

CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY: 1979

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The single most important happening in the field of moral theology in 1979 was, of course, the visit of John Paul II to several countries, including the United States. These visits were primarily pastoral in purpose, but in their course the Holy Father revealed very clearly not only the style of leadership he will exercise¹ but his approach and priorities in the moral sphere as well. This is especially true of his trip to the United States. And this was to be expected. In a fine editorial *America* noted:

Above all else, the Pope today is asked to be a moral teacher and leader, not just for Catholics but for all men and women of good will. Through a combination of circumstances—his own personal gifts, contemporary communications technology, the historical anguish of the time—John Paul II has been given an opportunity to appeal to the conscience of mankind in a manner unique in the history of the papacy.²

During the course of a few short days, John Paul II addressed nearly every difficult moral problem of our time—from human rights, power and peace, social morality, Catholic education, the magisterium, to marriage, sexuality, and women in the Church.

In no instance was the message unpredictable or unexpected. I am sure that people will react variously to individual items treated by the Holy Father. Be that as it may, it is important to highlight themes that run through nearly everything John Paul II said and did. The following three strike this commentator as worthy of note.

First, there is the Pope's constant emphasis on the uniqueness and dignity of the person. He returns to this again and again, whether he is discussing peace, poverty, energy, sexuality, abortion, or religious freedom. As the *America* editorial noted: "He insisted repeatedly that the welfare of the human person must be the final measure of all relationships among the nations of the world, of all economic and political systems and of all negotiations over regional boundaries or military superiority."³ For example, in his address to the United Nations, the Pope stated of the quest for peace: "Every analysis must necessarily start from the premise that—although each person lives in a particular concrete social and

¹ For a reaction to this style, cf. *National Catholic Reporter*, Nov. 23, 1979, 3.

² *America* 141 (1979) 185.

³ *Ibid.* 2.

historical context—every human being is endowed with a dignity that must never be lessened, impaired or destroyed but must instead be respected and safeguarded if peace is really to be built up.”⁴ Similarly, he rooted his traditional sexual ethic in the dignity of the person. Several articles in the past year have analyzed very helpfully the writings of the then Cardinal Wojtyla on the person as moral agent and centerpiece of our reflections.⁵

The second striking characteristic of the Holy Father's presentations is his willingness to challenge with a hard saying. Repeatedly he reminded us of the obligations of wealth, of the need to alter life-style for a more equitable distribution of resources, of the sacrifices required to bring life generously into the world and support it. The Pope was aware of the demanding character of his moral message. In his address to the American bishops he adverted to it explicitly: “Brothers in Christ: as we proclaim the truth in love, it is not possible for us to avoid all criticism; nor is it possible to please everyone.”⁶

Third, there is in the papal statements a thoroughgoing compassion and love in the face of tension and polarization. In his speech at Grant Park, Chicago, he noted: “Let love for each other and love for truth be the answer to polarization, when factions are formed because of differing views in matters that relate to faith or to the priorities for action. No one in the ecclesiastical community should ever feel alienated or unloved, even when tensions arise in the course of common efforts to bring the fruits of the gospel to society around us.”⁷

These “Notes” will organize around three areas of concern touched by the Pontiff on his visit to the United States: (1) the person and personal action;⁸ (2) the pastoral problem of divorce and remarriage; (3) nuclear energy and nuclear disarmament.

THE PERSON AND PERSONAL ACTION

In moral discourse appeal is frequently made to the dignity of the person. For example, Vatican II based the notion of religious freedom on the dignity of the person. What is meant by this notion? Bruno Schüller submits it to a careful analysis.⁹ The dignity of the person, as an image

⁴ *Origins* 9 (1979) 262.

⁵ A. Wilder, O.P., “Community of Persons in the Thought of Karol Wojtyla,” *Angelicum* 56 (1979) 211–44; F. Bednarski, O.P., “Les implications axiologiques et normatives de l’analyse de l’expérience morale d’après le card. Karol Wojtyla,” *ibid.* 245–72.

⁶ *Origins* 9 (1979) 290.

⁷ *Ibid.* 292.

⁸ Cf. John Paul II, *Redemptor hominis* (*Origins* 8 [1979] 625–43).

⁹ Bruno Schüller, S.J., “Die Personwürde des Menschen als Beweisgrund in der normativen Ethik,” *Theologie und Glaube* 53 (1978) 538–55.

and likeness of God, means that the person must be respected and loved as an end in him/herself. It is the "dignity of the person" that makes the command of love of neighbor, as well as the golden rule, intelligible. Once this connection is made between the dignity of the person, love of neighbor, and the golden rule, Schüller argues that "dignity of the person" has the same argumentative function in normative ethics as the other two. That is, it determines moral goodness but not moral rightness. In other words, it is a necessary condition for moral rightness but not a sufficient one. Most of the hotly disputed questions in moral theology are in the area of moral rightness and wrongness. When "dignity of the person" is used to settle such controversies, it pertains much more to the genre of appeal or exhortation than to moral argument. If this is overlooked, an *ignorantia elenchi* (missing the point) occurs. That is, personal moral goodness becomes the exclusive area where one is to discuss and find moral rightness or wrongness.

Schüller next discusses two forms of argument that root in the notion of personal dignity. The first is: since persons are similar in their personal worth, they are also similar in other respects. As Galatians words it, "There does not exist among you Jew or Greek, slave or freeman, male or female. All are one in Christ Jesus" (3:28). Schüller argues that this appeal to personal dignity yields very little normative content. "For the insight into the personal dignity of another and into the claim to be treated in a morally right way leaves open the question about what the morally right response is and how this is to be determined."¹⁰ There are morally relevant differences between persons that demand difference in treatment. Therefore "dignity of the person" is really an appeal to appraise correctly the different ethical requirements following upon, e.g., maleness and femaleness.

The second form of argument based on dignity of the person is inspired by Kant: a person is an end in him/herself and may not be treated only as a means. What does that statement yield in terms of normative ethics? It has been used widely and frequently in bioethics: e.g., in discussions about experimentation with children or incompetents. Schüller uses unchastity as an example. Does every failure in this area involve an individual in evaluating him/herself as a mere means or a thing? If we would have to say this, then "dignity of the person" would be equal in its generality to *recta ratio* or *natura humana qua rationalis*. Kant thought that even in the natural sexual act persons made themselves into "things." However, he thought it justifiable in marriage because personhood is recovered through the reciprocity of the action. Therefore, Schüller argues, there seem to be conditions under which a person does not destroy personal dignity while he makes himself a means or a "thing."

¹⁰ Ibid. 541.

What might they be? Schüller gives several examples. For instance, a person fires his secretary for incompetence. Could the secretary not protest that in the reasons for her dismissal only her working competence, not her personal worth, was considered? In fact, a secretary's competence or incompetence has nothing to do with her personal worth. What qualifies one as a secretary is purely instrumental. Thus, in hiring or firing a secretary it is impossible not to treat an individual as a mere means. Something similar happens when the sick person asks for the doctor. Should the doctor not refuse on the grounds that he is called in terms of his medical competence only and is thus degraded to a mere means?

Schüller argues that a person is used as a thing or a mere means whenever the only basic reason for an action is utility or pleasure to be gotten from another. But he immediately notes that our lives are full of such actions, and they are actions we consider morally right. On the other hand, the attitude of using others for one's purposes defines the very structure of the egoist's life. These two reflections lead Schüller to conclude that the maxim about not using another as a means relates not to the sphere of the ethically right and wrong but to the sphere of intention and attitude. In other words, its function in moral discourse is similar to that of the golden rule and the command of neighbor love.

In all the actions mentioned by Kant (of actions wrong because one treats oneself or another as a thing), Schüller believes that Kant does not use his axiom to conclude that the actions are wrong. Rather he holds—for whatever reason—that certain actions are wrong and goes about showing why by use of the axiom. His "proofs" are mostly plausible. But he neglects to mention that the same axiom would apply with similar plausibility to actions he and others consider right. Schüller concludes, therefore, that the notions of dignity of the person or the person as self-end offer practically nothing to clarify the rightness or wrongness of a concrete act. In this he is at one with Ross, who says of the Kantian axiom: "It has in fact great homiletic value; it is a means of edification rather than enlightenment."¹¹

Schüller's final section is a systematic presentation of how "dignity of the person" functions in Christian perspective in determining ethical rightness and wrongness. Since human beings are before all else persons in their free self-determination vis-à-vis ethical demands, the ethical good is the core of their worth and dignity. This is an unconditioned dignity and worth because the ethical good is unconditioned. Only the individual him/herself can radically protect or violate this worth as a person. In this sense "personal worth" is interchangeable (as a criterion of rightness or wrongness) with *natura humana* and *recta ratio*.

¹¹ D. Ross, *Kant's Ethical Theory* (Oxford, 1969) 55, cited in Schüller 548.

There are, however, actions which violate personal worth. For example, scandal or leading another to act against his/her conscience. Such actions by definition aim at getting another to violate his/her own personal value precisely in so far as this value consists in moral integrity. Improper diminishment of responsibility in another would also be an attack on that other's personal worth, as well as a violation of the golden rule. I would, in such conduct, refuse to acknowledge the other as one like me.

Where nonmoral goods are concerned, the matter is different. As goods of the person, they seem to share in personal worth or value. On the other hand, one's personal worth cannot depend finally on such goods. We cannot say that health and wealth enhance personal worth, while sickness and poverty diminish it. What are we to say when these goods are in conflict, scil., when we must deal with the interests of one as if they were merely a means to the interests of another? Or again, what are we to say when negative consequences to one are a means to the positive or good effects? In such conflict situations, Schüller argues, we necessarily relate to the harmful omission or commission as to a means only. But there is nothing really wrong with this unless we suppose that in conflict situations the use of preference principles (built on the hierarchy of goods themselves) necessarily involves us in violating personal dignity. Schüller rejects such a supposition and argues that the one decisive condition is that the goods and harms of all be considered in impartial fashion. It is in such impartiality that all are acknowledged as similar, as ends in themselves, as persons.

Whether, therefore, personal dignity is violated by an action that has nonmoral evil as a consequence cannot be determined by this consequence alone but only by the correspondence of the action to the golden rule. The golden rule defines moral goodness and thereby gives a *necessary* ingredient of moral rightness but not a *sufficient* one. Thus the error of those who appeal exclusively to the dignity of the person as sufficient grounding for a moral norm. "One accepts as a sufficient condition of moral rightness of conduct that which is only a necessary condition."¹²

The upshot of Schüller's careful study is that there are actions which do indeed treat others as a means only, yet remain compatible with acknowledgment of that person's dignity. In this I think he is correct. A simple example like quarantine of a person with a contagious disease is a case in point. And if he is correct, then the wrongfulness of actions we all acknowledge to be wrong should find a more illuminating explanation than in saying "this involves using another as a means only." It further invites us to a continued and deeper reflection on the notions of direct and indirect in moral discourse. The terms are settled, even hallowed, in Catholic moral tradition, so much so that questioning their morally

¹² Schüller, "Die Personwürde" 551.

decisive character seems to some to question the very values they attempt to concretize and protect, as will become clear below. Such, I am convinced, is not the case.

Marcelino Zalba, S.J., treats the dignity of the person as a criterion from a somewhat different viewpoint.¹³ In the penultimate redaction of Vatican II's statement about the objectivity of criteria in reconciling conjugal love and the transmission of life, there was reference to human dignity. The statement read: "The moral character of action, when there is question of reconciling conjugal love with responsible transmission of life, does not depend on sincere intention alone and on evaluation of motives; but it depends on objective criteria based on the very dignity of the human person. . . ." ¹⁴

To some Council fathers, locating the basis of objective criteria in the dignity of the human person appeared a novelty and pregnant with mischievous possibilities for unlimited autonomy and relativism. Consequently the text was revised to its present form: "It must be determined by objective standards. These, based on the nature of the human person and his acts, preserve the full sense of mutual self-giving and human procreation in the context of true love."¹⁵

Many interpreters had seen in this language (*ex personae ejusdemque actuum natura*) a criteriological shift from the facticity of nature to the broader notion of person. For instance, Ph. Delhayé had written that prior to the Council the prevailing criterion was the physiological integrity of the act. Similarly, Louis Janssens contrasted act of the person with the preconiliar *actus naturae*.¹⁶ Zalba's article argues against these readings by insisting on the grammar of the phrase—that both *personae* and *actuum* are genitive objects of *natura*. Therefore both the nature of the person and the nature of the acts form the basis for objective moral norms. He rejects the notion that the criteria in *Humanae vitae* are merely biological and incompatible with the personal emphasis in *Gaudium et spes*.

The remainder of the article is a critique of several theologians who have, in Zalba's judgment, improperly interpreted the phrase *ex personae ejusdemque actuum natura* and thus seen it as in sharp contrast with *Humanae vitae*. He cites among others Bernard Häring, Ph. Delhayé, A. Hortelano, Louis Janssens, Charles Curran.¹⁷

¹³ Marcelino Zalba, S.J., "Ex personae ejusdemque actuum natura," *Periodica* 68 (1979) 201–32.

¹⁴ Cited *ibid.* 209.

¹⁵ *Gaudium et spes*, no. 51 (*Documents of Vatican II*, ed. Walter Abbott, S.J. [New York: Association, 1966] 256).

¹⁶ Cf. Zalba 223 and 225.

¹⁷ Of Curran, Zalba notes: "The ecclesiastical magisterium cannot be accused of physicalism without grave injustice, since it is stated, without any demonstration or possibility

Zalba is certainly correct when he criticizes "dignity of the person" as a sufficient normative criterion. However, two comments are in order. First, the authors he criticizes are not saying that *Humanae vitae* uses the biological as normative in an explicit way. They are arguing that the only way the conclusions of that encyclical (every contraceptive act is intrinsically evil) are sustainable is through a criterion involving the biological as normative.

Secondly and similarly, Zalba denies any great leap or advance when Vatican II used the phrase *ex personae ejusdemque actuum natura* because the person is nothing more than *natura humana concretizata*. Thus human nature was and still is the basic norm. Here I believe he misses the point. In the authors he criticizes, person is not to be contrasted with human nature; rather it is to be contrasted with a single aspect of the person. To these authors it seems that this single aspect (physical integrity) has been absolutized in *Humanae vitae*.

Another aspect of the person that continues to receive attention is that of norms that enlighten personal decision. A lively exchange occurred recently in the *Deutsche Tagespost* between Franz Scholz and Gustave Ermecke.¹⁸ Ermecke began the exchange on July 18, 1978 with an attack on teleological reasoning in moral theology. There followed on Oct. 3 another free-swinging attack (by an unnamed author) on Franz Böckle and "teleological moral theologians." In the words of this attack, "when love of neighbor demands a murder, then Exodus 20/13 no longer applies." Böckle is accused of having an unchristian notion of freedom, an earthly lawlessness and demonic wisdom. Of those who use teleology in building moral norms it is said: "These theologians truly are, it would seem, lords

thereof, that the magisterium 'identifies' the human and moral act with the physical structure of the conjugal act" (232). Whether there is injustice or not depends entirely on the correctness of the conclusion that *every act* must always remain open to the possibility of procreation if it is to avoid being intrinsically evil. It is Curran's argument that the only way this conclusion can be sustained is by giving a morally decisive character (normative) to physical integrity or givenness (and this he calls "physicalism"), a thing he does not believe careful moral analysis will sustain. Obviously Zalba disagrees. It would have been more helpful and enlightening had Zalba discussed the arguments for the traditional conclusion rather than justice-injustice. These latter categories suppose that the argument is clear and the conclusion correct. For the most recent statement of agreement with Curran, cf. Franz Böckle, "Biotechnik und Menschenwürde," *Die neue Ordnung* 33 (1979) 356-62, at 357. After adverting to the twofold sense or meaning of sexual intimacy (expression of love, fruitfulness), Böckle remarks: "It must be clearly stated that there is no successful proof that demands this connection between expression of love and fruitfulness in *every act*." Of interventions that separate these two senses, Böckle states that more recent moral theology "judges such interventions with the criterion of the goods at stake."

¹⁸ The following exchanges are taken entirely from the *Deutsche Tagespost*, July 18, Oct. 3, Nov. 8, Jan. 9, May 25-26, and July 4. They were kindly forwarded to me by Dr. Franz Scholz.

over life and death." They arrogate to themselves the power to determine when the killing of an innocent person "is in order." They are accused of holding that a good end justifies an evil means, etc.

Franz Scholz calls attention to the unfairness of these allegations, even their injustice. The entire moral theology of a respected scholar (Böckle) as well as his person is blackened and with him "all teleological theologians." After all, he urges, if *benevolentia* is to become operative in *beneficentia*, we must of necessity consider the effects of our actions on our neighbor. In some cases this simply demands the type of weighing of goods (*Güterabwägung*) repudiated by the unnamed author in the *Deutsche Tagespost*. Furthermore, Scholz argues, such a weighing has always been present in traditional moral theology. For instance, there are many norms that impose an obligation only conditionally (e.g., Sunday worship), that bind only if one is not excused by a proportionately serious reason. Scholz asks: Does the fact that an individual must discern or weigh whether his reason is sufficient make him "lord over the Sunday obligation"?

Similarly, Scholz asks the objecting author to reflect more deeply on the axiom "a good end does not justify evil means." Unless a distinction is made between moral and nonmoral evil, a mother could not use a painful disinfectant on her child's wound; for that would be imposing pain (evil means) to achieve health and cure (good end).

Ermecke then responded to this. He claims that the assertion that all innerworldly goods and evils, as created goods, are contingent is unproven and is really a form of relativism. He asserts that in this entire discussion about teleology there is lacking a well-founded and valid measure for various values. Furthermore, there are absolute norms. They exist whenever the immediate consequences of an act are not decisive. That there are such acts Ermecke does not doubt. His example: direct killing of an innocent person. "That act which abolishes at its root the essential and existential order of a person, or makes it impossible, is absolutely morally reprehensible, even prescindig from all further consequences of this action." Yes, there are times when a true choice must be made between relative values; but the very being of persons cannot be thrown into such a calculus. Ermecke regrets that many moral theologians are now minimizing the principle of double effect, for it is of "absolutely fundamental importance."

Scholz chose the pages of *Theologie der Gegenwart* to repeat his claim that all "innerworldly" goods are relative and can come into conflict.¹⁹ In such cases a basically teleological choice must be made. The article is a summary statement of many of the themes already discussed, especially

¹⁹ F. Scholz, "Werdet kluge Wechsler!" *Theologie der Gegenwart* 22 (1979) 19-26.

the difference between deontological and teleological approaches.

During May 1979 Ermecke responded to this article, once again in the pages of the *Deutsche Tagespost*. He made several points. For instance, according to Scholz, no "innerworldly" good has an absolute character; only an individual's relationship to God has such absoluteness. However, Ermecke argues, lying, unchastity, injustice, even though they relate to such "innerworldly" goods, may never be done because "by doing such things man's highest good, his relationship with God, is destroyed." Therefore, Ermecke concludes, there is conduct (*innerweltliche Handlungen*) that is always morally wrong.

Furthermore, Ermecke rejects the kind of calculus (*Güterabwägung*) that a conflict situation imposes. What is the criterion for such a choice? Ermecke's example: "Truth is the most precious gift for human beings. I may directly deceive no one. I can permit one's deception, but I may never directly lead one into error." To say otherwise is to undermine the objective order and to say that the commandments "no longer bind if through their nonobservance better results are achieved." Ermecke sees all of this as utilitarianism pure and simple.

In July 1979 Scholz returned to the discussion. He proposes that ethical concepts reveal their value when they are put to the test in the conflict situations in which our lives abound. He lists three such conflicts and appeals to the common sense of the reader against Ermecke. The first is a transplant of a major organ (kidney) from a wife to her seriously-ill husband. Most people see such organ donation as heroic charity. Ermecke disallows it as a rebellion against God's rights in us, as intrinsically evil. Those who are not satisfied with such a prohibition Ermecke discredits as "superficial utilitarians whose Christian principles are for sale." Scholz is justifiably appalled at this.

Secondly, according to Ermecke, it is never permissible to utter a falsehood, even to terrorists hell-bent on murder and gross violations of rights. Scholz believes that the demands of theory would yield to common sense here—indeed, that they are foreign to any ethic that takes love of neighbor seriously.

Finally, Scholz takes the rare but classic abortion dilemma (save the mother or lose both mother and nonviable child). According to Ermecke, the only permissible intervention must be indirect. This means two things. First, the doctor must stand by and allow two to die. Second, the only permissible intervention is one which does more damage than necessary by removing fertility (uterus) along with the child. Principles that lead to such conclusions must be seriously re-examined. Scholz invites Ermecke to distance himself from his rigid conclusions in all three of these cases, but sees no way of doing so without relying on the teleology Ermecke has so severely criticized.

Scholz concludes by alluding to Paul Ramsey's and this author's exchanges, and, I am delighted to say, sees them as courteous and brotherly discussions. By implication he implores Ermecke to cease and desist from his name-calling.

The tone of some of these essays is indeed regrettable. But it is the substance that should be of primary concern. And in this regard I agree thoroughly with Scholz and Böckle. Ermecke repeatedly shoots out as objections statements that strike no discernible target. He describes and refutes positions no one holds. For instance, it is no particular objection against teleological reasoning to say that a value measure or scale must be based in Christian ontology and anthropology. Of course it must. Nor is anything attacked by saying that the use of prudence must conform to an objective value scale. Of course it must. And Scholz would agree. But he would ask: What does *that* have to do with a rejection of teleology? Nor is it any objection to say that unchastity, injustice, etc. must never be done, and to conclude from this that teleological considerations do not function in conflict situations. The whole discussion is about what concrete action is to count as injustice, unchastity, etc. Ermecke repeatedly misses this point.

In discussions such as that between Scholz and Ermecke, one frequently encounters the term "intrinsically evil," *actus intrinsece malus*, *actio intrinsece inhonesta*. Does usage of the term really enlighten very much? Clearly there are those who believe that abandonment of the concept is the rough equivalent of moral chaos. Regardless of one's leanings, it would be instructive to see how medieval theologians faced some of these problems. John Dedek gives an excellent summary of the teaching of St. Thomas and some of his predecessors (e.g., Philip the Chancellor, Peter of Poitiers, William of Auxerre, William of Paris, Hugh of St. Cher, St. Albert, St. Bonaventure, etc.).²⁰ According to many of these predecessors, those actions which were *secundum se* evil could receive no exceptions or dispensations. But by *secundum se* they meant actions which were done *ex libidine*, and therefore contained their own absolute condemnation in their very naming (*mox nominata sunt mala*). Thus, in exposing Bonaventure's teaching Dedek writes:

Therefore, he [Bonaventure] concludes, God could command Hosea to copulate with a harlot (*cognoscere non suam*) but not to fornicate in so far as fornication designates a sinful act (*cognoscere aliquam ex libidine*). Similarly, God could command a man to take another's property (*accipere rem alienam*) but not with a sinful will (*accipere ex libidine*).

Dedek argues that Thomas' teaching fits harmoniously into this tem-

²⁰ John F. Dedek, "Intrinsically Evil Acts: An Historical Study of the Mind of St. Thomas," *Thomist* 43 (1979) 385-413.

poral context. He held that certain acts are *secundum se* evil. But these are actions whose very naming and description reveal the disordered element. Thomas held that killing is not murder unless it is unjust, that "extramarital intercourse is not adultery or fornication unless it is against the will of God who orders human generation."

Where dispensations from the Decalogue are concerned, Thomas took two approaches. The first was to view these precepts formally (scil., as forbidding unjust killing, inordinate sexual activity, etc.) and therefore disallowing any exceptions. His second approach was to distinguish between the precepts of the first tablet and the second tablet of the Decalogue. Precepts of the first tablet order persons to God; no dispensation is possible here. The precepts of the second tablet order persons to each other; from these God can dispense.

This is an interesting and very useful study. Dedek does not say it, but clearly his historical review implies that one can think of a Christian normative ethics, and even a very demanding one, without use of the term "intrinsic evil" as it has been understood in recent manualist theology and even in formulations of the magisterium.²¹

Reference was made above to some ongoing exchanges between Paul Ramsey and the author of these "Notes." Two interesting articles summarize and critique these exchanges in a way which sets out helpfully some of the issues at stake and involved in the discussions reported above.²² There is no need to review these articles here, except, after expressing gratitude to both authors, to say that I believe John Langan has a much better grasp of the serious problems involved in the direct-indirect distinction than Joseph Allen.

Here I want to make two brief responses or clarifications for the record. Allen argues that I have seriously misunderstood Ramsey's position "at some points, sometimes surprisingly." He concretizes this as follows: "He assumes, for instance, that when Ramsey declares it a moral evil to kill a human being, he means any killing rather than only an unjustifiable

²¹ A different view is taken by Theo G. Belmans in a very long study on the specification of human actions. He faults a whole host of theologians for misinterpreting Thomas' thought: Joseph Fuchs, B. Schüller, P. Knauer, Van der Marck, F. Böckle, C. J. Van der Poel, L. Janssens, F. Scholz, S. Pinckaers, J. Gründel, and many others. I shall leave it to others to make sense of the Thomistic texts on this matter. It seems to me, however, that Belmans has not reflected sufficiently on the implications of Thomas' acceptance of capital punishment and its relation to the Decalogue. To say (47) that Thomas did not consider this an exception (dispensation) to the fifth commandment is to say something only about Thomas' notion of the term "exception." It is not to face the more radical methodological implications, especially about the notion of intrinsic evil. Cf. Theo Belmans, "La spécification de l'agir humain par son objet chez saint Thomas d'Aquin," *Divinitas* 33 (1979) 7-61.

²² Joseph L. Allen, "Paul Ramsey and His Respondents since *The Patient as Person*," *Religious Studies Review* 5 (1979) 89-95; John Langan, S.J., "Direct and Indirect—Some Recent Exchanges between Paul Ramsey and Richard McCormick," *ibid.* 95-101.

one."²³ Here Allen misses my point. I was arguing that Ramsey talks about human life in such a way that he puts any killing on the level of a moral evil. This is an argumentative point, a kind of *reductio ad absurdum*. In contrast to Allen, Langan has caught this: "Like sin [for Ramsey] the taking of human life is never to be 'the object of a directly intending will'. . . [This] shows Ramsey's absolutizing of the value of the individual human life."²⁴

The second point is a clarification occasioned by Langan's study. I had argued that what differentiates the classical, if rare, abortion dilemma (lose two vs. save the one who can be saved, the mother) from other cases (e.g., killing innocent civilians to persuade a nation to cease aggression) is the necessary connection between the good achieved and evil done. In the abortion case there is such a connection. In the case of "counter-people" (noncombatants) bombing there is not. Langan—as well as Norbert Rigali in a thoughtful and gracious correspondence—argues that this proves too much. It would exclude also killing combatants as well. "For there is no *necessary* connection between killing enemy soldiers and a hostile nation's ceasing unjust aggression, and requiring such a connection if the doing of nonmoral evil is to be morally justified would rule out the killing of combatants as well."²⁵

It seems to me that this misplaces the necessary connection in the self-defense (and combatant) case. It is not between killing the aggressor and the aggressor's ceasing unjust aggression. It is between killing the aggressor and my self-defense. The use of force is, indeed, the only way to achieve self-defense once aggression has begun against me. The same cannot be said about killing the aggressor's innocent wife, e.g., to get him to stop. It might factually achieve cessation of aggression, and my self-defense. But there is not a necessary connection between self-defense and the harm caused.

Langan concludes his thoughtful piece: "What the theory of proportionate reason needs at this point is not a necessary connection requirement, but a principle holding that harm done to another in order to prevent him from doing evil must be no more than is needed to dissuade, or if that fails, to disable him."²⁶ To which it might be responded: before one begins to propose a principle of *moderation* of harm caused, it is necessary first to have shown (and why) that it is morally acceptable to harm at all. A principle of justification of any force is one thing; a principle of moderation is another. The necessary-connection requirement—if it is valid, and I am far from sure that it is—pertains to the

²³ Allen, *ibid.* 92.

²⁴ Langan, *ibid.* 98.

²⁵ Langan, *ibid.* 100.

²⁶ Langan, *ibid.* 100.

former.

Norbert Rigali, S.J., treats the person from a slightly different perspective.²⁷ He emphasizes the historical character of our consciousness and being, and argues that moral theology must not be simply a touching up of classical theology but a transformation of it. He approaches this transformation from two points of view. First, the contemporary discussion about the distinctiveness of Christian ethics "to some extent side-tracked the required transformation of moral theology." Second, the transformation of moral theology requires "a new model of moral law." A word about each.

As for the first question, Rigali feels that it must be rejected as a bad question. It was generated out of a "classical consciousness." Historical consciousness knows the answer to the question. Of course there is a distinctive Christian ethic. Citing Daniel Maguire, and more remotely James Gustafson, he notes that "an ethic will be Mahayana Cambodian Buddhist or early Trobriander, medieval French Catholic or Swiss nineteenth-century Calvinist."²⁸ The very question supposes as at least possible that there is "a morality higher than human morality." Rigali sees this as a dualistic notion of the human person, involving a dichotomy between the natural (human) and supernatural. He concludes: "From the standpoint of historical consciousness, therefore, the question for moral theology today is decidedly not whether there is a specifically Christian ethic or whether Christian morality adds to human morality. To the extent that recent theology has been preoccupied with this question, it has been unregenerated moral theology."²⁹

Rigali next turns to the moral law. The model of moral law that characterizes classicism is the ruler-subject relation—the moral law being seen as a code of precepts imposed on an individual by an authority to which the individual is subject. Such a notion unduly exalted universality and was insensitive to individuality and freedom. Thus "the moral ideal reflected in its conception of moral law is universal compliance with the patterns of behavior preordained by law." In this outlook, change in moral law is a matter of tampering with exceptions at the margins and fringes. Rigali sees the discussion about the absoluteness of moral norms not as a regeneration of moral theology but as a distraction. The negative answer given to the question by many contemporary theologians has "only succeeded in establishing an inverted, more liberal legalism in place of a more conservative legalism. It is the legalistic, authoritarian concep-

²⁷ Norbert J. Rigali, S.J., "Morality and Historical Consciousness," *Chicago Studies* 18 (1979) 161–68.

²⁸ For some interesting essays on Anglican ethics, cf. *Anglican Theological Review* 61 (1979) 8–156.

²⁹ Rigali, "Morality and Historical Consciousness" 164.

tion of moral law, whether liberal or conservative, that contemporary theology must challenge."³⁰ Historical consciousness, by contrast, sees change in moral law not as the exception but as the rule.

Rigali concludes by describing a concept of moral law rooting in the person "as an individual within history." Since history is the realm of contingency and singularity, "historical consciousness views each human life in terms of creating history rather than in terms of a universal code of behavior, preordained in a time-transcending human nature." In this perspective moral law is much more a *forma* than a *ratio*, more a work to be created than a pattern to follow. As Rigali words it:

As human persons are called to create history, they are called to create the moral law, in a very real sense. Today we are called to create the better world of tomorrow so that those who live tomorrow can be called to create, in turn, the still better world that the world of the day after tomorrow should be.³¹

Rigali then notes that the good confessor "has always known the moral law in this way on an unconscious level." For in contrast to the preacher who discusses morality in an abstract way, "the confessor . . . must become *historically* involved with morality; the confessor is involved with an individual in his or her personal life." Briefly, "confessors have always known unconsciously . . . that moral law is an evolving, historical 'form' within the individual personal histories of people's lives." Rigali argues that it is the task of moral theology to raise this notion to the conscious level of theory.

There are several troubling aspects of this essay that suggest questions and qualifications. First, there is the discussion about a specifically Christian ethic. Rigali sees this as a useless question—indeed, one revealing a dualistic understanding of the human person. I suggest that he has misconceived the state of the question. He conceives it as a genetic-historical question. Thus he asserts that ethics always requires a qualifying adjective such as "Swiss nineteenth-century Calvinist."

But this is not the issue. The issue is primarily epistemological. Briefly it is this: Are there concrete moral demands in our lives which are in principle unavailable to human insight and reasoning, and which therefore can only be known by revelation or its authentic custodians? One does not answer this question by saying that one is a Catholic moral theologian or an early Trobriander. Such adjectives only identify a historical belief-community; they do not raise the issue of how one originally knows God's will within such a community.³²

³⁰ Ibid. 167.

³¹ Ibid. 166.

³² In this respect I wish respectfully to qualify William Cardinal Baum's statement in an address to a convention on moral theology held at Catholic University (1979). Baum stated:

The epistemological question, I would argue, is not otiose. And it is certainly not one "completely within classical consciousness," as Rigali contends. Indeed, I fear that dismissal of the question easily represents a form of retirement into modern gnosticism, a position that would hold that concrete moral claims valid for all persons are radically mysterious, simply and in principle impervious to human insight and reasoning, and intelligible only by faith.

One particularly virulent form of this gnosticism is the confusion of parenetic discourse with normative ethics. For example, I have attended many conversations where statements such as "We are a people set apart" or "We are baptized in the Spirit" were taken as adequate normative warrants for the rejection of direct sterilization as intrinsically evil.³³ Another form is the contention that a moral position is correct and unchangeably so *because* it has been proposed by the magisterium—regardless of the analyses and reasons that might suggest a different conclusion or formulation. Such a position not only freezes any development in moral science; it would also be opposed to Catholic tradition, which makes more modest claims, *scil.*, that revelation is necessary so

"It should not be said, therefore, that revelation teaches nothing concerning human life which would not be discovered without knowledge of Christ Jesus. The purpose of revelation is the divinization of man. Revelation is not primarily the basis of a 'privileged access to the human'.... Rather revelation is the *only* access to the mystery of the interior life of the Triune God, and *therefore* to the fullness of what being human means" (*Origins* 9 [1979] 222–23). I believe no theologian would deny this. But it is not precisely what the discussion is about. Clearly we know of the life of God only by revelation. And clearly this teaches us something about the *humanum*. But the contemporary discussion is concerned with behavioral (concrete) moral norms such as those touching killing, speaking falsehoods, keeping promises, contracepting, etc. To claim to be able to find answers to these questions only in revelation is to confuse parenetic discourse with normative ethics, and to abandon in the process a very long-standing Catholic tradition. Something similar might be said about Cardinal Baum's remarks to the American bishops. After noting the impoverishment of certain contemporary Christologies, Baum says the effect of this is most obvious in moral theology. He continues: "It is from Christ, the New Man, that moral theology must take its cue, not from a merely pragmatic assessment of the results of certain human actions. For Christ has wrought in us an inward transformation so profound that it extends to every facet of the personality and to our physical existence, which is taken up as the sign, the symbol of the Christ who lives within the baptized Christian. Hence to dismiss the Church's teachings, especially on sexual morality, as 'biological' is to dismiss our concrete humanity as a sign of freedom and liberation from sin which Christ has revealed in His own humanity forever united with divinity" (*Origins* 9 [1979] 396). Such discourse ("physical existence... taken up as the sign... of the Christ who lives within the baptized Christian"), if taken as a sufficient warrant for *concrete* norms in the sexual sphere, has the effect of wafting moral analysis into a rarified sphere beyond human insight and reasoning. It makes such norms purely and simply mysterious—which is opposed to centuries of Catholic moral tradition. Cf. DS 1786: "quae in rebus divinis rationi per se impervia non sunt."

³³ For a review of Pauline ethics, cf. William D. Dennison, "Indicative and Imperative: The Basic Structure of Pauline Ethics," *Calvin Theological Journal* 14 (1979) 55–78.

that we can know firmly and expeditiously those things "quae in rebus divinis rationi per se impervia non sunt" (DB 1786).

Second, there is Rigali's gloss on the discussion of the absoluteness of concrete moral norms. He sees the negative answer to the question of absolutes as simply a "more liberal legalism," but still a legalism rooting in the classical consciousness. Here a distinction is in place. If this concern is thought to have the prime place in the moral life and moral theology, then Rigali is correct. But if it retains its proper place in our priorities and is still dismissed as the "legalistic, authoritarian conception of moral law," then I believe he is wrong. Not only is the question of methodological importance; it is of practical ("historical," if we will) importance. It is a matter of no small concern to many people how we word our concern for, e.g., the moral integrity of responsible parenthood—whether we use the term "intrinsically evil" of some acts or do not use such language.

Third, there is Rigali's description of the moral law. He elaborates it as follows: "The moral law of today is the concrete historical 'form' of the more human world of tomorrow." No one, I believe, would disagree with that description, not even theologians of the so-called "classical consciousness." Who could be opposed to a "more human world of tomorrow"? But this description relates to normative ethics just about the way "We are baptized in the Spirit" relates to, e.g., the problem of sterilization. It belongs in the genre of parenetic discourse.

Finally, Rigali contrasts abstract with historical. Thus, "while the preacher can discuss morality in an abstract way, the confessor, if he is performing his duty in an even minimally adequate way, must become *historically* involved with morality; the confessor is involved with an individual in his or her personal life."³⁴ Here we have abstract contrasted with historical and then historical defined in terms of individual or personal life. Two remarks. First, this identifies and confuses normative ethics with pastoral understanding and compassion, and raises this latter to the status of the former. The proper contrast is abstract and concrete; for a norm can be at once abstract and historical: e.g., Rigali's own cited above about a more human world of tomorrow. Second, this identification, if pushed, does away with the possibility of generalization in ethics, which means it does away with ethics as a science. In other words, unless I misunderstand him, Rigali has so described historical consciousness that it wipes out the pair right-wrong to concentrate on the pair good-bad, and at the level of individual discernment. This strikes me as an over-reaction that is less than successful in avoiding some rather robust straw persons.

These concerns are clearly related to the Church's authentic teaching and its theological sources. John Paul II addressed himself to the relation

³⁴ Rigali, "Morality and Historical Consciousness" 167.

of theologians to the teaching office of the Church in his address to Catholic educators at Catholic University, Oct. 7, 1979.³⁵ Joseph Fitzmyer, S.J., the distinguished exegete, offers a commentary on that address.³⁶ The Holy Father stated his gratitude for theological work ("We all need your work, your dedication, and the fruits of your reflection"). He also insisted on high standards and freedom of investigation. Finally, John Paul II referred to theological "theories and hypotheses" and to "the right of the faithful not to be troubled" by them.

Fitzmyer points to a real problem in the papal address. "How can he insist on the 'eminent role of the university' and its 'undiminished dedication to intellectual honesty and academic excellence' and still caution the theological faculty of a Catholic university about theories and hypotheses? They are, after all, the stuff of 'scientific research' and 'freedom of investigation'. . . . We can only wish that he had addressed himself more explicitly to this tension that is reflected in his address."³⁷

Fitzmyer's own approach to this tension is to put both magisterium and theologians in a position of reciprocal need and mutual stimulation. Theologians need the magisterium to keep them dedicated to honesty and responsible scholarship. The magisterium and the faithful need theologians to make them reflect on their need for constant updating. The real enemy of this harmonious symbiosis is, according to Fitzmyer, "the right-wing mass that would vie for authority in catechetics and teaching with both bishops and theologians."

Pope John Paul II returned to this subject in his address to the International Theological Commission.³⁸ He referred to the work of theologians as participating "to a certain extent" in the magisterium. But he then added: "We say 'to a certain extent' because, as our predecessor Paul VI wisely said, the authentic magisterium, whose origin is divine, 'is endowed with a certain charism of truth that cannot be communicated to others and for which none other can substitute.'" The Holy Father praised a "healthy pluralism" in theology and repeated what he had stated in *Sapientia christiana*: that theologians in institutions of higher education (*in altiorum studiorum sedibus*) "do not teach on their own authority but by virtue of a mission received from the Church."

Charles Curran examines the relationship between academic freedom, the Catholic university, and Catholic theology.³⁹ After accepting the standard definition of such freedom, he notes that the two instrumental-

³⁵ *Origins* 9 (1979) 306-8.

³⁶ Joseph A. Fitzmyer, S.J., "John Paul II, Academic Freedom and the Magisterium," *America* 141 (1979) 247-49.

³⁷ *Ibid.* 249.

³⁸ *L'Osservatore romano*, Oct. 27, 1979.

³⁹ Curran's study is to appear in the *Furrow*; I cite from the unpublished manuscript which he kindly forwarded to me.

ities designed to protect it are tenure and academic due process. Before the 1960's it was widely accepted that full academic freedom could not exist in Catholic institutions of higher learning. This began to change in the 1960's and culminated with the signing, by twenty-six leaders in Catholic education, of the Land O'Lakes statement "The Nature of the Contemporary Catholic University." In this statement full academic freedom is endorsed, "in the face of authority of whatever kind, lay or clerical, external to the academic community itself."

Curran's next move is to apply this to theology in the Catholic university, an area where it would seem most difficult to justify full freedom. He justifies full academic freedom by appeal to a contemporary understanding of theology (interpretation of the sources of revelation in light of the signs of the times vs. a deductive method highlighting clear and certain propositions) and of the magisterium (where the interpretative function of theology in relating to the magisterium involves the possibility of dissent).

Curran's final reflection is on *Sapientia christiana*.⁴⁰ The document requires that those who teach disciplines concerning faith or morals receive a canonical mission,⁴¹ "for they do not teach on their own authority but by virtue of the mission they have received from the Church" (n. 27). Furthermore, to acquire a tenured position or the highest faculty rank, the candidate needs a *nihil obstat* from the Holy See (n. 27). Curran sees in these stipulations a view of the university as "a continuation of the teaching function of the hierarchical magisterium." He concludes: "In such a situation, there is no academic freedom because judgments about competence are not made by peers, and promotion and tenure depend on judgments made by church authority as such." He argues that canonically erected universities, Catholic theology, and the good of the whole Church will suffer as a result of the literal application of this apostolic constitution.

Joseph Farraher, S.J., takes a point of view poles apart from that of Curran.^{41a} A questioner had asked why bishops allow their own Catholic university and some seminaries to retain teachers who contradict their teaching. Farraher replies that removal should not be the first step. First there should be a fraternal warning "that professors at Catholic universities and seminaries . . . are considered and are representatives of the Church and as such should not promote opinions contrary to the teaching

⁴⁰ *Origins* 9 (1979) 33-45.

⁴¹ For a discussion of *missio canonica* in various contexts, cf. Francisco Javier Urrutia, S.J., "De magisterio ecclesiastico: Observationes quaedam ad propositam reformationem partis IV, libri III, CIC," *Periodica* 68 (1979) 327-67.

^{41a} Joseph Farraher, S.J., "Why Don't Bishops Take Action against Dissenters?" *Homiletic and Pastoral Review* 79, no. 7 (April 1979) 64-66.

of the magisterium." Farraher is clearly opposed to *promoting* one's ideas "while acting in a situation where he represents the Church." If dissenters feel that they must propose a contradictory opinion, they should resign their position "where they are considered a representative of the Church." If they persist, Farraher argues, "all efforts" should be used to remove them.

The key phrase in Farraher's analysis is "professors at Catholic universities and seminaries . . . *are considered and are representatives of the Church.*" The phrase is extremely general and loose. If it means that a Catholic theologian ought to take his/her tradition seriously, be aware of, respect, and study official Catholic documents, and be sensitive to the pastoral implications and repercussions of his/her work, then no one can question the phrase. If, however, "representatives of the Church" is taken to mean official spokespersons of the Church within the university community—and this is the implication of Farraher's conclusion—I believe it is simply erroneous to say that this is the proper description of the theologian's function.

Furthermore, the word "promote" is loaded. It suggests a political contest with the magisterium as the opposing candidate. Does one who states his/her own opinion honestly and presents the reasons for it as persuasively as possible "promote" it? Behind my problems with Farraher's analysis there are undoubtedly deeper disagreements about the notion of church, of magisterium, and of teaching in general.

Kenneth Baker goes even further. He reviews the contemporary theological scene and sees it as one of "open defiance now being shown by supposedly 'Catholic' theologians. . . ."⁴² "Rebellion by theologians against the supreme magisterium" is the rule, not the exception. His examples: Hans Küng, Charles Curran, Avery Dulles, Stephen Kelleher, Anthony Kosnik. Later the list is expanded to include Andrew Greeley, John Milhaven, John Dedek, and the compositor of these "Notes." And this list "is just to scratch the surface." In this Baker is correct. A deeper scratch would expand the list with names such as B. Häring, Joseph Fuchs, B. Schüller, Karl Rahner, J.-M. Aubert, Louis Janssens, D. Maguire, Walter Burghardt, David Tracy, Franz Scholz, Franz Böckle, A. Auer, and on and on.

After explaining the nature and function of the magisterium, Baker considers the role of the theologian. Theologians attracted an exaggerated respect during Vatican II, one that intimidated the bishops. The result: bishops have largely abandoned their teaching function to theological experts. Baker relies on the paper of the International Theological Commission in attempting to elaborate the role of theologians. But, unfortunately, he feels that the rules governing the theologian's role are

⁴² Kenneth Baker, S.J., "Magisterium and Theologians," *ibid.* 14-23.

being violated "with impunity from coast to coast, in almost every diocese..." Baker concludes that theologians and intellectuals who "refuse to submit to the magisterium of the Church" should, after adequate dialogue, be excommunicated.

"Remove," "excommunicate"—these are strong words aimed indiscriminately at all kinds of targets. One would think that there is a slight difference in questioning the divinity of Christ and questioning, e.g., the teaching of Pius XII on artificial insemination by husband. This latter has been done, and done carefully, by theologians of demonstrated competence and loyalty. The Farraher-Baker perspective would reverse the procedure and judge competence and loyalty by failure to question. This makes official formulation the judge of truth, rather than truth the judge of authentic formulation.⁴³

At this point a very traditional and, in my judgment, still to be revered theology would have spoken of something like probabilism. The abiding and liberating value of such a concept is that it is issue-oriented, not primarily authority-oriented, even though its advocates had great respect for authority. They simply viewed it as the job of theologians to say what they honestly thought. And if enough people of genuine theological authority said the same thing, it was a presumptive sign that there was something to it. Perhaps those days are gone. Perhaps issues will be discussed with the stereotypic slogans loyal-disloyal, orthodox-deviant. But I hope not. For if that is the case, theology will have been transformed into institutional rhetoric, and truth will have become subordinate to the instruments of its search. That sort of thing is much more at home in a society that makes no pretenses about its objectivity and freedom.

In the matter of dismissal-excommunication, therefore, I am sure that theologians would prefer to follow the counsels of John Paul II. In urging Catholics to reconcile their internal theological differences, the Holy Father stated in Chicago, as noted above, that "no one in the ecclesiastical community should ever feel alienated or unloved, even when tensions arise in the course of common efforts to bring the fruits of the gospel to

⁴³ Norbert Rigali has, I believe, a much more realistic and balanced view of dissent in the Church. He points out that the theologian's role is that of explorer and discoverer, "of seeking for ways to advance the understanding or intellectual life of the Church, of proposing new theories." He refers to "better or fuller ways of understanding the meaning of faith in relation to an ever-changing world." Such work "must involve at times the proposing of theories that conflict with current official (noninfallible) teachings of the Church." Clearly these probes must be weighed against a background of experience and reflection much broader than that of any individual theologian; but to do so, these proposals must "get into the open." Rigali rightly notes that a theologian can act irresponsibly. He concludes: "However, it also would be irresponsible, and indeed cruel, to regard a theologian as irresponsible or disloyal to the Church simply because there is being proposed an opinion that conflicts with official theological teaching in the Church." I think Rigali has it exactly right. Cf. "Faith and the Theologian," *Priest* 34, no. 4 (April 1978) 10-14.

society around us."

This attitude of John Paul II should not come as a surprise. In his book *The Acting Person*,⁴⁴ the then Cardinal Wojtyla discusses authentic community. There are three characteristics that distinguish authentic community: solidarity, opposition, dialogue. Solidarity "is the attitude of a community, in which the common good properly conditions and initiates participation." It refers to a readiness "to accept and realize one's share in the community."

Opposition Wojtyla sees as "essentially an attitude of solidarity." It is the attitude of those who, because they are deeply devoted to the common good, disagree with official ideas and policies. Of such opposition the Cardinal of Krakow makes several statements: "The one who voices his opposition to the general or particular rules or regulations of the community does not thereby reject his membership."⁴⁵ Indeed, such opposition is vital to the community's growth and well-being. It is "essentially constructive." He continues:

In order for opposition to be constructive, the structure, and beyond it the system of communities of a given society must be such as to allow opposition that emerges from the soil of solidarity not only to *express* itself within the framework of the given community but also to *operate* for its benefit. The structure of a human community is correct only if it admits not just the presence of a justified opposition but also that practical effectiveness of opposition required by the common good and the right of participation.⁴⁶

Then there is dialogue. Dialogue allows us to "select and bring to light what in controversial situations is right and true." Wojtyla admits that dialogue involves strains and difficulties and is sometimes messy. But a "constructive communal life" cannot exist without it. Opposed to solidarity and opposition are "inauthentic" attitudes of "servile conformism" and "noninvolvement." For example, "conformism brings uniformity rather than unity."

Cardinal Wojtyla did not apply this analysis to the ecclesial community. "But," as Gregory Baum notes, "the characteristics of authenticity defined for a true community, any true community, secular or religious, ought to apply *a fortiori* to the Church, which is the divine revelation of the model of community in the world."⁴⁷ Baum's point was also made tellingly by both Ronald Modras and Edward Cuddy.⁴⁸ For instance, Modras, adverting to *The Acting Person*, correctly asserts that "loyal

⁴⁴ Karol Wojtyla, *The Acting Person* (Boston: D. Reidel, 1979).

⁴⁵ Ibid. 286.

⁴⁶ Ibid. 286-87.

⁴⁷ Gregory Baum, "Le pape et la dissidence," *Relations* 39 (1979) 250-51.

⁴⁸ Ronald Modras, "Solidarity and Opposition in a Pluralistic Church," *Commonweal* 106 (1979) 493-95; Edward Cuddy, "The Rebel Function in the Church," *ibid.* 495-97.

opposition can serve the well-being of a church as well as of a state." But the situation in Poland did not allow Cardinal Wojtyla to highlight the critical function of theology. The militant hostility of a Marxist regime required a united resistance.

Baum's reflection is supported by John Howard Yoder in a different context.⁴⁹ In discussing a Christian approach to social ethics, he suggests that a powerful beginning to the problems of the wider social order has been made when Christians have seen their believing community as a paradigm and pilot processing plant for the models of culture and service which later could be commended to a wider society. As he noted:

Freedom of speech must first of all be realized in the puritan assembly before we can explain how it would be a good way to run a civil democracy. Care for the hungry must first develop as a commitment of the body of believers before it will occur to anyone to propose moving toward a welfare state. Christians must first be ready to forgive those who have trespassed against them for the sake of the forgiveness of Christ before there is any hope for a new effort to reform the treatment of offenders.⁵⁰

Similarly, Gerard O'Connell states that the Church's proclamation of rights should first be verified in the Church itself.⁵¹ He specifically refers this to, among other things, dissenting opinions.

Just so. If creative and courteous exchange and opposition is the ordinary way of progress in human knowledge and growth in any society, as the then Cardinal Wojtyla insisted, should it not first find its most splendid exemplar in the Church? I believe so.

One of the standard responses to this direction of thought is that the people have a "right not to be confused" ("troubled" is the word used by the Holy Father). The implication frequently made is that theologians should cease expressing their views publicly if those views deviate at all from official formulations. That is, I think, unrealistic and intolerable.⁵² As for the "confusion" of the people, several things need to be said. First, reality is sometimes confusing and it takes time and groping before a truly satisfactory Christian and Catholic response can be formulated.

⁴⁹ This was a response to Scott Paradise in *Anglican Theological Review* 61 (1979) 118-26.

⁵⁰ Yoder, *ibid.* 125.

⁵¹ Gerard O'Connell, "The Church and Human Rights," *Way* 17 (1979) 273-82.

⁵² In an editorial in the *St. Louis Review*, Msgr. Joseph W. Baker writes: "Dissenting opinions are not to become a matter of public scandal, but are to be presented to appropriate ecclesiastical authorities, avoiding troubling the consciences of other members of the Church." In Baker's perspectives public dissent is equivalent to public scandal; for he contrasts as the only alternatives "presenting to appropriate ecclesiastical authorities" and "public scandal." And this is said to accord with the norms for licit dissent. If taken seriously, Baker's norms would utterly destroy public discussion in the Church and with it the very possibility of doctrinal development. Cf. *St. Louis Review*, Oct. 19, 1979.

Second, rather than silence free thought and speech in the Church, people must be educated to the idea that differing times do suggest differing perspectives and analyses, especially where very detailed moral norms are concerned, and that what seems a closed question very often is not.⁵³ Third, they must be educated to the idea that our unity as a community does not ride or fall with absolute uniformity on the application of moral norms to very detailed questions (e.g., *in vitro* fertilization with embryo transfer). Otherwise the Holy Father's notion of opposition would be only destructive.⁵⁴ Finally, they must be educated to take theologians seriously, but not all that seriously. If theologians are mistakenly thought to be the ultimate teachers in the Church, they risk losing, besides their freedom to probe and question, their humility.⁵⁵

One final word about the notion of *missio canonica*. This term needs a great deal of careful questioning. It is a very general phrase capable of remarkably loose and eventually abusive understanding and use. As it is used in *Sapientia christiana*, it refers to "a canonical mission from the chancellor or his delegate" (n. 27). While the terms "chancellor" and "delegate" are somewhat obscure, at least in some instances they would apply to the local ordinary or religious superior (e.g., Catholic University of America). Of this *missio* it is said that they "must receive" it. Presumably that means that professors may not teach without it.

If all this means is that the *formal* appointment comes from the chancellor, who must be guided by the judgment of the professor's academic peers, then there is no problem. If, however, the chancellor may grant or deny this *missio* on his own, then the notion of academic freedom disappears as we know it in this country; for the chancellor could grant or deny the *missio* on warrants unacceptable to sound theology.⁵⁶

For instance, does the *missio canonica* exclude the possibility of responsible dissent? There are those who argue this way⁵⁷ and undoubtedly some chancellors would act this way.⁵⁸ But that would be unaccept-

⁵³ Karl Rahner, "Open Questions in Dogma Considered by the Institutional Church as Definitively Answered," *Catholic Mind* 77, no. 1331 (March 1979) 8-26. Rahner has some illuminating things to say about the rules to be followed in arriving at formulations in moral and dogmatic questions.

⁵⁴ In an inventive editorial, *America* puts in the mouth of John Paul II the following lines in an imagined speech in the U.S.: "But I would urge you, above all, not to let those differences that divide you distract you from the central faith in the Gospel of Jesus Christ that unites you" (*America* 141 [1979] 145).

⁵⁵ Cf. Richard A. McCormick, S.J., "Moral Theology since Vatican II: Clarity or Chaos?" *Cross Currents* 29 (1979) 15-27.

⁵⁶ Cf. *National Catholic Reporter*, Nov. 23, 1979, for Karl Rahner's accusations (of injustice) against Cardinal Joseph Ratzinger; also Manuel Alcalá, "La tensión teología-magisterio en la vida y obre de Karl Rahner," *Estudios eclesíasticos* 54 (1979) 3-17.

⁵⁷ Thomas Dubay, S.M., "The State of Moral Theology," *TS* 35 (1974) 482-506.

⁵⁸ It must be remembered that there are still bishops in this country who exclude theologians from their dioceses because of dissent on this or that point.

able to all theologians of my acquaintance, and at variance with traditional manualist theology, as well as with the principles stated by Pope John Paul II in *The Acting Person*.

Or again, does this *missio* mean that in their scholarly tasks theologians are an extension of the magisterium into the academic world? Few would accept this self-description, although there are signs that some chancellors or potential chancellors might. Does the term suggest that theology's main task is to mediate the teachings of the magisterium? This was clearly the view of Pius XII in *Humani generis*, but it has been repeatedly criticized by theologians as a one-sided view.⁵⁹ Yet it is not rash to think that some chancellors might share Pius' theology. Finally, does it mean that only a theologian acceptable to the local bishop gets this *missio*? It should not mean this, or any of the above things, if academic freedom in any meaningful sense is to be preserved.

These are some of the possible senses of the term *missio canonica* and they are cumulatively the reasons why theologians legitimately fear the notion.

There is, on the other hand, a quite acceptable notion of *missio ab ecclesia*. At one point in his discussion of the common responsibilities of theologians and the magisterium, the Pope asserted:

In their service to the truth, theologians and the magisterium are constrained by common bonds: the Word of God; the "sense of faith" that flourished in the Church of the past and still flourishes now; the documents of tradition in which the common faith of the people was proposed; and finally, pastoral and missionary care, which both [theologians and magisterium] must attend to.⁶⁰

I would think that those theologians whose work takes account of these bonds (*vinculis*) are, in the most profound sense of the term, "sent." Few theologians would have any difficulty with such "bonds." Indeed, they simply outline theological responsibility. But what many would object to is the extension of such constraints into a *missio* given by a *per se* nonacademic person, and into a *nihil obstat* from the Holy See.

Here it must be remembered that *Sapientia christiana* is dealing with pontifical faculties (and these are faculties involved with the training of future priests). Such faculties relate somewhat differently to episcopal authority than does the Catholic university in general. In other words, the bishop does indeed have responsibilities with regard to orthodoxy in such faculties. But it can still be doubted whether *missio canonica* is the appropriate way to implement such responsibilities. Concretely, it is an extremely dangerous weapon, especially in light of the sanctions some ultraright groups are calling for and pressuring the bishops to use.

⁵⁹ TS 38 (1977) 85 ff.

⁶⁰ Cf. n 38 above.

University structures are designed to protect faculty against precisely this type of thing.

One point is to be noted. Both *Sapientia christiana* and John Paul II regard theology in Catholic institutions of higher learning as a kind of continuation of the mission of the magisterium. *Sapientia* restricts this to canonically erected faculties. The Holy Father more generally speaks of institutions of higher learning (*in altiorum studiorum sedibus*). This is not the self-understanding of the Catholic university in the United States. In a 1971 report of the North American Region of the International Federation of Catholic Universities (IFCU), stress is put on the need for university autonomy. "The Catholic university is not simply a pastoral arm of the Church. It is an independent organization serving Christian purposes but not subject to ecclesiastical-juridical control, censorship or supervision."⁶¹

Therefore I agree with Curran that certain understandings of *missio canonica* and the requirement of a *nihil obstat* from the Holy See for tenure on pontifical faculties are incompatible with academic freedom as this is commonly understood in university circles in the United States.⁶² Clearly, theologians must be responsible in the exercise of their freedom. But to threaten such freedom and thereby the causes for which it exists—amongst them the vitality and integrity of theology—strikes this reviewer as killing the patient to cure the disease. With concerns such as this in mind, the Catholic Theological Society of America, at its 1979 convention in Atlanta, passed a resolution on academic freedom that included two principles:

1. No theologian should be censured or deprived of that liberty acknowledged to be necessary for theological inquiry without due process which respects fundamental fairness and equity.
2. No theologian holding an academic appointment should be censured or otherwise deprived of any right except as a result of due process which is in accordance with publicly stated standards and is consonant with generally accepted academic practice in the United States and Canada.⁶³

These views represent a sampling of theological perspectives from many points of view. It is probably safe to say that they also represent a division in the Catholic, and even larger, public. What might be said at this point? Much depends on one's ecclesiological presuppositions. But one thing is clear. The use of stereotypic language has no place in serious theological discussions. When those with whom one disagrees are sum-

⁶¹ "Freedom, Autonomy and the University," *IDOC International*, North American edition, 39 (Jan. 15, 1972) 83.

⁶² Cf. Josef Georg Ziegler, " 'Rolle' oder 'Sendung' des Moraltheologen: Versuch einer Selbstreflexion," *Theologie und Glaube* 69 (1979) 272-88.

⁶³ Cf. *Bulletin of the Council on the Study of Religion* 10 (1979) 114.

marily classified as "dissenters" or "deviants," we see an instance of such language and the collapse of theological courtesy. One is tempted to respond by dubbing other discussants as "conformers." That is a kind of game. The regrettable aspect of such semantics is, as I noted, that the issue gets lost. When that happens, nobody wins, and something seriously detrimental to the Church prevails.

DIVORCE AS A PASTORAL PROBLEM

In his speech to the American bishops, the Holy Father stated: "With the candor of the Gospels, the compassion of pastors, and the charity of Christ, you faced the question of the indissolubility of marriage, rightly stating: 'The covenant between a man and a woman joined in Christian marriage is as indissoluble and irrevocable as God's love for His people and Christ's love for his Church.'"⁶⁴ He repeated this teaching in his speech on the Mall (Washington, D.C.) in ringing tones: "When the institution of marriage is abandoned to human selfishness or reduced to a temporary, conditional arrangement that can easily be terminated, we will stand up and affirm the indissolubility of the marriage bond."⁶⁵

I can think of no theologian who would deny this Gospel and Church teaching. But the problem remains about what it implies in terms of pastoral practice. This section can only sample some literature of the past several years on these pastoral implications. But before doing so, I should like to refer to a splendid pastoral letter on marriage issued by Bishop Walter Sullivan.⁶⁶ The pastoral deliberately acknowledges and avoids "the attempt to provide easy solutions to the needs of Catholic married couples." The letter first details the present-day experience of marriage, especially the obstacles to intimacy in modern life and to genuine family unity. It singles out a variety of family tensions, especially the many forms of brokenness experienced in family living.

Next the pastoral turns to marriage as a faith experience. Acknowledging that much of our traditional Church teaching "appears unrealistic to them [married persons] in the face of tensions and strains on marital and familial relationships," Bishop Sullivan attempts to speak a different language. He speaks of the "daily conflicts involved in freedom of conscience and responsible parenting." Going beyond the language of contract, Sullivan underlines the "deeper realities of the marriage covenant," of promises for an unknown future.⁶⁷ To a society which in many ways has turned against life, Bishop Sullivan notes that "all marital

⁶⁴ *Origins* 9 (1979) 289.

⁶⁵ *Ibid.* 280.

⁶⁶ Walter F. Sullivan, "Marriage and Family Life," *Catholic Virginian*, April 13, 1979.

⁶⁷ For an interesting commentary on the revision of the canon law of marriage, cf. Francis Morrissey, O.M.I., "Revising Church Legislation on Marriage," *Origins* 9 (1979) 209-18.

relationships must remain open to life."

The final section of the pastoral reviews the practical steps that can be taken in our time to strengthen and nourish family life. When dealing with broken families, Bishop Sullivan states: "It is necessary to make those who experience family difficulties, divisions, and separations feel welcome within the church community. We cannot look down on the separated, divorced or remarried as failures or as misfits." Sullivan's pastoral strikes this reviewer as a splendid and very rich mix of faith perspectives and common-sense realism.

The proper ecclesial response to the divorced and remarried has been touched upon in two pastoral letters. One is that of the bishops of the French-speaking cantons of Switzerland (Lausanne, Genève-Fribourg, Sion, Bâle).⁶⁸ The Swiss bishops take up several instances of what they call "situations particulières." One is the case of the couple who want to marry, yet do not feel at the time ready for the sacrament of marriage. Of this situation the bishops say that one will expose the importance of the sacrament without imposing it. The priest may celebrate in a prayer "the presence of God which they [the couple] already recognize in their search and in their love." But there should be no ambiguity or confusion created that this is the celebration of a sacrament.

Another instance is that of the couple contemplating marriage who cannot receive the sacrament of matrimony because they are divorced from a valid first marriage. The bishops make two statements on such a situation. First: "When it is clear that their way of life involves an undoubted fidelity and when all the time necessary for a thorough investigation has been taken, then we will be in a position to consider the propriety of a prayerful moment which corresponds to the truth of the situation with all the clarity that is then possible."⁶⁹ Second: "One will also strive, when the occasion presents itself, to open Christian communities to the reception of those who are in this painful situation and wish to remain members of the Church."⁷⁰

This last rendering is, I would judge, studiously vague. What is implied in the notion of "opening Christian communities to the reception of" the divorced and remarried? The bishops do not say that they may receive the Eucharist.⁷¹ On the other hand, they do not say they may not. It is always risky to attempt to interpret the *stylus episcopalis*. But perhaps

⁶⁸ "La pastorale du mariage," *Documentation catholique* 76 (1979) 343.

⁶⁹ The French reads: "Lorsqu' apparaît la loyauté certaine de la démarche et après tout le temps d'approfondissement qui s'impose, on pourra envisager un moment de prière et de réflexion qui corresponde le plus clairement possible à la vérité de la situation."

⁷⁰ "On s'efforcera aussi, lorsque l'occasion s'en présentera, d'ouvrir les communautés chrétiennes à l'accueil de ceux qui sont dans cette situation douloureuse et veulent demeurer membres de l'Eglise."

⁷¹ The entire text was not printed in *Documentation catholique*.

it is not rash to think that the bishops know of the theological discussions on this subject and of the accumulating consensus of this literature that reception of the Eucharist is a possibility in individual cases for the divorced and remarried. Is it a fair inference that they were acknowledging this development without really saying so?

The other directives are also interesting. Even the possibility of a prayerful moment for those who do not as yet want the sacrament of marriage and for those who are entering a second union (after divorce from a Christian marriage) is a remarkable step. The unavoidable implication is that although no sacramental marriage is involved, there is indeed a human reality, a human love, not incompatible with the presence of God.

An entirely different approach is taken by the C.E.I. (Conferenza Episcopale Italiana).⁷² They first describe indissolubility as a property of every marriage, but a property enriched and reinforced in Christian marriage. The Italian bishops fear that there are "problems and discussions which risk disturbing and obscuring the traditional position of the Church toward the divorced and remarried." Therefore they want to set the record straight.

The first thing to be recognized is that the condition of the divorced and remarried is "contrary to the gospel." The second union cannot break the conjugal bond of the preceding union. However, by virtue of baptism and a faith not totally renounced, the divorced-remarried remain members of the People of God. "They are not excluded from communion with the Church even if, because of their condition which is contrary to the gospel, they do not share in the necessary 'fulness' of ecclesial communion." Furthermore, even though believers regard the condition of the divorced-remarried as a disorder, they should not judge the consciences and spiritual condition of those in this situation. Only God can do this.

The divorced-remarried should be aided in sharing in the life of faith. For example, they can share in "catechetical sessions and nonsacramental penitential services." They should be invited to attend Mass but not "to exercise in the ecclesial community those services that demand the fullness of Christian witness" (e.g., lector at Mass).

The pastoral next turns to the sacraments (reconciliation and the Eucharist) and insists that the problem be viewed within the perspective of fidelity to the Church and its Lord. Conversion is essential for the reception of the sacrament of reconciliation. Such conversion clearly demands genuine sorrow, which includes the firm purpose of amendment. "But this will does not exist if the divorced-remarried remain in a condition of life that is contrary to the will of God. How is it possible at

⁷² "La pastorale des divorcés remariés et des personnes vivant dans une situation matrimoniale irrégulière," *Documentation catholique* 76 (1979) 715-22.

the same moment to choose the love of God and disobedience to His commandments?"⁷³

As for the Eucharist, the Italian bishops note that it is the sacrament that signifies and realizes "the fulness of union with Jesus Christ and his Body." Reception of the Eucharist is equivalent to sharing in the fulness of love that binds Christ to his Church. "One cannot, therefore, receive worthily the sign of perfect unity with Christ and with the Church when one is in a condition of life that creates and maintains a rupture with Christ and his Church." The bishops state the traditional demand of a brother-sister relationship before the sacraments may be received.

The document also adds a practical argument. "In the face of a pastoral practice that unites in sacramental celebration legitimate spouses and the divorced-remarried, many people would not understand why divorce is an evil." If the Church, in her sacramental discipline, treats the divorced-remarried exactly as she treats others, "how can one say that she takes seriously the command of the Lord about the indissolubility of marriage?"

The Italian pastoral letter has been the subject of at least two extensive commentaries of which I am aware. One is by Francesco Bersini, S.J.⁷⁴ He takes the occasion of the pastoral letter to call attention to the fact that its conclusions are consistent with other episcopal documents, and he cites them to make his point. Bersini is aware of diverging theological tendencies on the problem. In the face of such divergences "there is only one secure path: the authoritative teaching of the ecclesiastical magisterium." He is in full agreement with the Italian bishops.

So is Dionigi Tettamanzi.⁷⁵ In his commentary on the Italian document, he insists on the fact that what is involved in excluding the divorced-remarried from the sacraments is the fidelity of the Church to Christ. "We do not find ourselves confronting a merely disciplinary or pastoral decision which is required by the circumstances of our historical moment but which in other circumstances could change." The "no" to the sacramental life of the divorced-remarried Tettamanzi sees as radically theological. There is a genuine falsification of the authentic meaning of the sacraments. These announce the gospel, a gospel which the concrete life of the divorced-remarried refutes and rejects. Moreover, Tettamanzi agrees with the C.E.I. document that reconciliation is required before the Eucharist can be received; but a firm purpose of amendment is necessary to true reconciliation. Tettamanzi regards this as impossible for the divorced-remarried who intend to remain such.

⁷³ Ibid. 718.

⁷⁴ Francesco Bersini, S.J., "I divorziati risposati e l'ammisione ai sacramenti," *Civiltà cattolica* 130 (1979) 550-67.

⁷⁵ Dionigi Tettamanzi, "La pastorale della chiesa e le situazione matrimoniali irregolari," *Ambrosius* 55 (1979) 358-84.

Charles-Marie Guillet disagrees with this conclusion and explicitly with the document of the Italian episcopate.⁷⁶ His article, arguing for a more dynamic and communitarian notion of the Church (a community of growth, ongoing forgiveness, progressive incorporation into the forgiving Christ), had been written before the appearance of the C.E.I. statement. But Guillet adverts to this statement in a final footnote and repeats his contention that exclusion of the divorced-remarried on the basis of incompatibility with the unity signified in the Eucharist involves a static and "perfectionist" notion of the sacraments. In such perspectives the Eucharist and the Eucharistic sign are "thingafied" and seen as a reward for achievement, when actually we are all sinners on the way to ultimate achievement.

The difference in attitude manifested in the Swiss and Italian pastorals is rather remarkable. It could easily lead one to believe that the Church is still groping for a fully adequate understanding of her proper pastoral response to the divorced-remarried. It is with such an understanding in mind that I wish to make several comments on the study of the Italian bishops.

First, there is some ambiguity, perhaps even inconsistency, in the way the Italian episcopate speaks of the situation of the divorced-remarried. On the one hand, the bishops reject any attempt to judge the state of soul of such persons; on the other, they describe these people as "maintaining a rupture with Christ and his Church" and as lacking in a firm purpose of amendment. If these phrases do not describe a state of soul, what do they describe? This is particularly true of the purpose of amendment. The bishops never use the phrase, but their reasoning and language force them, it would seem, to regard the divorced-remarried as in a "state of sin."

Second, if this is indeed their attitude, it is difficult to see how they can urge the divorced-remarried to attend Mass, to deepen their prayer life, etc. These exhortations are those we would expect to be directed to those in a state of friendship with Christ and his Church. One hardly speaks of deepening charity if it is presumably absent to start with.

Third, the bishops say that the Eucharist is "the sign of *perfect* unity with Christ and the Church." If this is the case, it is difficult to see how the Church could adopt the policy she does toward the separated Eastern Churches. This policy allows for reception of penance, the Eucharist, and anointing of the sick by separated Eastern Christians in the Roman Church. The justification of this policy is explicitly stated:

Divine law forbids any common worship (*communicatio in sacris*) which would

⁷⁶ Charles-Marie Guillet, "Divorcés remariés et communion eucharistique," *Supplément* 130 (Sept. 1979) 355-64.

damage the unity of the Church, or involve formal acceptance of falsehood or the danger of deviation in the faith, of scandal, or of indifferentism. At the same time, pastoral experience clearly shows that with respect to our Eastern brethren there should and can be taken into consideration various circumstances affecting individuals, wherein the unity of the Church is not jeopardized nor are intolerable risks involved, but in which salvation itself and the spiritual profit of souls are urgently at issue.⁷⁷

The Council fathers then state their "milder policy." Behind this policy stands an analysis of the Church and her sacramental actions. The Church has a double finality, which it expresses in its sacramental actions: the unity of the Church, the indispensable means of grace. Neither of these finalities can be suppressed or forgotten. But in concrete circumstances it is necessary to balance and compromise to do justice to both finalities. Concretely, the Church judges it appropriate at times to renounce the fulness of the conditions of integration which she imposes in principle in order to extend more widely the means of grace. In the Italian pastoral there is no mention of this second finality (the gaining of a needed grace).

Finally, there is the practical argument of the bishops ("many would not understand why divorce is an evil"). This clearly refers to what is known in technical terms as scandal. Concretely, people would draw certain conclusions about divorce and remarriage which would weaken their own and the Church's commitment to the permanence of marriage. What conclusions people will draw will depend on whether they are properly instructed or not. If they are clearly instructed that forgiving and reconciling need not and does not imply approval of what has gone before and even now come to be, then scandal is much less likely to occur. The precept of permanence is what the Church proclaims and what the couple must live. *That* is not affected by forgiving those who have failed, even sinfully, to live that command and find themselves in a position of irregularity as a result. Therefore, if the people are properly prepared for this change of approach by a careful explanation of its meaning, no scandal need occur. This will not be, I realize, an easy task.

An entire issue of *Revue de droit canonique* (representing the papers given at the 1977 Institut de droit canonique) is devoted to "Exceptions to the Norm in the Area of Marriage."⁷⁸ Several of these studies are interesting, but I want to review only one, that of Jean-Marie Aubert.⁷⁹ He notes three approaches to the situation of the divorced-remarried. First, there is the so-called "official" (until recently) approach that attempts to discover causes of nullity in the first marriage. Second, there

⁷⁷ Decree on Eastern Catholic Churches, no. 26 (*Documents of Vatican II*, 383-84).

⁷⁸ *Revue de droit canonique* 28 (1978).

⁷⁹ Jean-Marie Aubert, "Pratique canonique et sens de l'humain," *ibid.* 91-104.

is the pastoral path taken by some bishops. They allow couples in second marriages in individual cases to frequent the sacraments in a clandestine way. Aubert judges this to be ill at ease with the communitarian character of the sacraments of penance and the Eucharist. Third, there is the search for exceptions to the law of indissolubility. Aubert's essay—what he calls “a working hypothesis”—is in this class.

He first recalls two “canonical institutions” that are all but forgotten. The first is *epikeia*. Vatican II, in giving a place of honor to individual conscience, has created a climate for the reinterpretation of this teaching. According to St. Thomas, *epikeia* is a moral virtue, dictated by prudence, which regulates the application of law against its own terms. Thus it creates true exceptions.

The second, even more neglected in our times, is the notion of *receptio legis*. This refers above all to the need of acceptance of a law by the community to which it is destined in order that such law have efficacy.⁸⁰ This does not mean that acceptance is necessary for the validity of the law or that refusal means the law is false. It simply says that it does not contribute to the edification of the Church because it awakens no echo in the experience of the Church. Thus nonreception constitutes a true exception, because the law remains a dead letter.

Aubert gives two examples: John XXIII's *Veterum sapientia* and Paul VI's *Humanae vitae*. Of this latter he refers to the disputes “not only on the part of Christian couples and theologians but of numerous episcopates many of whose declarations and commentaries have been in fact refusals to accept without nuancing the condemnation of all contraception.”⁸¹ Noting that very many laws of the Code had their origin in lived custom, Aubert insists that ethical prescriptions cannot originate in a “purely descending route.” The “ascending route,” based on lived experience, must also be employed.

Aubert then asks whether these two sources of exception-making can apply to the indissolubility of marriage. He is not contesting indissolubility as such but only its absoluteness. He cites two cases where the Church has not recognized this absoluteness (marriage *ratum non consummatum* and the so-called Pauline privilege). “It is not clear why the Church cannot *extend the exceptions* to other cases within the body of traditional principles recalled above.”

What stands in the way is a certain hardening or dogmatizing of the doctrine of indissolubility. Here Aubert makes several points. First, even though Trent refused to define the indissolubility of marriage in deference to the Eastern Churches, still an absolutizing tendency has been aided

⁸⁰ Thus the famous decree of Gratian: “*Leges instituuntur cum promulgantur, firmanur cum moribus utentium approbantur.*”

⁸¹ Aubert, “*Pratique canonique*” 97.

and abetted by a questionable reading of Scripture. The fidelity of God to humanity (of Christ to the Church) has been seen as a typology for marriage. However, rather than instruct us about marriage, Aubert argues that we should view marriage as a human experience for the revelation of God. In other words, we have transferred God's indissoluble love into a juridical human bond that continues to exist even without the only content that gives it sense (conjugal love). This is a kind of juridical fiction. However, in other areas the Church has avoided this. Thus, if the common good or the good of the interested parties demands, the Church dispenses from priestly celibacy or solemn religious vows.

Aubert next turns to the human reality underlying the indissolubility whose absoluteness is the effect of the sacrament. This human reality, destined to be transfigured by the sacrament, is fidelity in conjugal love. However, fidelity defines itself only by its human content. Aubert feels that the Church has not yet perceived the gravity of the social-cultural change that has occurred through the advent of industrialization, urbanization, and scientific progress.

Before industrialization the family (90% rural) was centered on a finality extrinsic to the couple: the survival of the social group. There was great infant mortality; life expectancy was half what it is now. There were certain social and economic imperatives such as continuance of the family and provision of sufficient working hands to support the family. Divorce was unthinkable, because love did not really figure in the program, at least not in the beginning. In these circumstances fidelity (and canonical indissolubility) was inscribed in the social structure.

All these things have changed in our time. There has been a spectacular reduction in infant mortality, a dramatic extension of life expectancy, the entrance of women into the labor force, a relativizing of the procreative function, etc. Thus the couple face many years together, frequently separated. The relationship between husband and wife can be cemented now only by mutual love. Fidelity is no longer inscribed in the social and economic structure as a given from the beginning. It can be only a task, a goal to pursue. And it can fail. It is in light of these developments that Aubert argues that the Church might extend her exceptions to indissolubility.

A position similar to that of Aubert is taken by Hans Stüsser (Bonn).⁸² He engages in dialogue with Walter Kasper. In Kasper's recent book on marriage⁸³ he had argued that although no second marriage could be sanctioned by the Church, still those in a second, irregular marriage could under certain conditions receive the sacraments. He mentioned three

⁸² Hans Stüsser, "Personales Eheverständnis und Kirchenrecht," *Orientierung* 42 (1978) 18-22.

⁸³ Walter Kasper, *Zur Theologie der Ehe* (Mainz: Grunewald, 1977).

conditions: (1) They have repented their past fault. (2) All humanly possible has been done to arrive at reconciliation with the first partner. (3) The second marriage has arrived at such a point of stability that it could not be broken up without further injustice.

Stüsser feels that Kasper has not gone far enough. Why exclude a second marriage?⁸⁴ This would become a real possibility if the reformers of the Code would take Vatican II's description of marriage seriously ("intimate partnership of married life and love"). Actually it is Stüsser's contention that the ecclesiastical understanding of marriage and that of the world are markedly different in our time. The Church's view is still grounded in the notion of marriage as a social institution for the procreation of children. Thus the importance of the first sexual act in canonical jurisprudence, once of great importance but not now. By contrast the modern world sees marriage as a personal enterprise.

With this as a background, Stüsser joins Edward Schillebeeckx in insisting that marriage is a historical phenomenon which cannot be defined once and for all in a single way. It must take account of the social, psychological, cultural, and economic factors that undergird it. "So also the conditions in which a marriage is indissoluble are variable." If marriage is seen in personalistic perspective, in terms of mutual and permanent love and caring, then "its indissolubility is not a property necessarily following from marriage as an institution but an inner task to be realized."⁸⁵ Frequently it is not so realized and we must come to grips, in our concepts and law, with marital breakdown. As yet we have not.

In order to do this, we must be clear on the sacramentality of marriage. We have tended to think of this in static and mechanical ways. According to Stüsser, it is the very depth and genuinity of human love lived out of the depths of faith. Its indissolubility is its love. As Schillebeeckx notes, "Human marriage is not indissoluble because it is a sacrament; rather it is a sacrament because and insofar as it contains the will to develop itself in unbreakable covenant fidelity."⁸⁶ This is something that can be irretrievably lost. It is our task to provide juridical categories that acknowledge this and take its full consequences (that when a marriage dies, this is no obstacle to a second union). Stüsser feels that the present reformers of the Code are engaged in merely cosmetic adjustments, when in reality the whole concept of Christian marriage has changed.

⁸⁴ For the Church of England's discussion of second marriage, cf. Trevor Beeson, "British Debate Remarriage in the Church," *Christian Century* 95 (1978) 681-82.

⁸⁵ Edward Schillebeeckx, "Die christliche Ehe und die menschliche Realität völliger Ehezerüttung," in P. J. Huizing's *Für eine neue kirchliche Eheordnung* (Düsseldorf: Patmos, 1975) 41-73, at 51.

⁸⁶ *Ibid.* 55.

James Gaffney takes a slightly different approach.⁸⁷ Examining the pagan-Christian marriage in St. Paul (the so-called Pauline privilege), Gaffney states: "Paul shows no sign of imagining that a Christian's marriage literally cannot be dissolved. What he believes is that it should not be dissolved." Paul does not suppose, Gaffney argues, that the Christian whose marriage is in fact dissolved through no fault of his/her own should remain enslaved to a "fictitious marriage that no longer had any concrete existence." Gaffney sees Paul's attitude as the basis for sound Church policy in our time on divorce and remarriage.

But the implementation of such a policy has been precluded by three dubious assumptions. First, there is the assumption that Jesus taught it was impossible to divorce, rather than that it was wrong to do so. Second, it is supposed that this teaching pertains to consummated marriage contracted between the baptized. Finally, it is thought that the Pauline exemption describes a privileged exemption whose purpose was to encourage the adoption of the Christian religion.

Gaffney finds the entrenchment of these assumptions and the processes supporting this entrenchment very "intellectually unsatisfying." As a result, we find ourselves in the peculiar position of basing our belief "that marriage cannot be dissolved on a New Testament teaching that marriage should not be dissolved." Gaffney concludes by repeating what Jesus' teaching is: "For them [the married] to take it apart is not impossible. It is wrong." Thus the Church's effort should be to prevent this wrong, but to deal with it healingly and forgivingly when it occurs. There seems no question that Gaffney views a "subsequent lifetime of conjugal deprivation" after divorce as ethically deplorable and biblically unfounded.

Pierre Hoyoit, the *officialis* of Tournai, studies existing tribunal procedures.⁸⁸ The only procedures now available are dissolutions for nonconsummation and declarations of nullity. He questions whether this is sufficient, even with simplified procedures and the expansion of the criteria of nullity. Clearly he thinks the answer is negative. Indeed, the criteria of nullity have become so broad (incapacity to assume the duties of marriage) that he believes, with Jean Bernhard, that we have really passed over from nullity to dissolution of marriages. But still the problem remains.

When he examines Rotal jurisprudence, Hoyoit finds two paradoxical tendencies. The one, stressing the gravity of the marital enterprise, tends to broaden the grounds of nullity. The other, underlining the natural character of marriage—a state to which all ought to have access and

⁸⁷ James Gaffney, "Marriage and Divorce," *New Catholic World* 222 (Jan.-Feb. 1979) 20-23.

⁸⁸ P. Hoyoit, "Les procédures matrimoniales et la théologie du mariage," *Revue théologique de Louvain* 9 (1978) 33-58.

therefore one for which a minimum is required—tends toward a narrowing of grounds. The Rota tutioristically follows the latter trend. In its decisions Hayoit perceives an increasing reliance on psychiatric evidence for “psychic incapacity”—and a radical, perpetual incapacity at that. This is a one-sided “psychiatrizing” of the decision.

Actually the decision must be one that establishes a prudential balance between the quality of consent at the time of marriage (psychic capacity) and the doctrine of marriage. The “psychiatric perspective” tends to overlook the fact that the capacity we are looking for in a party is one toward marriage *as this is understood in the Catholic Church*.

The last section of Hayoit’s study is extremely interesting. It is devoted to “areas of desirable evolution.” First, there must be an adjustment of the minimum requirements. In an effort to safeguard the right of all to marry, that minimum has been put at a ridiculously low level. Actually some people marry without the reflection that they would put into their vacation itinerary. Furthermore, this adjustment of the minimum is all the more the case when we are dealing with sacramental marriage. Marriage has a new significance in Christian theology. Sacramental marriage involves a mission in the Church. “It is difficult to admit that the Christian vision of marriage is without repercussions on the conditions of access to marriage, and in particular on that ‘minimum’ which one has the right to demand of candidates for *sacramental* marriage.”⁸⁹ Sacramental theology would see as a minimum that Christian marriage have the value of a sign in the heart of the community.

This being the case, Hayoit moves to his next desirable development: the dissociation of marriage and sacrament. Since about the time of the Council of Trent, it has been Catholic teaching that there can be (*consistere*) no valid marriage among the baptized which is not by this fact (*eo ipso*) a sacrament. Hayoit sees this as the Gordian knot of all Catholic pastoral practice regarding marriage. For instance, it is responsible for the ease of admission to sacramental marriage and the severity in declarations of nullity. He argues for the rehabilitation of civil marriage so that those Christians who are not ready for sacramental marriage—or whose sacramental marriages have broken up—are no longer regarded as in concubinage.

The International Theological Commission authorized publication of a document that takes a totally different approach. Consisting of sixteen theses, the statement was authored by Gustave Martelet, S.J., and approved *in forma generica* by the Commission. That is, the essential ideas were approved, not every word or detail.⁹⁰

⁸⁹ Ibid. 52.

⁹⁰ Gustave Martelet, S.J., “Christological Theses on the Sacrament of Marriage,” *Origins* 8 (1978) 200–204.

The document is an attempt to place Christian marriage within a Christological framework. Christ draws into his own energy the conjugal love of the baptized. Thus the mystery proper to Christ as spouse of the Church radiates within the couples consecrated to him. Such marriage cannot be an image of Christ as spouse unless it shares his fidelity (indissolubility). The Church has no dissolving power over a union "that has passed into the power of him whose mystery she must announce and not hinder." As for the divorced-remarried, their reception of the Eucharist "is plainly incompatible with the mystery of which the Church is the servant and witness." Why? Because the Church would let such parties believe that they can, on the level of signs, communicate with him whose conjugal mystery they disavow on the level of reality."

A similar conclusion is drawn by E. Gagnon.⁹¹ He sees the process of conversion after divorce-remarriage as a long and arduous one. The divorced-remarried are in a situation of irregularity, and utopian hopes should not structure the pastoral support extended to them. As for reception of the Eucharist, Gagnon says that "it loses its signification from the moment it is separated from the ongoing life of the Christian." The divorced-remarried must remember that the ecclesial life does not consist uniquely in the sacraments.

The International Theological Commission completed in 1978 its definitive text *Theses de doctrina matrimonii christiani*.⁹² Because it was amended in accordance with the *modi* submitted, it was approved (I would think) *in forma specifica*. This would mean that it was a consensus statement of a committee. Such statements are like a convoy of ships in wartime: about as fast as its slowest member. That must be kept in mind while reading the document.

After treating marriage as an institution and its sacramentality as rooted in baptism, the document (section 3) turns to the relationship between "marriage of creation" and sacramental marriage. It sees the relationship as inseparable ("Inter duos baptizatos matrimonium creationis scindi nequit a matrimonio sacramento"). The reason: sacramentality is not an accident of conjugal union but "inheres in its essence." On this basis the document concludes that there can really or truly ("vere seu realiter") be no other marriage state for the baptized. "Therefore the Church can in no way admit that two baptized persons are in a conjugal state commensurate with their dignity and the manner of being of the new creature in Christ unless they are united sacramentally." Those who from ignorance try to separate contract marriage and the sacrament

⁹¹ S. Ex. Mgr. Gagnon, "Situation dans l'église des divorcés remariés civilement," *Esprit et vie* 88 (1978) 241-45.

⁹² I use the Latin text kindly provided by Walter J. Burghardt, S.J., Cf. also *Documentation catholique* 75 (1978) 704-18.

really achieve only a "psychological relation," not a true marriage bond. The Commission, therefore, rejects pastoral solutions which allow sacramental solemnizations after nonsacramental "marriages."

The Commission then asserts that the Church has no power to dissolve sacramental, consummated marriages. As for unions undertaken after sacramental marriages, they can be considered neither "regular nor legitimate" (this latter term meaning "valid but not sacramental"). May persons in a second, irregular union receive the sacraments? The Commission is clear and, as far as I can see, absolute: "From the incompatibility of the state of the divorced-remarried with the command and mystery of the risen Lord, there follows the impossibility for these Christians of receiving in the Eucharist the sign of unity with Christ." Thus the key argument of the Commission rests in the phrase *signum unitatis*. However, even though this "illegitimate state" does not permit full communion, "these Christians are not excluded from the action of divine grace, from a union (*conjunctione*) with the Church, and they should not be deprived of pastoral care."

Some of the same questions put to the pastoral of the Italian episcopate are appropriate here, especially that concerning the need for full integration before reception of the sacraments.

James Provost, the then president of the Canon Law Society of America, sees three obstacles to reconciling the divorced-remarried.⁹³ First, there is the attitude that such people are "living in sin." Second, there is the very difficult problem of balancing the Church's prophetic mission with her compassionate mission. Finally, canonically, such parties are viewed in law technically as "infamous" (bigamists). Provost gives a careful and realistic picture of the updated tribunal process. He does not see reconciliation of the divorced-remarried as easy or automatic. As for reception of the sacraments, Provost recalls that the "approved practice of the Church" can justify this on two conditions: (1) they are attempting to live their lives according to Christian principles; (2) scandal is avoided.⁹⁴ He concludes by raising some very useful questions to test the objectivity of the couple in an irregular second union. For instance: Are they fulfilling the responsibilities of the first and second unions? How committed is their Christian life? Are they not simply avoiding scandal but positively contributing to build up Christian married life in the community?

A similar position is presented by Pierre Côté, S.J.⁹⁵ He notes that the

⁹³ James Provost, "Reconciliation of Catholics in Second Marriages," *Origins* 8 (1978) 204-8.

⁹⁴ Provost denies that the "approved practice of the Church" necessarily involves a brother-sister relationship.

⁹⁵ Pierre Côté, "Pour une pastorale des divorcés-remariés," *Relations* 39 (1979) 112-17.

official position of the Church is clear: as long as the couple remain in the second union, they may not receive the sacraments. This exclusion of the divorced-remarried from the sacraments rests on a view of the Eucharist as "the sign of *perfect* communion with Jesus Christ and the Church."

At the pastoral level, however, the problem must be viewed in terms of the religious and spiritual experience of Jesus Christ by the couple, not in terms of norms and the politics of the Church. This means that the spiritual condition of the couple will be approached in the internal forum, with appropriate attention to their growth in love, the difference between ideal and reality, etc.

Côté ends by raising several "questions" (actually they look more like suggestions). First, if we stress the fact not of unity already achieved but of a movement toward such unity, then admission of these persons to the sacraments will be easier. Second, Côté acknowledges that education of the community is required here, but he believes it quite possible. Pastoral accommodation in other areas has not meant forfeiture of principle or confusion of the faithful. For example, access of the children of unwed mothers to baptism celebrations has not meant approval of the foregoing conduct. Therefore Côté cautions about a negative answer in the case of the divorced-remarried. Finally, he appeals to the experience of other Christian churches (Protestant and Orthodox) that "are inspired by the same evangelical values," yet conclude to a different praxis. Côté's reflections are very close in spirit to those of Provost.

A quite similar view is expressed by Theodore Davey, C.P.⁹⁶ The key question in his view is: Would the admission of *some* divorced-remarried persons to the Eucharist "fatally and irretrievably damage the Church's witness to the indissolubility of marriage"? If the answer is yes, then the matter is settled. Davey makes two points. First, genuine theological scandal (weakening of the ideal of indissolubility) must be distinguished from bewilderment, astonishment, jealousy. Second, the reason that people are excluded or exclude themselves from the Eucharist is lack of full integration in the Church. But, Davey argues, "full integration and full standing is not a condition before one can share the Eucharist." He appeals to the policy that allows non-Catholics on certain occasions to share in the Eucharist.

I agree with the conclusion of Côté, Provost, and Davey and the perspectives that yielded it. The Martelet paper, the International Theological Commission, and Gagnon base their negative conclusion largely on the reception of the Eucharist as a sign. One problem with this analysis is that it restricts the sacraments to a single finality (the signification of unity), as I noted above, and perfect unity at that. However, once the

⁹⁶ Theodore Davey, C.P., "The Marriage Debate: A Reply," *Month* 240, n.s. 12 (1979) 257-61.

need for dialectical balance is admitted in the two finalities of the sacraments (signification of unity, sharing in the means of grace), it seems that nothing in principle prevents sacramental reception by those imperfectly integrated into the Church. If that is true of our separated brethren at times—and Vatican II admits that it is—is it not at least as true for those who are not separated but have encountered marital tragedy? Such a reception of the sacraments has been admitted in the past even by those of quite conservative theological tendencies.

Another problem with the absolute negative conclusion is seen when we confront the spiritual status of those in these second, irregular unions. All admit that they should continue to attend Mass, fulfil all their other duties, and participate as fully as possible in the life of the Church. The International Theological Commission puts it as follows: "Although this illegitimate situation does not permit a life of full communion, these Christians are not excluded from the action of divine grace, from a union with the Church, and they ought not be deprived of pastoral care."⁹⁷ This is describing a state of irregularity but of grace. That means it is the *irregularity alone* (at least in some cases), not the personal spiritual dispositions of the couple, that constitutes the impossibility of "receiving in the Eucharist the sign of unity with Christ." Is that necessarily the case? Many theologians in recent years have not been so convinced. That points in the direction of what is the key problem in this terribly difficult discussion: the status of those who are divorced-remarried. Pius IX said that these are in a state of concubinage; for since the marriage contract and the sacrament are inseparable, those who cannot marry sacramentally cannot have a valid contract, scil., *are not married in any sense* in the eyes of the Church.

There are two questions that need further exploration here. (1) Is the Church irreformably committed to the notion of the inseparability of the sacrament and the contract ("marriage of creation")? The problem becomes much sharper when, instead of contract, the language of Vatican II is used to describe marriage. (2) Is it a necessary consequence of this doctrine that those in a second marriage are not married in any sense? The use of the general and soft term "irregular" would seem to open the

⁹⁷ The Commission refers to divorced-remarried as "status divortiatorum denuo 'nuptorum.'" The closure is used because the Commission rejects the notion that the baptized can contract a true marriage which is not sacramental. It refers to such a union as *unio psychologica* but not true marriage. For a useful history of the theological disputes surrounding the doctrine of inseparability of contract and sacrament, cf. C. Caffarra, "Le lien entre le mariage-réalité de la création et le mariage sacrament," *Esprit et vie* 88 (1978) 353-64, 369-84. Caffarra concludes in a fashion similar to the Commission when he says of the decision of the baptized to marry nonsacramentally: "elle ne produit rien en réalité" (381). That conclusion, I believe, depends heavily on the notion of marriage and of sacrament that prevailed when the inseparability doctrine took shape.

way to admitting that existentially there can be elements in that second union which, while not constituting sacramental marriage, are sufficient to allow the life of grace to flourish. Thus it has recently been suggested that these second unions "participate analogously in certain values of the sacrament of marriage."⁹⁸

Put in slightly different words, there are two senses of the identity of contract and sacrament. We might describe these as *sensu aiente* and *sensu negante*. The first sense means that the sacrament is not distinct from human love that constitutes the fidelity bond. It is that bond lived in faith. But does it follow from such identity that (*sensu negante*) those whose marriages have failed *do absolutely nothing* in entering a second union? That is what traditional theology would say. And that is what is being increasingly questioned by a theology that views marriage and its sacramentality more in terms of personal love.

In still other (and legal) terms, marriage that is thought to be sacramental prevents the institutional possibility of another sacramental marriage. But does it necessarily prevent the possibility of another marriage? Whatever the answer to this difficult problem, it is at the heart of the renewal of pastoral practice with regard to the divorced-remarried in the Church today.

NUCLEAR ENERGY AND NUCLEAR ARMS

Two of the most interesting and urgent moral problems of the past year or so have been the problem of energy and in particular the use of nuclear energy, and the Strategic Arms Limitation Talks. Pope John Paul II addressed himself to both problems, vigorously and specifically to the latter, in principle and nonspecifically to the former. With regard to energy, his references were fairly general and touched on the unequal distribution of material goods. For instance, in his speech at Yankee Stadium, Oct. 2, 1979, he stated: "We must find a simple way of living. For it is not right that the standard of living of the rich countries should seek to maintain itself by drawing off a great part of the reserves of energy and raw materials that are meant to serve the whole community."⁹⁹ As for the proliferation of arms, he stated: "We applaud the decisions and agreements aimed at reducing the arms race."¹⁰⁰ Was this an endorsement of SALT II? It could be read that way but need not be. A word about both of these subjects as treated by theologians and theological literature.

First, the problem of energy. Bishop William E. McManus (Fort

⁹⁸ François Deltombe, "Pour une solution pastorale du problème des divorcés remariés," *Supplément* 130 (Sept. 1979) 329-54, at 350.

⁹⁹ *Origins* 9 (1979) 311.

¹⁰⁰ *Ibid.* 261.

Wayne-South Bend) issued a brief but effective pastoral letter in response to President Carter's energy speech of July 15, 1979.¹⁰¹ "Our overriding moral obligation is to be serious about our nation's energy problems." McManus proposed reduction of nonessential driving, parochial car-pooling, thermostatic asceticism. He concluded by asking his people to give careful attention "to the difficult problems raised by some proposed solutions." Specifically, McManus asked whether it is right or wrong to build more nuclear-energy plants even though foolproof protection against nuclear disaster cannot be guaranteed. Is it right or wrong to accept higher pollution indices by use of coal for energy?

The "careful attention" McManus called for is both necessary and difficult, as a sampling of literature will reveal. Those who have not been following the relatively young ethical debate might well begin with a volume edited by John Francis and Paul Abrecht.¹⁰² Abrecht's own essay in this volume traces the involvement of the churches in discussions of nuclear power. In the 1950's and 1960's there was little opposition to nuclear power. Indeed, its peaceful use seemed to be a way of redeeming what had previously been a weapons technology. But that has all changed in the past three or four years. Gradually there has emerged in the World Council of Churches' discussions on energy a consensus on two points. First, the underlying faith and value suppositions constantly appealed to in the debate had to be examined. Second, the paradox of a technology offering the prospect of immense potential and many incalculable risks still remains unresolved.

Abrecht notes that this position is in contrast with several other ethical views. For instance, one group (Mobilization for Survival) argues that nuclear energy is opposed to God's will. Another group founds its resistance on technical grounds: safe and workable alternative sources of energy are available (solar and wind power). Still others press the connection between nuclear power and nuclear weapons. Abrecht's own comments show clearly that he thinks no absolute yes or no to the proliferation of nuclear power is warranted.

There is absolutely no question in the mind of J. George Butler.¹⁰³ Nuclear energy fails the test of Christian stewardship of life and the earth. He severely faults the Rasmussen Reactor Safety Study's statement that the chance of a nuclear accident involving a thousand fatalities is extremely remote. (The Rasmussen Report is an extensive study directed by Norman Rasmussen, professor at M.I.T. It was commissioned

¹⁰¹ William E. McManus, in the *Harmonizer*, July 29, 1979.

¹⁰² John Francis and Paul Abrecht, *Facing up to Nuclear Power* (Edinburgh: Saint Andrew, 1976).

¹⁰³ J. George Butler, "Christian Ethics and Nuclear Power," *Christian Century* 96 (1979) 438-41.

by the Atomic Energy Commission to determine the probability and results of an accident in nuclear reactors.) The Nuclear Regulatory Commission has since totally rejected the study's summary. Butler argues that the lack of catastrophic accidents is more a matter of good luck than good management, that low-level radiation is likely to be far more harmful than we suspected twenty-five years ago, that the problem of nuclear waste has not been solved, that other forms of energy are less dangerous and more economical.

Included in the Francis-Abrecht volume is an essay by Roger Shinn on the ethical aspects of the energy problem.¹⁰⁴ Shinn lifts up seven issue-areas where factual and valuational problems must be faced in trying to decide what kind of society we want for ourselves and our children. For example: What is our proper relationship to nature ("fit into" or "replace" and transform)? What risks may we accept? Are our exorbitant demands for energy part of a suicidal life style? Is nuclear energy one of the many forces in modern society that will increase the gap between rich and poor nations? What is the relationship between nuclear energy and nuclear arms? Finally, Shinn asks the question about the very meaning of life: "Will nuclear energy offer the possibilities of a better human existence?"

Shinn has raised many good questions, questions, as he says, "that are often conveniently neglected." His essay is an excellent place to begin reflection on this subject.

Shinn returned to the subject in an address given in the spring of 1978 (Switzerland) during a World Council of Churches consultation on "Ecumenical Concerns in Relation to Nuclear Energy," but only recently published.¹⁰⁵ He notes that there are two different types of questions to be asked. Science can answer some, e.g., how much petroleum is left in the ground? What are the risks of fast breeder reactors? But there are other questions that science alone cannot answer, e.g., what are my rights to petroleum compared to the rights of others? What is the meaning of our patterns of consumption? Such questions quickly drive us to some rather basic issues of ethics and of faith. Shinn feels that the churches have confused these and thus "have a long record of making scientific judgments that they should not have made and of abdicating from moral judgments that they should make."

There is a third element that enters into deliberation about a problem like nuclear energy: ideology. By ideology Shinn means "a set of conceptions or a picture of the world and society that helps to guide action." Clearly Shinn accepts the term in its nonpejorative sense. Ideology is a

¹⁰⁴ Roger Shinn, "Ethical Reflections on the Use of Nuclear Energy," as in Francis and Abrecht, *Facing up* 137-55.

¹⁰⁵ Roger L. Shinn, "Faith, Science, Ideology and the Nuclear Decision," *Christianity and Crisis* 39 (1979) 3-8.

kind of framework into which we fit information. It determines what information we consider relevant. Thus, when people look out on the world, some see population problems; others see social inequalities; others see resource depletion; still others see future technologies that will solve problems.

It is Shinn's contention that the ultimate ethical and policy decisions occur at the intersection of faith and science, but that this intersection takes place within an ideological context. Shinn then applies this to the matter of nuclear risk. Sometimes the evidence is debated; sometimes it is unmeasurable. For instance, with regard to the risk of accident, neither faith nor science gives us certainty, and ideology cannot of its nature do this, "although it often gives its holders the psychic feeling of certainty." Therefore Shinn faults those who would demand of the churches a prophetic clarity at this time, because the basis for such clarity and certainty is not yet present.

Bruce W. Robbins agrees with Shinn that faith, science, and ideology affect debate on nuclear energy.¹⁰⁶ But he believes Shinn has not sufficiently penetrated the ideology within which the nuclear debate is occurring. It is an ideology generated out of the assumptions and goals of the nuclear industry and determines what facts we hear and what alternatives we see as available. Specifically, the prevailing ideology attempts to deflate any doubt that nuclear power is the only technologically feasible energy option of the future. Robbins believes that some of Shinn's arguments are typical of this prevailing ideology.

On the contrary, Robbins is convinced of two things. First, alternative energy sources are available. Second, the data on the harmful effects of atmospheric radiation are "staggering." Therefore nuclear power will not take us in the direction of a "just, participating and sustainable society" (the World Council of Churches' phrase).

Shinn responded by insisting that he was primarily concerned with the nature of ethical argument, not with energy as such.¹⁰⁷ Bruce Robbins, he says, is a crusader against nuclear energy. Shinn is ready to join Robbins' crusade only if he has better evidence. For instance, in well over 1500 reactor-years of experience, there have been no direct-on-the-spot deaths attributable to nuclear energy, whereas we have 100-150 deaths annually due to coal mining. This exchange is a good introduction to the types of arguments that are being advanced in this very important discussion.

In the wake of the Three Mile Island disaster, the entire faculty of Lancaster Theological Seminary (just an uncomfortable twenty-three miles from the damaged Pennsylvania nuclear plant) issued a statement asserting that four "structures of evil" became clear as a result of the

¹⁰⁶ Bruce Robbins, "Faith, Science, Ideology and the Nuclear Decision," *ibid.* 136-39.

¹⁰⁷ Roger Shinn, *ibid.* 139-42.

accident: our excessive consumerism, unthinking trust in technology, the economic and political structures that benefit from nuclear power, and our pervasive sense of impotence. One of seven calls to action was "a moratorium on construction of all nuclear power plants."

James M. Wall, editor of the *Christian Century*, reports this statement and responds that the Lancaster faculty is correct in describing our condition (which Wall redescribes theologically as selfishness, idolatry, greed, and apathy) but that "they veer off target" in their moratorium proposal.¹⁰⁸ The prophetic word, he reminds us, is never spoken in a vacuum. It is always spoken in a world of very complex relationships, in what the remarkable Joseph Sittler has referred to as the "webbed connectedness" of our ecosystem. Concretely, Wall argues that the Lancaster proposal ignores the fact that the closing would result in loss of family incomes and increase in the cost of living. He proposes a policy of "wait and see."

On this point I find Wall puzzling for two reasons. First, he himself has referred to the "massive problems which toxic nuclear wastes pose" and to "the precariousness of all nuclear plant safety systems." That is rather heavy language and if accurate (I do not say, for the moment, that it is) justifies *something*. Second, a moratorium is just that; it is not a death sentence. Or is it better to continue building plants with "massive problems" and "precarious safety systems" especially when it is persons' health and lives that are likely to be affected, not their pocketbook and the cost of living?¹⁰⁹

The National Council of Churches has for many years supported a pronuclear policy statement. On May 9-11, 1979 the NCC's Governing Board met in San Antonio and officially reversed itself by a vote of 120-26.¹¹⁰ The NCC statement describes an ecologically just society as one that involves sustainability, fairness, and participation. It then goes on to indicate seven general guidelines of the "ethic of ecological justice." For instance, the greater the risk in a technology, the less moral justification there is for its use. Or again: the survival needs of those below the minimum material standard take precedence over the wants of those above that standard; those who receive the benefits should as much as possible bear the costs, etc. There follow criteria for assessing technologies. Each technology pursued will violate as few as possible of the following criteria: safe, appropriate to human nature, flexible, nondestruc-

¹⁰⁸ James M. Wall, "Grace and the Nuclear Problem," *Christian Century* 96 (1979) 459-60.

¹⁰⁹ For reader response to Wall's editorial, cf. *ibid.* 643-45.

¹¹⁰ "The Energy Crisis: Ethical Implications," *Origins* 9 (1979) 17-21. For a summary of the proceedings, cf. James M. Wall, "NCC Says No to Nuclear Power," *Christian Century* 96 (1979) 579-80.

tive to other necessities of life, resource-saving, resilient, fair, comprehensible, nonviolent, employment-producing, pluralistic (insuring a diversity of options), appropriate (matching the society to be served), aesthetic.

The Governing Board notes that in the application of these criteria "inevitably some ethically desirable goals must be 'traded off' against other goals which are also good." In its application of them, the Board urged an end to dependence on nuclear energy, supported energy conservation, and called for development of renewable energy sources.

Some of the persons prominent in the debate on nuclear energy and already mentioned in these "Notes" (e.g., Paul Abrecht, Roger Shinn, John Francis) were present at the World Council of Churches Conference on Faith, Science and the Future held at the Massachusetts Institute of Technology (July 12-24, 1979). Alan Geyer reports on the Conference's deliberations on nuclear energy.¹¹¹ After passionate and prolonged debate, the Conference adopted a compromise five-year moratorium on the construction of all new nuclear-power plants. The original draft proposal said nothing about five years, but said simply "until the overall risks and costs of nuclear power are fully determined and justified."

The arguments pro and con are now familiar. For example, M.I.T. physicist David Rose argued that a nuclear moratorium would make developed countries even more dependent on oil imports and therefore more likely to use military force to preserve fuel lines; would fail to meet energy needs of developing countries, which would be more likely than ever to go nuclear; would make nuclear war more likely, etc. Roger Shinn asserted that hazards and costs justified a moratorium on coal production as much as a nuclear moratorium. Others argued that nuclear energy is totally inappropriate in the Third World, because it serves only vested interests in developed countries.

This is a brief and impoverishing introduction to some recent literature on the energy debate. It is a difficult literature because the problem is difficult, inseparably intertwined as it is with complicated scientific calculations, inconsistent statistics, and considerations of international justice. The matter is further, and unnecessarily, complicated by the presence of high-powered interest groups and lobbying, and what Shinn refers to as ideology. If there is a single impression I carry away from this debate, it is this: faith alone cannot give an answer to these problems, but no answer can be safely elaborated without the perspectives on the meaning of the world and our responsibilities in it which faith originates and so powerfully supports. Therefore the greatest tragedy at this time of intense deliberation would be to allow the discussion to be determined exclusively by politics and economics. The presence in this discussion of

¹¹¹ Manuscript kindly sent me by Alan Geyer; it now appears in the *Ecumenical Review* 31 (1979) 372-79.

religious ethicists like Shinn and Geyer is consoling.

And now to SALT II. There is, of course, an enormous amount of literature on this subject of a purely technical and strategic character. Important as this is for a moral judgment, it cannot be reviewed here because of sheer size. Rather I will bring under review some of the literature that springs from a theological context or a faith community, and aims more directly at a moral judgment on SALT II.

Sidney Lens notes that a minority of the antiwar movement (including Pax Christi, *Inquiry* magazine, the *Progressive*, certain individuals of Clergy and Laity Concerned) opposes the agreement as an escalation of the arms race it was supposed to limit.¹¹² He chastises the supporters of SALT within the antiwar movement and reviews their arguments.

One argument is that the treaty will place equal ceilings on the numbers of U.S. and Russian strategic delivery vehicles (missiles and bombers). Lens sees this as meaningless, since the Pentagon's obsession of the moment—to improve quality and accuracy—is not curtailed or limited. Thus, in SALT II, as in SALT I, the superpowers give up only what they regard as secondary but “allow themselves free rein to go ahead with what they consider most promising and urgent—the MIRV in 1972, weapons of accuracy in 1978.”

Another argument is that without SALT II “things would be worse.” Lens responds that just as SALT I did not restrain the superpowers from developing what they wanted, so neither will SALT II. History since 1972 seems to support him on this point. The escalatory steps proposed by the Carter administration are defended as necessary to appease the hawks who would not vote for SALT II otherwise. Lens sees this as equivalently stating that in order to win approval for arms control the government must agree to further escalation. What sense does that make when our stockpile can already kill every Russian thirty-six times over?

Lens concluded that peace people should not be negative to SALT II by rejecting it; rather they should propose a modification. This modification would take the shape of a moratorium, the original proposal of the SALT talks.

Dr. Harold E. Fey, former editor of the *Christian Century*, takes a different view.¹¹³ After describing very usefully and in detail the enormous arms-spending around the world, he views SALT II positively: “SALT II will not stop the arms race, but if the treaty is completed, signed and ratified, there will be more restrictions and limitations than ever before. It is good to slow the arms race, even a little.”

An interesting and in some sense classic face-off occurred between two

¹¹² Sidney Lens, “What Peace People Should Be Saying about SALT,” *Christian Century* 96 (1979) 181–85.

¹¹³ Harold E. Fey, “The Challenge of SALT II,” *ibid.* 343–47.

distinguished Catholic intellectuals devoted to the cause of peace, Bishop Thomas J. Gumbleton, president of Pax Christi, and J. Bryan Hehir, associate secretary of the Office of International Justice and Peace, USCC.¹¹⁴ I want to report this exchange at some length because it is a mirror of the attitude of people with deep moral concern, yet of different conclusions.

Gumbleton begins by noting that SALT II would legitimate the destructive power of 615,000 Hiroshima bombs (our present American arsenal). He then adverts to the statement of then Secretary of Defense James Schlesinger that "under no circumstances could we disavow the first use of nuclear weapons." Next he calls attention to the fact that use of destructive weapons against noncombatants is, in Catholic teaching, immoral. So is the threat to do so as a strategy of deterrence. Gumbleton sees ratification of SALT II as a repudiation of that moral stance.

To those who argue that SALT II puts a "cap" on the permissible numbers of such weapons, Gumbleton replies that this is equivalent to supporting a "cap" on the number of torture chambers permitted to governments. Another argument commonly made is that SALT II is a first step in the right direction. "We cannot extricate ourselves with one decisive action." Gumbleton responds, very much as Lens had, that the arms race is no longer a matter of numbers but of technology and sophistication. What would actually be a first step would be a change in our thinking; but that is not found in the agreement.

As an alternative to ratification of SALT II, Gumbleton proposes "simply to end formal negotiations and rely on unilateral demonstrations of arms restraint." He concludes his essay by noting areas where the churches can make a positive contribution.

Bryan Hehir moves in two steps. First, he discusses the political-moral case for SALT II, then the ecclesial case. By "political-moral" he means that the key moral value is control; the political method is negotiated limitation.

As for the political-moral case in favor of SALT II, Hehir, after conceding the agreement's limitations, presents four arguments. First, the quantitative controls are limited but not inconsequential. Proper evaluation of these controls means seeing SALT as a process with a history, a future. This process represents the first reduction of offensive weapons in the history of the nuclear arms race and as such "breaks the mind-set that the technological dynamic is beyond political control."

Second, there are qualitative controls, and limited as they may be, the key fact is the *principle* of qualitative control, which can lead to further reductions in the future.

¹¹⁴ Thomas J. Gumbleton, "Is SALT Worth Supporting? No," *Commonweal* 106 (1979) 105-7; J. Bryan Hehir, "Is SALT Worth Supporting? Yes," *ibid.* 108-10.

Third, there is the ominous threat of what can be anticipated if SALT II controls are not imposed. The crucial significance of the SALT process is the chance to impose political control on an arms race generated by a quasi-independent technological dynamic. If SALT II fails, what framework will remain for superpower arms limitation? We may be sure that if SALT II fails, we will see B-1, Trident II, along with MX on the legislative docket.

Finally, Hehir argues that defeat of SALT II will contribute nothing to the wider process of disarmament.

As for the ecclesial aspects of the discussion, Hehir cautions against identifying any one position as Catholic. Furthermore, it would be delusory to think that the public debate will be cast in terms of the Christian exchange. It will be argued in terms of whether it "gives away too much," not whether "it achieves too little." Hehir concludes that it is well within a balanced middle Christian position to hold that SALT II is not enough, but it is imperative as a step in the process." It is a position that meshes the possible and the necessary, that blends commitment with unavoidable compromise.¹¹⁵

One of the finer and more instructive pieces of reflection on SALT II is that of Alan Geyer.¹¹⁶ He describes his study as "a framework for coping with SALT II issues." Geyer begins by noting that there is no greater burden upon Christian history "than the failure of this generation of Christians to define the *nuclear arms race as a theological issue*."

The assumption of the Geyer study is that the probabilities of nuclear war within a generation are now rising rapidly. Geyer lists seven reasons for this statement: (1) massive resort to nuclear technology by many countries since the energy crisis of 1973-74; (2) breakdown of prospects for nonproliferation; (3) mounting prospects of nuclear terrorism; (4) rising curves of hostility in nuclear-prone regions such as Korea, the Persian Gulf, South America; (5) conventional arms race; (6) deterioration of détente; (7) lack of a coherent security-disarmament policy at the highest levels of U.S. government.

Geyer believes that SALT II must be assessed in terms of its effects on these seven somber trends. Furthermore, he believes that SALT has been absolutized into an idol, a monopoly of the superpowers to the exclusion of other countries ("an imperious and arrogant nuclear condominium"). Thus he emphasizes a world view that would approach the nuclear arms race within an international framework. He is extremely critical of the whole SALT process. "Nothing in the history of SALT can efface the fact that the superpowers now have many thousands more nuclear

¹¹⁵ For letters of reaction, cf. *ibid.* 226, 250-51.

¹¹⁶ Alan Geyer, "Arms Limits and SALT Limits: The Superpowers' Role in Nuclear Disarmament," *Shalom Paper* 6 (1979).

warheads than they had a decade ago." SALT I gave them this license and SALT II guarantees no reversal. Behind this buildup there are "desperately shifting rationales," reminiscent of Santayana's definition of a fanatic: "one who doubles his speed when he has lost his way."

Ultimately, however, Geyer finds the most morally compelling reason for supporting SALT II the vision of the world without ratification of it. It would almost surely witness a terribly costly and dangerous acceleration. Therefore, while he sympathizes with Bishop Gumbleton (SALT II is a "cruel hoax"), Geyer ends up supporting the agreements in a spirit of "painful ambivalence."

Geyer's presentation is forceful, insightful, and shot through with the moral urgency of nuclear arms limitation and reduction. It is, however, pretheological; that is, it is much more clearly concerned with what Christians ought to do and think than with the Christian warrants for doing so.

Joseph J. Fahey, director of the Peace Studies Institute at Manhattan College, attempts to fill this theological vacuum.¹¹⁷ He first cites the many documents (Pius XII through John Paul II, Vatican II, World Synod of Bishops, United States bishops) condemnatory of the arms race as itself an act of aggression. He then provides six theological assertions that "are relevant to a Catholic understanding of the need for disarmament." Briefly they are: (1) God as a loving God who wishes our common survival; (2) a theology of human nature that sees it as not totally depraved and therefore capable of peace; (3) a theology of sin that locates sin also in our corporate structures; (4) a theology of redemption that issues in a vibrant vision and hope; (5) a theology of politics that sees the political world as the sphere of God's redemptive activity; (6) a theology of nonviolence that roots in Jesus' command to love our neighbor.

Fahey makes some excellent points. I particularly appreciate his stress on the Christian basis for optimism and hope. If there is one common enemy of the cause of disarmament and peace, it is the sense of inevitability that settles into our attitudes—and practices. That leads to apathy, and apathy means abandonment of the political process to its own dynamic. Fahey has made it quite clear that there are no Christian warrants for such a response.

The first step against such apathy is public education. A New York Times-CBS news poll taken June 3–6 indicated the necessity of such education. When asked whether the Senate should vote for SALT II, 27% responded affirmatively, 9% negatively, and 64% stated that they did not know enough to have an opinion. That is startling and profoundly disturbing. For this reason the *National Jesuit News* put together a

¹¹⁷ Joseph J. Fahey, "The Catholic Church and the Arms Race," *Worldview* 22 (1979) 38–41. Cf. also *America* 140 (1979) 127–30.

special supplement on SALT II as a service to Jesuits. It is simply excellent. The supplement includes a summary of the SALT II agreements, a glossary of terms, bibliography, the position of the State Department, and four possible positions on SALT II.¹¹⁸ The four positions are those of Network (support), Admiral Zumwalt (opposition), Senator Mark Hatfield (amendment), Pax Christi (passive nonsupport).

George S. Weigel, Jr., backs off from the tactical discussion of SALT II to present the background against which any discussion of national security, arms control, and disarmament must take place among Catholics.¹¹⁹ There are four arenas in which contemporary debate ought to occur: contemporary history, strategic arena, theological arena, pastoral arena. It is Weigel's contention throughout his interesting study that there has been a tendency within recent Roman Catholicism to oversimplify the historical, strategic, and theological arenas. Sophistication is utterly essential. The Church's contribution to this can be to provide the arena where sound political discourse can occur. It will be sound if it is gathered around three questions: (1) What should be the goals of American national security, arms control, and disarmament policy? (2) What are the obstacles blocking our way to these goals? (3) What steps should the country next take to break through the obstacles? Weigel's study is good. It combines moral idealism with political realism and then wraps the package in Christian hope.

In an extremely interesting issue of *America*, four authors (Daniel Berrigan, Paul F. Walker, Seymour Melman, James R. Kelly) approach the arms race from several different perspectives: moral, strategic, economic.¹²⁰ Berrigan's essay is vintage Berrigan, a desperate cry in biblical and prophetic terms at the lunacy of the arms race. Paul Walker argues that SALT II fails in limiting the qualitative nuclear arms race. Yet he believes it should be supported, "for it is a positive, albeit small, second step toward regulating an increasingly dangerous and costly nuclear weapons competition."

The editors of *America* agree. In an excellent editorial they first note that "there is no issue of more fundamental importance to the nation and the world than the control of nuclear arms."¹²¹ There is an insane logic in the arms race, the premise being that the way to protect the possibilities of peace is to increase the dangers of war. The most successful weapons are those that are never used. *America* terms all of this an "exercise of lunacy" that is draining the human, material, and technical resources of

¹¹⁸ *National Jesuit News*, Oct. 1979.

¹¹⁹ George S. Weigel, Jr., "The Catholics and the Arms Race: A Primer for the Perplexed," *Chicago Studies* 18 (1979) 169-95.

¹²⁰ "The Arms Race: Marathon to Madness," *America* 140 (1979) 525-37.

¹²¹ *Ibid.* 524.

all involved. Nonetheless SALT II should be supported because it represents "a moment in a process" and "a small, significant, even indispensable step toward sanity."

Moral theologian Francis X. Meehan and parish priest William Mattia were deeply moved by this issue of *America*. They regarded the stance as prophetic and the issue as "a great moment in religious journalism."¹²² Both authors feel they must begin to do something about nuclear arms in their respective roles; for moral truth is attained by those who are, in their own lives, walking toward the truth. The remainder of this challenging article is a detailing of practical ways in which the problem of nuclear disarmament can be made urgent and practical for people.

A delegation of ten U.S. church leaders met with ten Soviet church leaders March 27-30, 1979, at Geneva's Ecumenical Center. The agenda: disarmament. In a 1200-word statement the group asserted that "we are convinced that the arms race cannot be won; it can only be lost." Alan Geyer reports the meeting and notes that the core of the statement is an appeal for early approval of SALT II.¹²³ The treaty, the statement continues, provides "a new and essential framework [of parity] for negotiating substantial and equal reductions in SALT III." Geyer underlines the fact that President Leonid Brezhnev and Soviet church leaders view the treaty as an absolutely vital symbol of détente and the reversal of the arms race. He concludes that "Christians in the U.S. would do well to evaluate the significance of SALT in such symbolic and political terms, not simply in terms of military hardware."

This is a sampling of religious and theological response to the SALT II debate. As I write, the Senate is about to undertake discussion of the matter. No one knows what the outcome will be. But one thing is clear: we are dealing here with what is certainly one of the most urgent moral concerns of our or any age. The possession, and a fortiori the use, of enormously destructive nuclear weapons makes no human or Christian sense. It is purely and simply a dead end for everyone concerned, an obscenity on the face of God's good earth. To those who say we cannot turn the clock back, the only answer is: we must. The question then becomes how this is most quickly and efficaciously to be done. By supporting SALT II, by passive nonsupport, by amendment, by opposition?

This reviewer sees real dangers in the latter three strategies, not the least being that, regardless of intent, they will have the practical effect of an alliance with those who want to increase and maintain our superiority

¹²² Francis X. Meehan and William Mattia, "The Arms Race and the American Parish," *America* 141 (1979) 126-28.

¹²³ Alan Geyer, "'Arms Race Can Only Be Lost' Say Ecumenists," *Christian Century* 96 (1979) 485-86.

in nuclear destructive power and who thereby inevitably intensify the arms race.

It is one of the paradoxes of this discussion that one can agree with many of the points made by Gumbleton-Fahey (*Pax Christi*) and yet agree with the conclusion of Hehir-Geyer and others. The modest stipulations of SALT II do indeed represent a form of institutionalized escalation. By these provisions alone the limitations on arms development will be relatively insignificant and support the fears of those who see in SALT II a missed opportunity. I agree with most of this. Yet I suspect that people with the same moral concerns and armed with the same moral teachings about the immorality of nuclear war and the nuclear arms race can disagree in their conclusions because they weight the political and symbolic importance of SALT II differently.

My own opinion, one that shares in Geyer's "painful ambiguity," is that SALT II ought to be supported. Not because it makes any significant quantitative or qualitative advances in arms control or reduction; rather it ought to be supported as the lesser evil among several not so attractive, even drastic options. Concretely it seems to be the only option that attempts to bring and keep arms development within the established process of negotiation, and as such SALT II can be seen as an extension of the very moral concerns that might lead one to oppose it. If we cannot achieve the reasonable in one fell treaty—and we certainly have not in SALT II—at least we do not forfeit the context in which the struggle toward this goal may continue with renewed vigor and with a deepened sense of moral urgency.