarship. They are drawn up without broad consultation with the theological community. Instead, a few carefully selected theologians are asked to defend a pre-established position. . . ." Secondly, many Catholics have lost all interest in official ecclesiastical statements and do not expect any light from the magisterium on their real problems. Dulles sees this situation as alarming, and so do I.

Many factors and causes are at work here. Dulles highlights one: the notion of tradition and the magisterium being followed by the pope and many bishops. It is a neo-scholastic theory which was "devised by the theologians of the Roman school in the second half of the 19th century," as Congar also notes. According to this theory, the pope and bishops have the "charism of truth." Theologians are subordinate and instrumental, their chief function being to "set forth and defend the teaching of the papal and episcopal magisterium." They are not teachers in the Church or part of the magisterium.

While Vatican II did not directly (in *Lumen gentium*, no. 25) undermine this theory, Dulles believes it did so in practice, modifying or reversing previously-taught views and rehabilitating the very theologians who made this possible.⁸⁷ Thus, the Council "implicitly taught the legitimacy and even the value of dissent. In effect," he continues, "the Council said that the ordinary magisterium of the Roman pontiff had fallen into error and had unjustly harmed the careers of loyal and able theologians." Contemporary theological developments have revealed the weaknesses of this neo-scholastic theory, especially as making insufficient allowance for error in the ordinary teaching of popes and bishops.

Dulles' second step is to recover from history some elements that may aid in the construction of the postjuridical magisterium. He notes that Thomas used the term *magisterium* primarily for those who are licensed to teach theology in the schools. Thus Thomas distinguishes *officium praelationis*, possessed by the bishop, and the *officium magisterii*, which belongs to the professional theologian. Thus, too, the distinction already noted between *magisterium cathedrae pastoralis* and *magiste-*

⁸⁶ Avery Dulles, S.J., "What Is Magisterium?" *Origins* 6 (1976) 81-87.

⁸⁷ Cf. Cl. Dagens, "Le ministère théologique et l'expérience spirituelle des chrétiens," *Nouvelle revue théologique* 98 (1976) 530-43. This article studies the work of Congar and M. Chenu.

rium cathedrae magistralis. The former has juridical authority behind it but is concerned with preaching and public order. The latter is concerned with teaching by argument and knowledge rather than official status. So Thomas would not say that prelates alone possess the charism of truth. Theologians have their own sphere of competence. "Within this sphere the theologian is a genuine teacher, not a mouth-piece or apologist for higher officers." Dulles finds this more in conformity with the great Catholic tradition and biblical evidence than the neo-scholastic theory.

On the basis of the existence of many charisms in the Church, Dulles admits that bishops have a "legitimate doctrinal concern," but they are not the dominant voices on all doctrinal questions. Rather, "the *magistri*, teachers by training and by profession, have a scientific magisterium but they are subject to the pastors in what pertains to the good order of the Church as a community of faith and witness."⁸⁸ These two magisteria are complementary and mutually corrective.

Dulles' third step consists in a variety of reflections and suggestions on the magisterium in the postjuridical world. For instance, the theological community itself should have a greater voice in who is to represent it. Similarly, in certain areas where the preaching of the faith and technical theology are inseparably intertwined and a pronouncement is called for, it "could most suitably be drawn up by co-operation between representatives of the pastoral and of the theological magisterium." In brief, Dulles is very close to the historical perspectives of Congar. Congar is more historically detailed, Dulles more constructive in that he draws from history to create the outlines of a model of the future magisterium.

Archbishop Joseph Bernardin, in a symposium at Notre Dame University (January 1976), granted that we have much to learn about the way others besides pope and bishops fit into the "magisterial function in the Church." But he denied that this meant "multiple magisteria." Not only does this cause confusion; "it undermines valid complementarity—between the respective roles of the magisterium and the scholarly community—and at its worst could actually lead to painful and broadly destructive competition at the expense of the entire Church."⁸⁹

Dom Emmanuel Lanne points up certain recent changes in emphasis in the notion of magisterium (e.g., collegiality, theology of the local Church).⁹⁰ Recent challenges to magisterial documents (*Humanae vitae*, 1968; *Mysterium ecclesiae*, 1973; *Persona humana*, 1976) do not

⁸⁸ *Art. cit.*, p. 86.

⁸⁹ Cf. *Origins* 6 (1976) 87.

⁹⁰ Dom Emmanuel Lanne, "Evolution of the Magisterium in the Roman Catholic Church," *One in Christ* 12 (1976) 249-58.

represent a questioning of the privileged role of the magisterium, but "disappointment at the result of the exercise of the teaching authority." In the course of his essay Lanne discusses the function of theologians in the magisterium. That function is "not that of 'doctor' (teacher) in the full sense of the term. The bishops alone are the 'doctors' of the faith." But then Lanne raises precisely the questions to which such assertions lead, e.g., is it possible to dissociate the content of faith, taught by the magisterium, from its theological presentation? Furthermore, what does the Church mean in declaring St. Teresa of Avila a doctor of the Church?

Thus far the literature; here a final comment or two. First, all the literature would agree that there is a "magisterial function" (Bernardin's phrase) in the Church. Similarly, all would agree that the pope and the bishops have a special place within this function, though the "magisterial function" is not simply identifiable with hierarchical status. That is, the function necessarily includes more than pope and bishops; specifically, it must also include theologians. It is the *manner* of that inclusion that is most interesting. Some, adhering to a neo-scholastic or classical view, describe the inclusion in terms of "subordination" and often in a highly juridical way. Others speak of pertinence of theologians to the "magisterial function" as one of complementarity, of convergence, or even of another distinct (scientific) magisterium. What these latter phrases—shared by bishops (e.g., Coffy, Descamps) and theologians (e.g., Congar, Dulles)—have in common is fear that the term "*the magisterium*," because of its relatively recent history, too easily identifies the teaching function of the Church with, and limits it to, a single group in the Church, and by implication excludes or seriously underestimates the indispensable place of theology and the theologian, to the ultimate detriment of the "magisterial function" of the Church.

There is probably a variety of ways of formulating the relationship between bishops and theologians. But recent literature agrees on two points: the relationship reached an enviable and ideal peak in Vatican II, and it has worsened since and needs improvement. For that improvement to occur, I believe, with Coffy and others, that "a new status is necessary for theology" in our time. That probably means also a new (different from the neo-scholastic) status for the hierarchy. What these statuses ought to be will probably have to be discovered *in the process of co-operation*. As Archbishop Basil Hume of London put it, "The Church is so riddled with tensions and problems at the moment that any man who says he can give final answers to these problems is deluding himself. I really hope to be able to call on the best minds to guide me in forming attitudes and statements that I should be expected to make. I don't see myself as a great person. I see myself far more as a member of a

team.”⁹¹

“Members of a team” may be an identifiably American, but not altogether bad, way of formulating the matter: members with different but converging functions. If it is not the best formulation, it is a good way to begin a co-operative relationship that might eventually yield a more adequate theological formulation. Whatever the case, several things can be done to move toward a more harmonious co-operation. First, there should be broad dissemination of the studies of Congar, Dulles, and Descamps. These essays reveal the historically conditioned and very late character of the neo-scholastic understanding of magisterium. Secondly, we theologians need to be more critical of one another—in a courteous and disciplined way, of course—so that the hierarchy does not bear the whole responsibility of correcting one-sidedness or irresponsibility, and therefore get forced into a dominantly negative role. Thirdly, it is important that our best theologians devote themselves to stating more clearly papal and episcopal prerogatives and duties within the “magisterial function” of the Church. In rejecting the heavily juridical notion of these prerogatives, we must not reject their substance. Appeal is made repeatedly to no. 25 of *Lumen gentium*, but it is widely, even if quietly, admitted in the theological community that this paragraph represents a dated and very discussable notion of the Church’s teaching office.

Finally—and this is delicate—something must be done to liberate Roman congregations from a single theological language and perspective. The International Theological Commission was conceived in part to perform this service; yet there is little evidence that this has worked.⁹² More radically, one can wonder whether congregations as such should be involved in doing theology. The temptation is almost irresistible for such groups to support the theological views of the officeholders whom they serve, as Dulles observes. Concretely, there is danger of a rather narrow notion of orthodoxy, one which compares present vocabulary with past vocabulary, thus unduly narrowing revelation to “statements” and disallowing an active, historical notion of the revelation event, “acculturation of faith,” as Coffy words it.

To some, this continuing theological concern with magisterium may seem otiose, a sterile postponement of the real problems of the world. I am convinced this is terribly shortsighted. More than ever, we need a *strong* “magisterial function” in the Church; but it remains an unfinished task to determine what “strong” means in our time. Indeed, some of the concerns mentioned here took concrete form—or so it is argued by

⁹¹ Cited in Descamps (n. 84a above) p. 103.

⁹² E.g., it may be questioned whether the inclusion of *missio canonica* in the theses of the International Theological Commission (n. 67 above) is due to the full Commission.

many—in the “Declaration on Certain Questions concerning Sexual Ethics” (*Persona humana*), to which we now turn.

“DECLARATION ON CERTAIN QUESTIONS CONCERNING SEXUAL ETHICS”

On January 15, 1976, the Sacred Congregation for the Doctrine of the Faith released the “Declaration on Certain Questions concerning Sexual Ethics” (*Persona humana*). For lack of space and because the document is widely available,⁹³ it will not be summarized here. I will present quick references to the wide and swift response the Declaration received, then summarize in more detail the more systematic theological analyses.

The journalistic response was varied and predictable. Many of the negative responses are given in *Informations catholiques internationales*.⁹⁴ Thus, Jacques Duquesne (writing in *Le point*) sees the document as a “formidable retour en arrière.” Odette Thibault (*Le monde*) regrets that “for the Catholic Church sin (with a capital S) is still and will always be sexual sin.” Henry Fesquet (*Le monde*) deplored the morality of fear in the statement. P. Liégé, dean of the faculty of theology at Paris, stated (*La vie catholique*) that the Declaration lacks “human and gospel warmth. It is cold, it is abstract, it is sad.”

A group of theologians comprising the “Organisation régionale pour le développement théologique” (ORDET) issued a statement highly critical of *Persona humana*.⁹⁵ “Its individualistic and legalistic character, its outdated philosophical categories, its abusive authoritarianism distance it from sincere scholarly inquiry and from the call of the gospel.” In the document they found “neither truth, nor justice, nor love of God who, in Christ Jesus, has not destroyed the ‘tyranny of the law’ only to restore it in the Church.”

Such severe criticisms were responded to by the bishop of Carcassonne,⁹⁶ the Permanent Council of the French Episcopate,⁹⁷ Cardinal François Marty alone⁹⁸ and together with Roger Etchegaray, president of the French Episcopal Conference.⁹⁹ Bishop Armand Le Bourgeois of Autun noted that “Evangelization in the Modern World,” released about the same time, met with a thundering silence, whereas *Persona hu-*

⁹³ Texts may be found in *Catholic Mind* 74, no. 1302 (April 1976) 52-65; *Documentation catholique* 73 (1976) 108-14; *Esprit et vie* 86 (1976) 33-39; *Herder Korrespondenz* 30 (1976) 82-87; *The Pope Speaks* 21 (1976) 60-73.

⁹⁴ “Document sur l’éthique sexuelle: Réactions réservées,” *Informations catholiques internationales*, Feb. 15, 1976, pp. 10-12.

⁹⁵ *Documentation catholique* 73 (1976) 181.

⁹⁶ *Ibid.*, p. 182.

⁹⁷ *Ibid.*, p. 208.

⁹⁸ *Ibid.*, pp. 334-35.

⁹⁹ *Ibid.*, p. 180.

mana "caused a tilt' or better a 'boom!'"¹⁰⁰ He regretted that truly "necessary reminders" were not more positive and global. The Belgian bishops called the document "opportune and necessary."¹⁰¹ The Dutch episcopate said the document must be considered a direction pointer ("indicateur de route").¹⁰² They hoped that the reflexion provoked by the document would produce more "positive detailed teachings pastoral in character" in the future. Coadjutor Archbishop Franz Jachym of Vienna saw the Declaration as appropriately demanding but regretted its authoritarian tone.¹⁰³ The many supportive episcopal responses may be found in *L'Osservatore romano*.¹⁰⁴

In England, the *Tablet* believed the response of many Catholics would be: *cui bono?*¹⁰⁵ "In this country, at any rate, it cannot be described as appropriate." Theologian D. O'Callaghan thought *Persona humana* places the loyal Catholic in a dilemma: the inability to subscribe to "moral absoluteness" and "intrinsic evil" because he knows these very verdicts are being questioned in our time.¹⁰⁶ In Canada, Gregory Baum was critical of the document as being "legalistic morality which judges acts of faculties rather than the total functioning of the person."¹⁰⁷ His comments elicited an immediate response from the Archbishop of Toronto.¹⁰⁸ In the United States, Arthur McNally, C.P., viewed the Declaration as a "masterpiece of pastoral teaching."¹⁰⁹ Paul McKeever, on the contrary, argued that it fails to communicate.¹¹⁰ Paul Surlis, while agreeing with the basic value judgments, regretted the lack of a positive approach.¹¹¹ *America* scored the abstract language and outdated categories.¹¹²

L. Kaufmann and J. David of Switzerland regretted the secrecy of the Congregation, "for which the demand for greater openness still falls on

¹⁰⁰ *Ibid.*, pp. 209-10. He noted: "Il a 'fait tilt' ou mieux 'boum'! Pensez donc, il parlait du sexe!"

¹⁰¹ *Ibid.*, p. 210.

¹⁰² *Ibid.*, pp. 178-79.

¹⁰³ Cf. *Orientierung* 40 (1976) 15.

¹⁰⁴ Essays and supportive documents on *Persona humana* may be found in the following issues of *L'Osservatore Romano*: Jan. 29; Feb. 5, 12, 19, 26; March 4, 11, 25; April 1, 8, 15, 29; May 6, 13; July 29; Aug. 19.

¹⁰⁵ "A Roman Declaration," *Tablet* 230 (1976) 73-75.

¹⁰⁶ D. O'Callaghan, "Comment," *Furrow* 61 (1976) 126-29.

¹⁰⁷ Cf. *Ecumenist* 14 (1976) 64.

¹⁰⁸ *Ibid.*, p. 64.

¹⁰⁹ Arthur McNally, C.P., "Sexual Ethics," *Sign* 55, no. 6 (March 1976) 4-5.

¹¹⁰ Paul McKeever, "Sex in the News," *Priest* 32, no. 2 (March 1976) 12-13 (an unsigned editorial).

¹¹¹ Paul J. Surlis, "Theology and Sexuality," *Priest* 32, no. 10 (Oct. 1976) 42-47.

¹¹² "Sex Declaration: Half a Loaf," *America* 134 (1976) 63.

deaf ears."¹¹³ Whatever consultation was involved or reference made to previous episcopal documents, "nothing indicates that these were mined or anything learned from them." Where adolescent masturbation is discussed, they wondered what good is achieved by mentioning the "useful data" provided by psychology while immediately narrowing the question to a "serious violation of the moral order." The tone of the document when it speaks of premarital relations is regrettable, a tone quite different from that employed by the Swiss diocesan synods. Something very similar is true of the undifferentiated discussion of homosexuality. The authors conclude that the document is dominated by a narrow view of human actions and "a static ordering of commands and prohibitions, instead of a dynamic view of the assimilation of truth and realization of values. . . ."

Roman Bleistein, S.J., associate editor of *Stimmen der Zeit*, thought that anyone concerned about the Church's authority must wonder whether its institutions are not undermining their own authority.¹¹⁴ He cited the differences in *Persona humana* and several documents of the German episcopate. In the latter the findings of contemporary sciences are not overlooked, whereas the Roman document leans above all on Church tradition and uncritical use of St. Paul ("oft ohne Rücksicht auf den jeweiligen Zusammenhang").

Beyond such differences in the over-all approach, substantive differences were noted by Bleistein. For instance, where masturbation is concerned, the pastoral letter of the German bishops (*Hirtenbrief der deutschen Bischöfe zu Fragen der menschlichen Geschlechtlichkeit*, 1973) states that it cannot be approved "as a self-evident actuation of sexuality." As for premarital relations, the German synodal document (*Christlich gelebte Ehe und Familie*) states: "These relations cannot be seen as corresponding to the ethical norm." *Persona humana* is much more abstract and apodictic. Nor can these differences be reduced, according to Bleistein, to the difference between moral theology and pastoral application. "There is revealed a different mentality in the judgment of sexual behavior." In the face of such different *official* mentalities, what is the Catholic to think? Bleistein thinks that one institution (clearly he means the Congregation) is undermining authority.

If one reads the Declaration with a tranquil soul, declared *Civiltà cattolica*, one will discover that the massive objections against it are

¹¹³ J. David and L. Kaufmann, "Zur Erklärung der Glaubenskongregation," *Orientierung* 40 (1976) 14-15.

¹¹⁴ Roman Bleistein, S.J., "Kirchliche Autorität im Widerspruch," *Stimmen der Zeit* 101 (1976) 145-46.

unfounded.¹¹⁵ *Civiltà* cited the "moral sexual revolution" as the cause for the difficult reception *Persona humana* received. It highlighted especially the theses of S. Pfürtner, the Swiss ex-Dominican, and argued that the Church must speak out against the "grave confusion" such misleading statements cause.

Razón y fe detected a mixture of pre-Vatican II and post-Vatican II ingredients in the Declaration.¹¹⁶ There is a static notion of nature, and yet an openness to anthropological evidence and a compassionate pastoral tone. If the document itself does not achieve an adequate synthesis of pre- and post-Vatican II morality, it is the responsibility of the mature Christian to do so in his/her personal life.

Jorge Mejía believed that the Latin American reaction to *Persona humana* was calmer than the Western European and American because Latin Americans have maintained a greater discernment "as to what is good and what is bad in this delicate matter of sex."¹¹⁷ He defended the document as a necessary corrective to contemporary confusion and saw its chief value as a witness value to a world that has lost its bearings.

For Jose A. Llinares, O.P., the argumentation is legalistic and the style abstract, elements that distract from the Declaration's power to persuade.¹¹⁸ He sees the dominant point in the document in its constant emphasis on the need of focusing on the specific circumstances of each personal case. Firmness of principle does not release pastors and educators from the duty to learn from the human sciences.

Now to some of the more detailed studies.

John Harvey, O.S.F.S., is in agreement with the moral-theological conclusions and spends most of his time on pastoral applications.¹¹⁹ Working within the objectively-wrong-but-not-always-culpable perspective, Harvey shows himself a compassionate counselor. I agree with his contention that the biblical norm ("heterosexual marriage is the proper form of sexual activity") does not depend on individual texts of Scripture. I make only two points. First, against those who are cautious about using Pauline texts (because Paul was unfamiliar with the *condition* of homosexuality, as we know it in at least some cases), he remains unconvinced because "the sacred writers did not attempt to analyze

¹¹⁵ "Sessuofobia o difesa dell'uomo? La Chiesa e la sessualità," *Civiltà cattolica* 127 (1976) 209-17 (editorial).

¹¹⁶ "Sexualidad y moral cristiana," *Razón y fe*, no. 938, March 1976, pp. 198-201.

¹¹⁷ Jorge Mejía, "La Declaración de la Santa Sede sobre la ética sexual," *Criterio* 49 (1976) 110-12.

¹¹⁸ J. A. Llinares, "Ética sexual y magisterio de la Iglesia," *Ciencia tomista* 103 (1976) 465-78.

¹¹⁹ John F. Harvey, O.S.F.S., "Pastoral Insights on 'Sexual Ethics,'" *Pastoral Life* 25, no. 4 (April 1976) 2-8.

personal *motives . . .*" (emphasis added). I do not believe motivation is the point under discussion. Secondly, Harvey agrees with the document's reassertion that "every direct violation of this order is objectively serious." He paints the opposite attitude as follows: "After all, what harm to God . . . is found in deliberate masturbation, occasional fornication or acts of genital homosexuality between consenting adults?" If that is all the traditional thesis (no parity of matter in direct violations) meant, there would be less problem with it. But it says that "every direct violation," and this includes even the smallest. It is *this* that most theologians and pastoral counselors deny.

Daniel Maguire first points up the values of the Declaration.¹²⁰ It stresses the reality of guilt in a time when feigned or strained innocence is fashionable. It correctly rejects the idea that science is the only legitimate way of knowing. It rejects custom as normative, takes sexual encounter seriously, etc. But all in all, Maguire believes it does not do justice "either to the subject or to the Catholic tradition." Some of Maguire's specific criticisms: (1) the Declaration was developed in secrecy and represents only one view of things; (2) methodological shortcomings (e.g., the separation of the idea of moral disorder from the notion of harm; abstractionism; aloofness from the empirical basis of ethics); (3) lack of intellectual modesty in its claims to certainty; (4) dominance of the notion of sin; (5) unrealism of expectation when dealing with homosexuality. Maguire concludes with some suggestions about "what might have been" in the document. I think his suggestions make eminent good sense.

R. P. Spitz, O.P., has a very positive reaction to the document and a very negative reaction to its critics.¹²¹ After noting that many criticisms concerned not the principles involved but the fact that Rome recalled them, he states: "To formulate such criticisms is to admit implicitly that one finds obedience to commands repugnant, even if one holds them to be acceptable and true." Spitz agrees with the Congregation's "principal criterion" (the finality of each act), a principle "which the Church holds from revelation and an authentic interpretation of natural law." The rest of his article is deeply homiletic, e.g., that we must not lose the sense of sin, of asceticism, of sacrifice. In this sense he does not enlighten the document but deals with the attitudes and practices it was targeted against.

G. Lobo, S.J., notes that as between traditional doctrine in traditional terms and exposing it in terms appealing to the present generation, the

¹²⁰ Daniel C. Maguire, "The Vatican on Sex," *Commonweal* 103 (1976) 137-40.

¹²¹ R. P. Spitz, O.P., "A propos de la déclaration de la Sacrée Congrégation pour la Doctrine de la Foi," *Pensée catholique*, no. 161 (March-April 1976) 11-19.

Congregation has chosen the first.¹²² He feels there is no point in lamenting the style or tone but that our challenge is to present its content more persuasively. At one key point, however, Lobo would disagree with the content of *Persona humana*. He does not accept the statement that every act of masturbation must be considered an objectively serious violation, even though it is "undesirable . . . and sinful when practiced deliberately." His conclusion: "while permissiveness leads to disastrous results, too much rigidity also leads to equally harmful consequences."

Ph. Delhaye, secretary of the International Theological Commission, has a very long defense-commentary of *Persona humana*.¹²³ He first takes up some of the objections leveled against it. For instance, he insists on the right of the Holy Father to use his congregations for the ordinary, day-to-day administration of the Church. To those who claim that *Persona humana* was inopportune in its concentration on three practical problems, Delhaye responds that the whole purpose of the document was quite simple: to recall the doctrine of the Church on *certain particular points* to a world fast forgetting this doctrine. To those who are allergic to use of the natural law, Delhaye explains at length the notion as found in the scholastic tradition and insists that the nature of which the Declaration speaks "is not that of the cosmos or of philosophy alone but that of the human person."

I have the sense that Delhaye is answering a fair number of unasked questions. For instance, the question is not whether the Holy Father has a right to speak out through his congregations on moral or doctrinal questions. No well-informed Catholic theologian questions this. The issue is rather the nature of the input and consultative processes involved, so that the ultimate product is one that instructs, illumines, inspires. Similarly, the question is not whether the notion of natural law is appropriate; it is rather how it is to be interpreted, with what enrichment from behavioral sciences, with what theological perspectives. One does not respond to such questions by merely pointing to the long tradition of natural-law reasoning and comparing this to certain phrases in the Declaration. Again, Delhaye's lengthy rejection of the "neosociologism" of the sciences (which all theologians would share) hardly tells us much about just how the redactors of *Persona humana* did make use of contemporary scientific studies.

Throughout his essay Delhaye argues that the Declaration is trying to walk a middle path between extremes. Item: "*Persona humana* seems to

¹²² G., Lobo, S.J., "Document—Declaration on Sexual Ethics," *Vidyajyoti* 40 (1976) 269-77.

¹²³ Ph. Delhaye, "A propos de 'Persona humana,'" *Esprit et vie* 86 (1976) 177-86, 193-204, 225-34.

me to keep an equal distance from two extremes: that which simply rejects the fundamental option, that which makes of it an unreal thing." Item: against pseudoscientific assertions that masturbation is not only permitted but necessary, Delhaye states that the response of *Persona humana* to this propaganda is contained in two major notions. "On the one hand, it recognizes that every material deviation is not necessarily a deliberate fault; on the other, the Declaration does not accept the idea of generalized sexual irresponsibility." At this point, and in many places throughout, I have to wonder whether we are reading the same document. In other words, are not Delhaye's repeated attempts to say what the document meant and was trying to do indicative of its failure?

Bernhard Stoeckle admits the need of the document.¹²⁴ He regrets its harsh tone and believes it suffers by comparison with the documents of the German episcopate. Several pluses he admits: its attempt to be restrained in using the natural-law notions that were criticized in *Humanae vitae*; attempts to deepen traditional teaching by advertence to the work of the sciences; a certain distance from the biological and philosophical arguments used in the past. But eventually he sees its arguments as insufficient. While accepting the conclusions, he believes that the arguments would have been legitimated and solidified if the double meaning of sexual conduct had been brought within the sphere of charity (agape) to be stamped by it. In a sense, he is concretizing in this sphere his attitude toward a specific Christian ethic. In my judgment he does not succeed.

A very critical response to the Declaration was drawn up by three theologians from Tübingen: Alfons Auer, Wilhelm Korff, Gerhard Lohfink.¹²⁵ Several other members of the Catholic theological faculty of Tübingen declared their agreement with the critique: H. Küng, W. Kasper, J. Neumann, and others. The critique takes the form of a comparison between the Declaration and a working paper drawn up for the German Synod (Würzburg): *Sinn und Gestaltung menschlicher Sexualität*. When *Persona humana* appeared, the head of the German episcopal conference declared that the Declaration confirmed the Würzburg Synod's document as well as the 1973 pastoral of the German bishops. The theologians from Tübingen contest that judgment and argue that a totally different climate is present in the Congregation's document. To show this, they lift out the sharp differences between the Würzburg working paper and *Persona humana*.

The working paper begins with the results of contemporary human

¹²⁴ Bernhard Stoeckle, "Erklärung zu einigen Fragen der Sexualethik," *Internationale katholische Zeitschrift* 5 (1976) 256-61.

¹²⁵ Alfons Auer et al., "Zweierlei Sexualethik," *Theologische Quartalschrift* 156 (1976) 148-58.

and social sciences. It notes that all cultures have regulated sexual behavior and that, in spite of differences and qualifications, the norms achieved two goals: (1) institutionalization of sexual relations with the principles of permanence and exclusivity; (2) the concern of the partners for each other, for the continuation and well-being of the family. In the past the social aspects took precedence; now there is more emphasis on the meaning of sexuality for self-development and for a deep partnership.

The working paper then turns its attention to the many values of human sexuality, values which it sees as playing different roles at different periods of one's life. Then the biblical and theological evidence is used to put human experience in the broader context of faith. Against such a background the working paper faces practical issues. It evaluates promiscuous sexual relations differently from those between partners who are in love and "who are decided on a permanent bond but see themselves hindered from contracting it because of reasons felt to be grave." In treating of homosexuality, it speaks of a "narrowing of existential possibilities." Adolescent masturbation is seen as a phase-specific phenomenon to be passed through without an overload of guilt.

In contrast to this, *Persona humana* is entirely deductive, from eternal, objective, universal divine laws. The Tübingen theologians argue that the Declaration misuses Scripture (an "adventitious ornament for systematic assertions"), misuses its own tradition, and does not take scientific data seriously. By its moral positivism it "excludes itself from the scientific discussion." In the end, while achieving a certain stabilizing effect, it pays too great a price: not secession, but "a retreat to a position of partial identification with the Church will present itself as the only possibility for many." They conclude their severe criticism with the insistence that "the house of the Church ought to be, for people of our time, an intellectually and ethically livable place." Of the two documents studied and compared, it is clear to them that only the working paper of the Würzburg Synod passes this test.

Bernard Häring approaches the Declaration in three steps: (1) its good points; (2) the theological presuppositions; (3) evaluation of its pastoral attitudes.¹²⁶ At the outset and repeatedly thereafter, he expresses agreement with the underlying core-value judgments ("Kernerklärung") of the document, against those who would see no moral problem in pre-marital relations, homosexual activity, and masturbation. Furthermore, he insists that the Church must have the courage to say unpopular things. Finally, he welcomes the reference made to the insights of the sciences in these areas.

¹²⁶ B. Häring, "Reflexionen zur Erklärung der Glaubenskongregation über einige Fragen der Sexualethik," *Theologisch-praktische Quartalschrift* 124 (1976) 115-26.

Häring faults the document for the following theological presuppositions. There is, he argues, an ahistorical and unrealistic tone and attitude toward the magisterium and its formulation of moral truth. The use of Scripture is highly questionable. It totally neglects the distinction between a substantive value judgment and its formulation. The language, arguments, and conceptual underpinning lead to undifferentiated condemnations. The natural-law perspectives of the contemporary consultors to the Congregation are "represented as *the* constant tradition and the teaching of the Church." Häring argues that "there speaks in the document not *the* preconciliar theology, but a very distinct preconciliar theology," the type rejected by the Council in its rejection of several preliminary drafts for *Gaudium et spes*.

Häring is particularly strong in his rejection of the Declaration's presumption that individual acts, especially of masturbation, involve serious guilt. He grants that some theologians have gone too far in their reaction to an earlier rigorism; but a too facile judgment of mortal sin in sexual matters harms the faith of people. "It must never for an instant be forgotten that conversation about mortal sin, especially the mortal sins of children, is conversation about God." The image of God inseparable from the perspectives of *Persona humana* is, he believes, that of an avenging policeman. The document refers to the letter of Leo IX in which he authorized Peter Damian's *Liber gomorrhianus* as sexual teaching clean and free from error. Of that Häring says simply: "I certainly could not believe in the God who shines through that work."

Another problem Häring finds in the document is that its argument and language fail to allow for qualitative differences in human conduct. This is true of premarital intercourse, as well as masturbation, which is rejected "regardless of the motive." Häring's ultimate judgment is harsh: "The document of the Congregation, as a whole and in its individual formulations, goes far beyond the rigorism of past times. One can say that it represents the most logical and systematic piece of teaching, in so far as it brings tightly together all previous rigoristic teachings and presents them simply as *the* tradition."

In a careful and balanced study, Charles Curran reviews some of the literature recorded here and presents his own analysis of the Declaration.¹²⁷ First, Curran, like many others, faults the lack of consultation involved in its preparation. As for the criticism that followed its issuance, Curran sees it as a sign of greater maturity in the Church, "even though one wishes the negative criticism were unnecessary." I wish this last little point had been italicized in Curran's study; for there are many people in the Church who believe that criticism stems from a desire to

¹²⁷ Charles E. Curran, "Sexual Ethics: Reaction and Critique," *Linacre Quarterly* 43 (1976) 147-64.

criticize—as if truth and the good of the faithful were not one's motive, but rather victory within an imagined adversary relationship.

Curran's critique involves methodology and substance. As for methodology, he lists eight shortcomings: e.g., the deductive character; failure to use the nature of the person as a criterion; failure to pay sufficient attention to the experience of people. He concludes here with the judgment that the Declaration is "not in keeping with what . . . is the best in Catholic theological reflection."

In his substantive criticism, Curran singles out four points. First, the notion of fundamental option in the document is a caricature. E.g., the Congregation describes the opinions of some who see mortal sin only in a formal refusal directly opposed to God's call and not in particular acts. Curran rightly wonders what theologians hold this position. He knows of none; nor do I.

Secondly, Curran deals with premarital relations. He accepts the underlying substance of the Congregation on this matter. However, there could be times when the marriage ceremony is legitimately impeded. In these cases "there does not seem to be much of a problem from a moral viewpoint, although ordinarily such a covenant of love should be publicly witnessed and proclaimed." I believe many moral theologians would agree with that judgment. There even seems to be a foundation for this in canon law (can. 1098). But to prevent deleterious understanding of it, it might be well if we moralists emphasized the relative rarity of the occurrence and then struggled to specify more concretely what these circumstances are. Otherwise, little "covenants of marital love," like *entia*, risk being multiplied and consummated on warrants all of us would reject out of hand.

Curran next turns to homosexuality. The implication of the document's approach is that the irreversible homosexual "is asked to live in accord with the charism of celibacy." He then states his own well-known approach, based on a "theory of compromise," which proposes that for the irreversible homosexual "these actions are not wrong for this individual provided there is a context of a loving commitment to another." He regards this as a conclusion "on the level of the moral order," a phrase meant to distinguish it from an objectively-wrong-but-not-always-culpable analysis as well as one which regards homosexual actions as equivalent to heterosexual ones.

Curran's most marked disagreement with the Congregation is on masturbation. *Persona humana* sees it as an intrinsically and seriously disordered act. Curran denies this. "Individual masturbatory acts seen in the context of the person and the meaning of human sexuality do not constitute such important matter . . . providing the individual is truly growing in sexual maturity and integration." He sees the Congrega-

tion's approach as theologically inaccurate, psychologically harmful, and pedagogically counterproductive, and traces this to the methodology of the document, one whose approach is "limited to an analysis apart from the person."

This latter point is important and is certainly what distinguishes, and unfortunately divides, most contemporary theologians from those writing for the Congregation. Moral norms are generalizations about the meaning of our actions. But it is clear from many sources (contemporary sciences, Vatican II, wide pastoral experience) that sexual experiences *mean* far more than genital actuations of one sort or another. For instance, as Curran notes, masturbatory acts can be symptomatic of loneliness, of sexual tension, of prolonged absence from one's marital partner, of frustrated relationships and insufficient coping mechanisms in one's daily life, of growing selfishness, etc. It is only when the actions are seen from the viewpoint of the whole person that they reveal their *meaning*. While they are always a withdrawal from the full meaning (potential) of sexual behavior (and therefore an "intrinsic disorder"), in at least many of their meanings noted above, it is highly doubtful that this individual withdrawal is serious, scil., the type of action that is calculated to provoke the mature and sensitive person to a radical existential break with the God of salvation. And that is the meaning of "serious matter."

This point can be put in another, more systematic way. Two levels of moral rectitude are involved here. One we might call the general, the other the individual. The level of general rectitude prescind from individual intentions, dispositions, qualities, and meanings, and states an over-all requirement. Thus we say that sexual expression finds its *full* meaning in the permanent relationship of covenanted love (marriage). However, while this tells us something, and something important, about the moral quality of our actions, it does not tell us everything; for it is quite possible to be objectively immoral once the requirement of general rectitude is satisfied. That is, it is possible to be *objectively* immoral within marriage (selfish, manipulatory, inconsiderate, uncommunicative, etc.). These qualities at the individual level of rectitude tell us much about the *meaning* of our activity. They fill out the meaning of our actions by viewing them within the context of the individual person. If, as Vatican II insisted, criteria for sexual activity are to be based on "the nature of the person and his acts" (*Gaudium et spes*, no. 51), then the meaning of our actions must be drawn from all dimensions of our personal life. By speaking as it does, on the level of general rectitude only, the Congregation prescind from many aspects of the personal that yield the meaning of our actions, and therefore is able to condemn actions and assert seriousness in an undifferentiated way

that does not correspond at key points with human experience. This is, I think, the key substantive difference between the approach of the Congregation and the commentators on its document.

At this point I refer to two episcopal pastoral letters that have come to my attention: one by Bishop Francis J. Mugavero of Brooklyn, the other by Cardinal L. J. Suenens of Malines-Brussels.¹²⁸ Both are excellent, but let me concentrate briefly on Bishop Mugavero's statement here. It is difficult to cite from the pastoral, because its achievement is one of over-all tone that emerges from the totality. The tone is positive, compassionate, and supportive; the language is simple and "American." Sexuality is seen as a great gift. "It is a relational power which includes the qualities of sensitivity, understanding, warmth, openness to persons, compassion and mutual support. Who could imagine a loving person without these qualities?" The attitude is realistic and encouraging. Mugavero states simply and straightforwardly: "If we are honest with ourselves as were the Christians who lived before us, each of us will recognize that it is not easy to integrate sexuality into our lives."

Mugavero is theologically and pastorally superb in his treatment of each of the problems treated by the Congregation. E.g., he sees in masturbation "a prime example of the complex nature of sexual behavior." He then states: "We wish to encourage people to go continually beyond themselves in order to achieve greater sexual maturity and urge them to find peace and strength in a full sacramental life with the Christ who loves them."

The treatment of premarital relations is excellent. But let me cite homosexuality as another example. Mugavero notes that anthropological, psychological, and theological reasoning all contribute to the Church's conviction that "heterosexuality is normative. All should strive for a sexual integration which respects that norm, since any other orientation respects *less adequately* [emphasis added] the full spectrum of human relationships." This is a way, I submit, of formulating a moral statement that is both continuous with the deepest value judgments of our tradition and sensitive to what we know, and do not know, about homosexuality.

Mugavero's language and tone meet people where they are. Tone, in moral matters, is not everything, but it is enormously important; for it reveals attitudes toward persons, norms, conflicts, God, the human condition. Because this is so, tone not only affects communicability; at some point it also cuts very close to the basic value judgments themselves, as the Tübingen theologians note. That is why a document that

¹²⁸ Francis J. Mugavero, "Sexuality—God's Gift: A Pastoral Letter," *Catholic Mind* 74, no. 1303 (May 1976) 53-58; L. J. Suenens, "Amour et sexualité aujourd'hui," *Documentation catholique* 73 (1976) 679-90.

is tonally inadequate risks being substantively incomplete or even wrong.

These are just a sampling of the reactions to *Persona humana*. One could summarize them as follows. Nearly everyone believes a prophetic but compassionate statement from the Church on human sexuality is in place. Secondly, the actual response given by the Congregation finds both defenders and critics. By and large, the defenders highlight the right of the Church to speak authoritatively, the authority of the document, the clarity of the reassertion of traditional teaching, the sensitivity of *Persona humana* to contemporary studies in the behavioral sciences, and (defensively) the fact that it was not trying to give a full theology of sexuality. The critics—and in the theological world they far outnumber the defenders—go after the process (secret) which produced the document, the dated theology and language central to it, the failure to deal with the behavioral sciences adequately, the authoritarian tone, the misuse of Scripture, and some of the pastoral applications.

Some of the reactions, particularly but not exclusively the journalistic, seem extreme, even unfair. I see their excessive character as transparent of a deep sense of failed expectations, and of a profound discomfort with the Roman way of doing things. On the other hand, some of the positive reactions were quite uncritical; they are symptomatic of a felt need “to defend Rome.” My own reaction to the document is presented elsewhere.¹²⁹ I have found little to alter in that statement except to say that the burden of the literature reported here is that we are dealing with a missed opportunity.

If one’s judgment is that, all things considered, the Declaration missed its target, what happened to bring this about? Some explanation is given in an interview involving James McManus, C.S.S.R., Sean O’Riordan, C.S.S.R., and Henry Stratton.¹³⁰ Briefly it is this. Over the years two different schools of theological approach were involved in the consultations leading to the Declaration: (1) the personalist school; (2) the traditional, norm-centered school, which begins with abstract principles and uses a deductive method.

It was found impossible to develop a coherent document based on these two different methods. “Eventually,” says O’Riordan, “the modern school was dropped from consultations.” The document as we have it was mainly the work of three people: E. Lio, O.F.M., Card. Pietro Palazzini, and Jan Visser, C.S.S.R. According to O’Riordan, “the document reproduces in large part a chapter in a book recently published by

¹²⁹ Richard A. McCormick, S.J., “Sexual Ethics—An Opinion,” *National Catholic Reporter*, Jan. 30, 1976, and *Theologie der Gegenwart* 19 (1976) 72–76.

¹³⁰ J. McManus, Sean O’Riordan, and Henry Stratton, “The ‘Declaration on Certain Questions concerning Sexual Ethics’: A Discussion,” *Clergy Review* 61 (1976) 231–37.

Cardinal Palazzini on Christian life and virtue. In this book the Cardinal follows the old methodology—principles are stated, and conclusions are drawn more or less independently of human persons and the complexities of human existence.”¹³¹

There follows an extremely interesting discussion in which O’Riordan points out the deeply compassionate and flexible viewpoint of the older theology at the pastoral level. E.g., Visser would condemn homosexual acts as intrinsically evil. Yet, in an interview in *L’Europa* (Jan. 30, 1976) Visser stated that “when one is dealing with people who are so deeply homosexual that they will be in serious personal and perhaps social trouble unless they attain a steady partnership within their homosexual lives, one can recommend them to seek such a partnership, and one accepts this relationship as the best they can do in their present situation.” Visser explains this on the grounds that the lesser of two evils is often the best thing for people in a particular situation, and he would see no incompatibility between this *pastoral* attitude and adherence to the abstract principle that homosexual acts are intrinsically evil.

O’Riordan, then, was asked this question: “So, in a sense, the good theologian of the traditional school is doing in pastoral theology and pastoral practice what the personalist theologian is doing in moral theology?” His answer was: “You have defined it exactly.” That is, the personalist theology is simply “working out in a theoretical way what the good pastors have always instinctively known and done.”

That may be the case; but let me offer this tentative probe. That formulation so identifies normative ethics with individual *potential* that the possibility of a general normative statement all but disappears. In other words, does it not simply identify the morally right with the individually *possible*—which means that no truly normative statement is possible except for the individual? Which could mean that it is not possible at all. We can and should distinguish between an abstract and deductive way of deriving moral norms, and one anchored in persons and their acts. But is distinguishing in this way the same as identifying a normative statement (personalistically derived) with a pastoral statement? I wonder. If we say the two are the same, we have, it would seem, abandoned any possibility of generalization, scil., of ethics. Therefore, to say that “the good theologian of the traditional school is doing in pastoral theology and pastoral practice *what the personalist theologian is doing in moral theology*” (my emphasis) could destroy the possibility of normative statements. Even if one does theology out of personalist perspectives, as one ought, must there not still remain the possibility that individuals cannot achieve this personalistically derived *norm*? In other words, must we not distinguish between a moral theology derived

¹³¹ *Ibid.*, p. 232.

from “the nature of the human person and his acts” and an approach that considers only this or that *particular* person and his/her *possibilities*? If we must, then there still remains a norm and a pastoral practice. I raise this *only* as a question, in the hope that O’Riordan and others can cast light on it in the future.

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