

CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY: 1981

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This version of the "Notes" will concentrate on three general themes: (1) methodology in moral theology; (2) the encyclical *Laborem exercens* and social morality; (3) pastoral problems (sterilization, hunger strikes, nuclear disarmament, divorce and remarriage).

METHODOLOGY IN MORAL THEOLOGY

Vatican II (*Gaudium et spes* 51) asserted that the "moral aspect of any procedure . . . must be determined by objective standards which are based on the nature of the person and the person's acts" (*objectivis criteriis ex personae ejusdemque actuum natura desumptis*). The official commentary on this wording noted two things: (1) In the expression there is formulated a general principle that applies to all human actions, not just to marriage and sexuality. (2) The choice of this expression means that "human activity must be judged insofar as it refers to the human person integrally and adequately considered" (*personam humanam integre et adequate considerandam*).¹ Clearly this is utterly important to moral methodology. But what does it mean to use as a criterion "the human person integrally and adequately considered"?

Louis Janssens, in another of his helpful articles, answers: the human person in all his/her essential aspects.² He then lists and discusses eight such aspects. The human person is (1) a subject (normally called to consciousness, to act according to conscience, in freedom and in a responsible way). (2) A subject in corporeality. (3) A corporeal subject that is part of the material world. (4) Persons are essentially directed toward one another (only in relation to a Thou do we become I). (5) Persons need to live in social groups, with structures and institutions worthy of persons. (6) The human person is called to know and worship God. (7) The human person is a historical being, with successive life stages and continuing new possibilities. (8) All persons are utterly original but fundamentally equal.

Janssens then formulates from these characteristics a general criterion of the rightness or wrongness of human actions. An act is morally right

¹ *Schema constitutionis pastoralis de ecclesia in mundo huius temporis: Expensio modorum partis secundae* (Vatican Press, 1965) 37-38.

² Louis Janssens, "Artificial Insemination: Ethical Considerations," *Louvain Studies* 8(1980) 3-29.

if, according to reason enlightened by faith, it is beneficial to the human person "adequately considered in himself (nn. 1 and 2) and in his relations (nn. 3, 4, 5, 6)." He refers to this as an "ethic of responsibility on a personalist foundation."

Because of our limitations, however, our actions are characterized by ambiguity. That is, they are at times simultaneously both detrimental and beneficial to the human person, containing both values and disvalues. Thus, an amputation can be indicated to save one's life (value) but necessarily involves a burden for the person (disvalue). The key moral question for Janssens is: When is there a *ratio proportionata* "to perform an activity in a morally responsible manner which simultaneously results in values and disvalues?" Janssens insists that the answer must consider the action as a whole (exterior action, intention, situation or circumstances, consequences). "Only about this *whole* can it be said whether or not an action is worthy of man or appropriate for the human person."³ He contrasts this with an approach he calls "Roman theology" which believes it possible to pass a judgment on the "external act alone." This belief is rooted in the contention that "the intention of nature was inscribed in the organs and their function," to use F. Hürth's words ("la volonté de la nature inscrite dans les organes et leur fonction").⁴ Hürth's perspectives, Janssens argues, led to Pius XII's rejection of artificial insemination by husband (AIH) and they reappeared in *Humanae vitae* and "The Declaration on Certain Questions concerning Sexual Ethics." Janssens rejects this point of view as inadequate and inconsistent with Vatican II's personalist criterion. "From a personalist standpoint what must be examined is what the intervention as a whole means for the promotion of the human persons who are involved and for their relationships."⁵

Janssens' article is concerned with artificial insemination. With very many theologians he accepts AIH under certain conditions, as I would. He also approves AID (donor insemination) under carefully detailed conditions. This is a conclusion I am not able to share. Rahner's arguments—which are not unique to him—still seem to me to be persuasive.⁶ Be that as it may, what is more important is the way Janssens formulates the question, and that is why it is presented in this section. He sees AID as involving both values and disvalues. "The moral question is whether there is a proportionate reason (*ratio proportionata*) to make this

³ Ibid. 21.

⁴ F. Hürth, S.J., "La fécondation artificielle: Sa valeur morale et juridique," *Nouvelle revue théologique* 68 (1946) 402-26, at 413.

⁵ Janssens, "Artificial Insemination" 24.

⁶ Karl Rahner, S.J., "The Problem of Genetic Manipulation," *Theological Investigations* 9 (New York: Herder and Herder, 1972) 225-52.

activity responsible or balance the positive and negative aspects according to the rules of priorities.”⁷ We learn this from experience and Janssens believes that the “results of serious research indicate that, with responsible selection, the positive aspects of the experience . . . supercede the lack of complete biological parenthood.”⁸

Janssens’ insistence on the “person adequately considered” as a normative criterion is absolutely correct, and his elaboration of what that means is very helpful. It is interesting to note that St. Thomas once wrote that “we do not wrong God unless we wrong our own good.”⁹ His “our own good” is identical with the “person adequately considered.” This matter is of major methodological importance, because there are still some theologians who acknowledge this in theory but whose analyses and conclusions reveal different perspectives at work.¹⁰ For this reason discussions of these matters quickly become discussions about authority, that is, that notwithstanding the inner reasonableness of an analysis or argument, official teachers have taken an authoritative position and that settles the matter.

Here a brief note. If *persona integre et adequate considerata* is the criterion for rectitude, it means that a different (from traditional) type of evidence is required for our assessment of human actions. For example,

⁷ Janssens, “Artificial Insemination” 28.

⁸ The reason for my doubts is that the criteria for the “results of serious research” are not mentioned and the existing reasons *contra* seem very powerful. Indeed, Janssens himself states my concern very clearly: “There is a fundamental difference between a deprivation which is forced by circumstances and a deficiency which is consciously caused” (27). Thus there is a fundamental difference between adoption and the asymmetry of relationship present in AID. This latter is “consciously caused,” and ordinary circumstances would not seem to justify it.

⁹ “Non enim Deus a nobis offenditur nisi ex eo quod contra nostrum bonum agimus” (*Summa contra gentiles* 3, 122).

¹⁰ Thus Hürth emphasized biological finality (“une téléologie presque incroyable”). He wrote: “Man only has disposal of the use of his organs and his faculties with respect to the end which the Creator, in His formation of them, has intended. This end for man, then, is both the biological law and the moral law, such that the latter obliges him to live according to the biological law” (416). The criterion at work here is certainly not the “person adequately considered.” A similar judgment must be made of those analyses that exclude all sterilization as intrinsically evil. Thus John Connery writes: “In the Judaeo-Christian tradition, the power to give life transcends the good of the person of its possessor and looks to the good of the person-to-be” (“Tubal Ligation: Good Medicine? Good Morality?” *Linacre Quarterly* 48 [1981] 112–14). To “transcend the good of the person” is to postulate criteria independent of the person. For this reason Connery rejects use of the principle of totality. He notes: “No doctor amputates a leg just to cripple a person. No doctor removes an eye just to blind a person. But doctors who do tubal ligations for contraceptive purposes do them precisely to destroy the power to procreate.” To which the proper response is: neither walking *as such* nor seeing *as such* are threats to the good of the person. But actual procreating can be, as Pius XII acknowledged when he indicated the many justifications for legitimately avoiding it.

in the past the criteriological significance of sexual conduct was found in its procreativity. Thus sexual intercourse was seen as "the procreative act."¹¹ Deviations from this finality and significance were viewed as morally wrong and *the* decisive factor in judging conduct. It is to be noted that once the significance of our conduct is described in this way, there is very little room left for any evidence from the sciences in sexual morality.

However, *persona integre et adequate considerata* goes beyond such biological facticity. In my judgment, we have not successfully grappled with the task of integrating scientific studies into our moral assessments in this area. Indeed, our past categories and concepts have made it difficult even to know how to use other disciplines. This leaves a kind of vacuum in moral method, and in the recent past polls have moved in to fill it. Thus we are caught between false alternatives: mere authoritative statements (appeals to past assertions and present office) versus mere polls. If formally authoritative statements are no substitute for evidence, neither are polls. Our failure to take Vatican II seriously and flesh out the significance of *persona integre et adequate considerata* has left a vacuum and made it possible for certain authority figures to reduce scientific data to "mere polls" and dismiss them, or to collapse scientific studies into "scientism." Janssens' study has helped to fill the vacuum and overcome the false alternatives.

Another study of methodological importance is that of John Wright, S.J.¹² Wright interprets Paul VI (*Humanae vitae*) as formulating an "obligatory ideal" and sees this as the heart of that pontiff's teaching. An obligatory ideal is not just an exhortation; it binds our consciences.

Wright lists four different kinds of obligatory ideals. The first (love God with all our hearts and souls) is impossible of achievement; but we must never cease trying and ought to regret our failures. The second type is capable of realization but extrinsic circumstances make actual achievement impossible (e.g., feed the hungry, shelter the homeless, defend the helpless). The third type is fully achievable (e.g., persevering until death

¹¹ Daniel Maguire faults this author for referring to sexual intercourse as "the marital act" and therefore answering "the *what* question." He objects that in answering the *what* question one sets up all the subsequent answers (*The Moral Choice* [Garden City, N.Y.: Doubleday, 1978] 133-34). My intention was not to give a *what* answer but to elaborate a traditional value judgment: sexual intercourse will best preserve its viability as human language if it is used as the language of the covenanted relationship we call marriage. That is not exactly a *what* (meaning of the act) question as much as it is the conclusion of a teleological analysis. "Marital act" is a kind of shorthand to convey this assessment. There is nothing in the nature of such shorthand that prevents adaptation to different cultures.

¹² John H. Wright, S.J., "An End to the Birth Control Controversy?" *America* 144 (1981) 175-78.

in religious or marriage vows). Finally, there are ideals that considered abstractly make claims upon us, "but considered concretely with all attendant circumstances ought not to be achieved." Wright gives many examples here: not taking oaths, not paying debts by declaring bankruptcy, not keeping vows by getting a dispensation, not telling falsehoods, etc. There are times when these obligatory ideals ought not or need not be realized. Thus, speaking the truth at all times, never deceiving another, is an obligatory ideal. However, sometimes it must be set aside in the interests of a more urgent or higher good, e.g., to protect a third party against an unjust assailant. When that happens, "the ideal continues to make its claim on me. While I do not regret deceiving the would-be assailant, I regret having to deceive him."

Wright sees intercourse open to the possibility of conception as an ideal of this fourth kind. It always makes a claim upon married people, but "it may and sometimes should be set aside for reasons over which they have no control." Married people regret having to separate the unitive and procreative aspects of sexual expression, but not the separation itself. When is such separation legitimate? "Proportionate, objective reasons must be there for departing from the ideal, whether by choosing infertile periods or by rendering fertile periods unproductive."

Wright insists that this understanding does not undermine the "basic teaching" of Paul VI. Rather, "it places it in the same category as Jesus' prohibition of all oaths, the ideal of truthfulness in every situation, of paying all one's debts, of keeping one's promises and vows. . . ." To say anything else is to "suppose a kind of sacred structure to the physical act itself, a divine purpose in this particular activity that renders any attempt to control or interfere with it immoral." Wright rejects this—rightly in my view—on the grounds that "immediate finality is always subordinate to the total finality of a reasonable human life."¹³

Wright returned to the subject as a result of reactions ("most of them . . . favorable") to his original study. Among other things, he clarified the notion of obligatory ideal. But the most serious problem raised was that of fidelity to papal teaching. Clearly, Wright's proposal diverges from Paul VI's understanding ("intrinsic dishonesty . . . always illicit"). Here Wright distinguishes between faithfulness and fundamentalism. Faithfulness seeks to reveal the "essential intent and meaning," whereas

¹³ Thus also Franz Scholz: "However, these natural ends are not the last word. They stand under the judgment of reason, as Thomas clearly emphasized" ("Innere, aber nicht absolute Abwegigkeit," *Theologie der Gegenwart* 24 [1981] 163-72, at 170). Brendan Soane writes: "Theologians seem to be generally agreed that the French hierarchy was right when it taught that the integrity of the marriage act is one value which can be balanced by others when couples decide what they should do" (*Clergy Review* 66 [198] 265).

fundamentalism simply fastens on "a particular verbal formula."¹⁴ Wright concludes by adducing examples (freedom of conscience, separation of church and state, ecclesial status of separated brethren) where Vatican II modified earlier authoritative statements of Gregory XVI, Pius IX, and Pius XII without being unfaithful to their "essential intent."

Several aspects of this interesting presentation suggest comment. First, it is not new. Rather, it is a skilful and useful summary of much of the writing of the past ten years or so. Theologians such as Schuller, Fuchs, Bockle, and Janssens have been arguing an identical point for the past decade. Thus, when they refer to certain aspects of our conduct as involving disvalues (Janssens), nonmoral evil (Schuller), premoral evil (Fuchs), the very implication of the terms "disvalue" and "evil" is that they ought to be avoided insofar as compatibly (with other conflicting values) possible. This maintains an implicit mandate to reduce and overcome the conflicts that lead to the causation of such disvalues. It maintains the thrust away from the disvalue (Wright's "obligatory ideal"). This is identical with Wright's "regret having to do this, but not [regret] actually doing it," a point made in nearly identical language by Peter Chirico in 1970.¹⁵

Next, I believe it is important to underline Wright's contention that this understanding does not contradict Paul VI's. It simply inserts it into a framework consistent with our understanding of other "obligatory ideals." This framework is that of a conflict of values, a point also made by Chirico. An example from another area of concern may help. Paul VI made a prophetic statement to the United Nations: "no more war, never." Such a statement recognized the many evils inseparable from war and invited, indeed urged (obligatory ideal) us to create a world wherein war is no longer thinkable. Yet would such a statement invalidate the self-defense of a nation-state against an unjust aggressor? Would it invalidate for now the so-called "just-war theory"? Hardly.¹⁶

Similarly, we may say: "No more sterilization, never." The meaning: let us create a world where the causing of such disvalues is no longer

¹⁴ John H Wright, S J, "The Birth Control Controversy, Continued," *America* 145 (1981) 66-68 Bernard Haring refers to the essence of the Church's concrete prohibition of contraception ("im Wesentlichen," "Grundanliegen," "das eigentliche Anliegen") as follows "Not only the whole of married life but also each act must reflect and show a concern for openness for the parental vocation" The concrete norm is only a vehicle to make visible a basic concern ("Pastorale Erwagungen zur Bischofssynode uber Familie und Ehe," *Theologie der Gegenwart* 24 [1981] 71-80)

¹⁵ Peter Chirico, S S, "Morality in General and Birth Control in Particular," *Chicago Studies* 9 (1970) 19-33

¹⁶ Richard A McCormick, S J, "Neuere Uberlegungen zur Unveranderlichkeit sittlicher Normen," in *Sittliche Normen Zum Problem ihrer allgemeinen und unwandelbaren Geltung* (forthcoming from Patmos Verlag)

necessary to achieve our legitimate or mandatory goals. But in the meantime would such a statement render invalid in a world of conflict a so-called "theory of justified sterilization"? Hardly.

Finally, Wright's distinction between "essential intent" and a "particular verbal formula" recalls the distinction of John XXIII and Vatican II between the substance and the formulation of a moral or doctrinal position. Rahner renders this by distinguishing between "a truth in itself and its abiding validity" and its "particular historical formulation."¹⁷ I am convinced that this distinction, properly understood,¹⁸ could reduce many tensions in the contemporary Church. More concretely, many of these tensions ("confusion of the faithful") are traceable to the insistence of some theologians on a basically fundamentalist interpretation of magisterial documents, one that is incompatible with history and, I believe, with the health of the contemporary magisterium. In this matter we need occasional reminders that faithfulness to tradition means not only remembering but forgetting.¹⁹

A perspective very close to Wright's but in different language is presented by Franz Scholz.²⁰ Scholz sets out to show that recent revisionist studies on moral norms within the Catholic community defy categorization into the polarities deontological-teleological. A proper appreciation of these currents²¹ will reveal that both deontological and teleological elements are present in such studies.

¹⁷ Karl Rahner, "Basic Observations on the Subject of Changeable and Unchangeable Factors in the Church," *Theological Investigations* 14 (New York: Seabury, 1976) 3-23.

¹⁸ I have argued that the substance of the Catholic tradition on abortion might be said to be: "Human life as a basic gift and good . . . may be taken only when doing so is the only life-saving and life-serving alternative" (*How Brave a New World?* [New York: Doubleday, 1981] 194). John Connery, S.J., rejects this: "This simply does not do justice to the careful distinctions that have been worked out in course of history" (*Linacre Quarterly* 48 [1981] 276). Here Connery shows that he does not accept the distinction between substance and formulation, or does not understand it. For "careful distinctions . . . worked out in the course of history" are precisely formulations. If one cites them as that to which we must "do justice," one identifies substance and formulation. Another example is transubstantiation. Gabriel Daly insists that "it is possible to confess one's faith in the real presence of Christ in the Eucharist while having serious reservations about the theology of transubstantiation" ("The Pluriform Church," *Tablet* 235 [1981] 446). Yet "transubstantiation" is a term carefully "worked out in the course of history."

¹⁹ Michael Richards, "The Tradition of Faith," *Clergy Review* 66 (1981) 307.

²⁰ Franz Scholz, "Innere, aber nicht absolute Abwegigkeit," *Theologie der Gegenwart* 24 (1981) 163-72.

²¹ This is not always easily accessible because of apologetic caricatures in the literature. Scholz faults especially R. Spaemann, who in his most recent work ("Über die Unmöglichkeit einer universal-teleologischen Ethik," *Philosophisches Jahrbuch*, 1981, 70-86) puts Catholic teleologists in the category of "eudaimonistic utilitarianism." Scholz refers to "similar massive misrepresentations" in the United States. Francis X. Meehan confirms the existence of some rather robust strawpersons in this discussion: "My own fear is that the

Scholz borrows from W. D. Ross the notions of "prima-facie duties" and "actual duties," and "prima-facie rightness, wrongness." As has been noted in THEOLOGICAL STUDIES before,²² the term "prima facie" indicates that certain features of acts have a *tendency* to make an act right or wrong. In so far as it has these features, it is right or wrong. But it is actually right or wrong only in terms of its wholeness and entirety. Scholz sees the features that create this tendency to rightness or wrongness as the deontological element. They establish a kind of presumptive duty to avoid (or perform) the action.

When in particular circumstances the features that constitute "prima-facie wrongness" are outweighed, these prima-facie elements continue to exert their claims. When, e.g., a person is prevented from making a promised visit to a friend because of an unforeseen emergency, the promise continues to exert its claim. The promisor ought to inform his/her friend as soon as possible of the emergency, send regrets, minimize the disappointment and damage caused by the omission, and make up for it according to his/her capacity. "In all of these gestures the 'claim' of the original duty exerts itself." This is virtually indistinguishable from Wright's "obligatory ideal" of the fourth kind.

When he turns to the traditional formulation of "intrinsically evil acts," Scholz argues that they should be understood (as Di Ianni understood them²³) as "prima-facie evil acts," and therefore as intrinsically evil only "in the weak sense." He notes that the Polish theologian A. Szóstek ("from the Wojtyła school") provides for exceptions even for acts traditionally regarded as intrinsically evil.

Scholz concludes by noting two points. First, if one adopts the "prima-facie structure," it is possible to attribute to certain actions a minimal moral meaning (intrinsic wrongness, but "in a weak sense"). This introduces a deontological element that overcomes the ideal polarities deontological-teleological. Second, Scholz argues (much as Wright does) that this understanding is true to the substance (*Grundtenor, Grundkonzept*) of traditional formulations.

issue is beginning to be emotionally loaded with forms of code words that do not do justice to the complexities. If one wishes to react to his opponent captiously, one can then always reduce his point to absurdity" ("Contemporary Theological Developments on Sexuality," *Human Sexuality and Personhood* [St. Louis: Pope John XXIII Medico-Moral Education and Research Center, 1981] 173-90, at 190). Such a reduction can be seen in P. H. Hallett's reaction to John Wright's study: "Fr. Wright's theology of the ideal is in fact no different from Situation Ethics" (*National Catholic Register*, May 3, 1981).

²² James Childress, "Just-War Theories: The Bases, Interpretations, Priorities, and Functions of Their Criteria," *TS* 39 (1978) 427-45.

²³ Albert R. Di Ianni, S.M., "The Direct/Indirect Distinction in Morals," *Thomist* 41 (1977) 350-80.

Totally out of sympathy with the teleological directions reported above (Janssens, Wright, Scholz) is Dario Composta.²⁴ He lists four types of "consequentialism." The first is biblical and he ascribes this to E. Schillebeeckx. The second type he calls "teleological consequentialism," insofar as it is founded on the "subject's ends or projects." Franz Böckle is his example here. The third is "intersubjective consequentialism," so called because the morality of the act is grounded in social consequences. William Van der Marck is the example of preference here. Finally, there is "theological consequentialism," which is constructed on a critique of various moral-theological theories. The author of these "Notes" is the honored champion of this type.

But these authors are used only as typical examples. By the time he is through, Composta manages to lock all of the following in his consequentialist prison: Marciano Vidal, E. Lopez Azpitarte, Peter Knauer, Joseph Fuchs, Bruno Schüller, Charles Curran, Louis Janssens.

"Biblical consequentialism" is the attitude that claims that each epoch must express that which is in conformity with the gospel according to the style of the times. Thus, the Middle Ages expressed this gospel fidelity through the mediation of the natural law. Our age requires a different mediation. The contemporary ethos becomes a *locus theologicus*. Composta sees this as a worldly relativism at odds with the gospel and the magisterium.

The "teleological consequentialism" he attributes to Böckle builds on the contention that "the morality of an act derives from the external consequences insofar as these are responsibly foreseen as ends." According to this analysis, Composta argues, there are no absolutely evil acts (*materia intrinsece absoluta*). "Neither killing of an innocent person, nor a direct lie, nor masturbation can be considered evil actions in all thinkable instances and without exception." Composta regards Böckle's analysis as "totally foreign to the ethical and normative values of the gospel," and therefore as "a process of decomposition of theology in general."

Van der Marck's "intersubjective consequentialism," Composta explains, is based on the contention that intersubjectivity is the essence of the human person and therefore of morality. Hence different epochs may pass different judgments on our actions depending on how they assess this intersubjectivity. Composta regards this as relativistic, "highly confused and bereft of any metaphysical foundations."

As for my own attempts to rethink the principle of double effect, Composta believes that it fails on a fundamental point: "fidelity to the

²⁴ "Il consequenzialismo: Una nuova corrente della 'Nuova Morale,'" *Divinitas* 25 (1981) 127-56.

Church's magisterium, which is never invoked as a demonstrative principle but only as an additional historical event."

Composta next lists three criticisms of "consequentialism." The first is that it is dualistic, treating persons as spirits who view their bodies as instruments. He sees this dualism in accusations of "biologism" leveled at formulations of the magisterium. Composta argues that biological nature manifests God's intentions.

Second, Composta accuses "consequentialists" of treating moral norms as pure creations of reason with no relation to objective reality. Thus: "if the body is an instrument separated from the spirit (as consequentialists teach), then each individual can make use of it indifferently for diverse purposes. These uses will be licit not because of any intrinsic finality but according to the options each individual agent imprints on them."²⁵ *Recta ratio* is indeed the norm but it is no longer "necessarily conformed to an immutable order." It is autonomous.

Third, Composta details his objections to "consequentialists'" notion of moral action. He claims that for them the basic goods (*ordo bonorum*) are neutral. Until the intervention of reason, they are not preferable or ends. Thus the arbitrariness of their morality. "If good and evil depend on the subjective 'preference' of the person . . . everything will depend on the decision of the agent."²⁶

To avoid this difficulty, Composta asserts, "consequentialists" try to modify the understanding of norms. They deflate rigorous and concrete norms (e.g., against abortion) into parenetic (merely exhortatory) statements whose binding force awaits specification. Thus there can be "reasonable concubinage" or "licit, not immoral abortion when the interested agent foresees that advantages for the agent will derive from such an action."²⁷ This Composta calls "utilitarian laxism." But he is not finished yet. The use of "proportionate reasons" confirms the autonomous character of their so-called '*recta ratio*.'" Composta continues: "Thus, for example, by 'proportionate reasons' a Titius could 'reasonably' choose adultery because of advantageous consequences. In such a case the choice would not be condemned . . . because it was made with the intent of 'human' effects: the rescuing of a third party, or the reinforcement of the friendship of the two adulterers, or the prevention of suicide on the part of one of them."²⁸ Composta insists that the disorder involved here cannot be called pre-moral, nonmoral, or ontic evil. "An intention superimposed on a morally wrong object does not destroy the intrinsic malice." Those who deny this fall into "subjectivism, relativism, utilitarianism, and, in a word, the denial of morality."

²⁵ Ibid. 146.

²⁶ Ibid. 151.

²⁷ Ibid. 152.

²⁸ Ibid. 153.

Composta concludes this breath-taking account by noting that St. Thomas would not countenance the doing of an illicit act to achieve a good, "as Knauer definitely holds and with him all consequentialists." He ends by citing John Finnis to the effect that "consequentialism is not and cannot be anything more than a technique for justifying any decision."²⁹

This is a remarkable article. In a relatively brief thirty pages it packages and displays virtually all of the distortions and misrepresentations of contemporary moral-theological discussion. It would be dreary to rehearse these distortions point by point. Over the years many of these issues have been engaged in these "Notes." For the record, however, a few points ought to be highlighted in a modest attempt to forestall their reappearance.

Item: To the best of my knowledge, no one holds—or can be forced in consistency to hold—that *recta ratio* is the arbitrary creator of the moral "ought," as Composta contends. Item: No one holds that the basic goods are neutral prior to the intervention of reason. That is precisely why contemporary theologians refer to nonmoral (pre-moral, ontic) *evil*. Item: No one holds that one may permissibly engage in adultery for "advantageous reasons." Nor does anything in the notion of *ratio proportionata* suggest this. Item: No one holds that one may engage in *illicit* acts for good ends, as Composta asserts. Item: No one holds or can be forced to hold that the body is a mere instrument to be manipulated dualistically for our purposes. What many do hold is that the *inclinationes naturales* may not be absolutized so that God's will is simply identified with biological facticity. Very few, if any, theologians indicted by Composta hold that moral rightness and wrongness are determined *solely* by consequences—if "consequences" refers to results beyond the moral object of the act. And so on.

At some point it is important to stand back from literature like this to detect its broader strategy. What I see happening is that theologians who often differ in significant ways are grouped under a single descriptive and misleading rubric ("consequentialism"). This rubric is then associated with some rather mischievous assumptions and conclusions. Then the entire analytic move is discredited with terms like "subjectivism, relativism, laxism." In his review of Finnis' *Natural Law and Natural Rights*, John Langan, S.J., protested this type of thing when he chided Finnis for not giving to other approaches "the careful and fair treatment that he rightly demands for natural law theories."³⁰

²⁹ It is disheartening to see such loose language repeated at more popular levels. Thus, James Hitchcock refers to "proportionalism and consequentialism" as "ethical reasoning already broad enough to justify almost anything" (*National Catholic Register*, Oct. 18, 1981). A gentle reminder: *qui bene distinguit bene cognoscit*.

³⁰ Cf. *International Philosophical Quarterly* 21 (1981) 217-18.

The truly regrettable aspect of this type of writing is that it enlightens nothing. Anyone familiar with this discussion knows that there remain genuine unanswered problems and difficulties (e.g., the relevance and meaning of the principle of double effect) as we dialogue with our own tradition. These should be met honestly and serenely. Apologetics by incantation only delays such engagement. In this sense I would conclude that Composta simply has not understood the state of the question.

In several studies Norbert Rigali, S.J., has reviewed these developments. In one he concedes that "moderate teleology" is basically correct but that "moral theology must evolve beyond it."³¹ Why? Because the model of human action basic to a teleological analysis is the human being as doer. Rigali believes that the "basic model of the human act is not a consequentialist but a relational model." There are certain ways of relating to other persons in the world that are immoral—which leads Rigali to conclude that there "may be more room in ethics for deontological considerations than the new consequentialism leads one to believe."

Rigali uses genocide as his example. Teleologists such as Fuchs, Schüller, Janssens, and Knauer cannot consider genocide "as immoral in principle." Like any other human activity, it "can be evaluated morally only in conjunction with its consequences in a concrete situation." Rigali rejects this as basically unchristian and concludes that "a more personalist Christian can understand genocide as a way of relating to the family of God that is simply incompatible with its authentic reality and meaning." Teleology, he says, cannot provide answers to these questions, even though it has served an excellent purpose in overcoming legalism and physicalism.

Several points. But before these points it is important to note that Rigali basically agrees with the analytic directions of much contemporary thought. He has different concerns. Now to his concerns. First, the word "genocide" is so close to a value term that it is a poor vehicle for Rigali's concern. In other words, I doubt very much that any contemporary theologians would describe it as a merely premoral or nonmoral evil.

Second, Rigali contends that those with teleological tendencies cannot say of genocide that it is "immoral in principle." They must evaluate it in relation with its consequences in a concrete situation. I really see no difference here. If an action in all thinkable situations is disproportionate, I would think one could say of it that it is "immoral in principle." What advantage that language achieves I do not know: Rigali does not tell us. Indeed, below Archbishop John Quinn's excellent statement on the arms

³¹ Norbert J. Rigali, S.J., "After the Moral Catechism," *Chicago Studies* 20 (1981) 151-62.

race is cited. At the key point in his evaluation he states: "What good could be proportionate to such uncontrollable destruction and suffering?" If this is not saying it "is immoral in principle," I do not know what it is saying.

Third, as I understand recent literature, its teleological perspectives make no claim to be establishing a model of the human act. Rather more modestly, this literature is dialoguing with its own tradition and insisting that moral rightness and wrongness of an action cannot be concluded simply from a consideration of the *materia circa quam*, as this tradition does with actions such as masturbation, sterilization, etc. Other considerations (what traditionally were called circumstances, not excluding consequences) are morally relevant. This is a relatively modest undertaking simply because the moral life is far more than a series of conflict situations.

Finally, therefore, this teleology is not to be contrasted with Rigali's relational model, as if one had to choose between the two as competitors. It is rather a question of viewing this teleology within the broader context of human relationships—where these relationships themselves are part of the analysis.³² In this sense the model of human action basic to this analysis is not the human being simply as a doer.

In another study Rigali, while again agreeing with the basic teleological dimensions of contemporary writing, asserts that it is inadequate because its concept of evil is restricted to the distinction between moral and premoral (ontic, nonmoral) evil.³³ Actually, the world is infected by the *mysterium iniquitatis*. To view evil merely in terms of moral and premoral evil "is to proceed without awareness of the Christian theology of original sin." Rigali traces this lack of awareness to the end-means structure indigenous to the teleological model. Furthermore, when this model is granted ultimacy ("a universal jurisdiction of teleology, by which the teleological model becomes fundamental and primary"), it tends to repeat the individualism of the classic moral manuals.

³² Ph. Delhaye correctly notes that biblical morality is thoroughly relational ("Morale chrétienne: L'Objectivité de normes éthiques générales dans la morale bibliquement ressourcee," *Esprit et vie* 19 [1981] 88-93).

³³ Surprisingly, Rigali misinterprets these terms. Of moral and premoral evil he writes: "The first refers to subjective evil (evil of a moral subject as such, sin) while the second stands for objective evil (an evil other than that of the moral subject as such)." Thus he ties the terms to the objective-subjective distinction. But this is not their meaning in contemporary writing. The terms, in the context of their usage, refer to objective rightness and wrongness. Thus moral evil, in contrast to premoral evil, is understood in an objective sense—as harm (deprivation etc.) unjustifiably caused. Before we know whether it was justifiably caused, it is said to be ontic, premoral, or nonmoral evil. In this context the distinction has nothing to do with the sinfulness of the subject.

Rigali once again proposes a relational model.³⁴ This model views the person not as a being with ends and means, but as "a-being-in-the-world, a-person-in-relation-to-all-being." It is a model that takes account of "the manifold relations of persons to the reality which encompasses them." One of the practical differences Rigali sees in such a model is that "the prohibitions of indiscriminate bombing of noncombatants, of genocide, of using a bomb that would kill a million persons" are seen as simply absolute.

Once again three remarks. It has been noted that phrases such as "indiscriminate bombing of noncombatants" seem to me to contain their own condemnation in their very description. They are very close to value descriptions, much as is the word "torture." In this sense, even a teleologist could regard them as simply absolute—though I think a teleologist would have a more rigorous and intellectually satisfying analysis of this absoluteness than Rigali offers.

My second problem with Rigali's study is that he interprets recent teleological thought as seeing itself "up against *only* the premoral evils in individual decisions" (my emphasis). I know of no authors who would recognize themselves in that. To identify certain disvalues inseparable from individual decisions is not to deny other dimensions of evil. Nor is it to attempt to describe the whole of the moral life or the moral universe. One who sets out to describe a kitchen cannot be faulted for not describing the entire house.

Finally, Rigali contrasts the teleological model of norm- and decision-making with the relational, which he prefers as superior. As I suggested, this is a false contrast. It can succeed only if we first falsely deflate the teleological model so that it excludes "the manifold relations of persons to the reality which encompasses them." In other words, such a contrast must suppose that the evaluation of criteria based on "the person adequately considered" is a very narrow, individualistic one, cut off from much of the reality of the person. As far as I know, no one proposes this. No one proposes to understand the teleological model as Rigali describes it. Therefore, I believe he has created something of a strawperson. But it would be a mistake to miss what I believe is his substantial point: any assessment of the significance of our conduct leading to a moral norm must view the person in a truly adequate way.

John Connery, S.J., has recently addressed these problems at length.³⁵ Since his study appeared in this journal, a brief recall must suffice here.

³⁴ Norbert J. Rigali, S.J., "Evil and Models of Christian Ethics," *Horizons* 8 (1981) 7-22. For a discussion of various models in moral theology, cf. Pierre Daubercies, "Les présentations de la morale chrétienne: Comment les classer?" *Esprit et vie* 91 (1981) 433-43.

³⁵ John R. Connery, S.J., "Catholic Ethics: Has the Norm for Rule-Making Changed?" *TS* 42 (1981) 232-50.

He first compares "proportionalism" with the traditional understanding of moral norms. In traditional terms, if the object, end, and circumstances were in accord with right reason, the act was morally right. "Proportion-
alists," by contrast, he says, "weigh all the good in the act against all the evil."

Next, against Knauer and Janssens, Connery denies that such a comparison (*ratio proportionata*) is necessary according to Thomas. All that is required is that damage associated with our actions (e.g., self-defense) be *praeter intentionem*. Third, Connery argues that the change to a proportionalist understanding of norms would mean that "such things as adultery, stealing, killing an innocent person are in themselves only ontic evil." Hence we would have to add a condition to every concrete rule ("unless there is a proportionate reason").

Finally, the article concludes with several critiques. For instance, for a proportionalist "a means has no independent morality of its own." Furthermore, this is a process of "demoralization" of all the good and evil in our actions. We can no longer say that "adultery, killing an innocent person, stealing" are morally wrong in themselves. Or again, the weighing of all the goods and evils (probable, possible, remote, etc.) is just too much to ask, whereas for the traditionalist "the main concern . . . is that the evil in the act be *praeter intentionem*." Connery concludes that shifting to a comparative standard "makes moral decision-making more difficult than is healthy for moral life."

I cannot possibly comment here on all the points raised in Connery's article. But I do want to respond extensively to several of them in the interests of clarifying the state of the question, a thing I do not believe Connery's study satisfactorily achieves.

1) *The notion of proportionate reason.* Connery conceives the term "proportionate reason" as synonymous with end or motive in the traditional sense. Thus he writes: an act "can be morally wrong by reason of its object and apart from an ultimate good intention." Or again: "an act can be bad apart from a good intention, i.e., a proportionate reason." Thus he interprets so-called "proportionalists" as saying that proportionate reason is something *in addition* to a clearly definable action. For this reason he can give as his example Thomas' example of the person who steals to commit adultery. The "to commit adultery" is seen as the end or motive and is identified by Connery as the proportionate reason. This is not, in my judgment, what this literature is saying. The proportionate reason is not in addition to an act already defined; it constitutes its very object, but in the full sense of that term. Take amputation of a cancerous limb to save a patient's life as an example. Connery would see amputation as the object and "to save a patient's life" as a motive. But the literature he is critiquing sees "to save a patient's life" (the proportionate reason)

as the object in the full sense of that term. In other words, proportionate reason enters into the very definition of *what* one is doing. If one conceives proportionate reason as *in addition to an act already definable by its object*, then one does indeed get into some mischievous results. For instance, it makes it possible for Connery to attribute to proportionalists the notion that a *ratio proportionata* can justify a *morally wrong act*.

Or again, what is the proportionate reason for forcefully resisting an attacker? It is clearly saving one's life. But that is *what* the action is, self-defense. It is not a motive superadded to an act with its own definition. By identifying proportionate reason with motive (in the traditional sense), Connery has inaccurately presented the literature and created a vulnerability that is not there.

2) *Value terms and descriptive terms.* Very close to the first point is the failure to distinguish these two. Connery repeatedly uses "adultery, killing an innocent person, stealing, etc." as examples of actions the tradition would judge "morally evil in themselves" but which "proportionalists might occasionally permit." Furthermore, he says that rules covering these actions "deal with moral evil." So they do—certainly, at least stealing and adultery. But these are compound value terms. They contain their own negative moral value judgment. For instance, tradition defines stealing as "taking another's property *against his/her reasonable will*." That is always wrong and so-called "proportionalists" always would and do condemn it. But it is not the issue.

The issue is: What *materia circa quam* (object in a very restricted sense) should count as stealing or murder or lying? This is the issue as I read it in the works of Schüller, Fuchs, Janssens, J.-M. Aubert, W. Molinski, Chirico, John Dedek, F. Böckle, Charles Curran, Pater Knauer, Scholz, Helmut Weber, K. Demmer, F. Furger, Dietmar Mieth, Daniel Maguire, Henrico Chiavacci, Marciano Vidal, Walter Kerber, Timothy O'Connell, and many others. While these theologians differ in significant ways, they do share a certain bottom line, so to speak: individual actions independent of their morally significant circumstances (e.g., killing, contraception, speaking falsehood, sterilization, masturbation) cannot be said to be intrinsically morally evil as this term is used by tradition and the recent magisterium. Why? Because such concepts describe an action too narrowly in terms of its *materia circa quam* without morally relevant circumstances. This issue is confused by using value terms to describe the actions and then attributing this to "proportionalists" as if they are trying to justify adultery, stealing, lying etc.

3) *The morality of means.* Connery asserts that "to the proportionalist a means has no independent morality of its own. Its morality comes from its relation to the end of the act." As just noted, that depends on how the means is described. If it is described as "murder," "stealing," "lying," it

is already morally wrong by its very description. But if a means is described without all of its morally relevant circumstances, then clearly it has no morality of its own.

Connery admits that "there are means which receive their morality from the end of the act, e.g., violence, mutilations etc." But, he says, this is not true of all means. As suggested above, most authors of my acquaintance would not conceive mutilation as a means to the end (motive) of saving a life. They would say that the very meaning (object in the full sense) of the action includes the notion of "saving the patient's life." Furthermore, it is to be noted that Connery describes what is going on (violence, mutilation) merely in terms of its *materia circa quam*. Of course that yields no moral rightness or wrongness. But why is that not true of terms like "masturbation," "sterilization"? This matter was treated extensively in these "Notes" earlier.³⁶ At that time I noted of Joseph Fuchs: "He has tightened the relationship between the traditional object-end-circumstances and argued that it is only the combination of the three that yields the total object of choice. The good intended in one's choice specifies the object without smothering it out of existence, and thus, in a sense, becomes an integral part of the total object."

We are at the heart of the problem here. We can analyze it as follows. Connery's major objection is that certain actions are (and have been taught by the magisterium to be) morally evil *ex objecto*. But, he argues, the proportionalist does not and cannot say this. From this objection nearly everything else that he says follows.

What is to be said of this objection? I think it misses the point of what so-called "proportionalists" are saying. When contemporary theologians say that certain disvalues in our actions can be justified by a proportionate reason, they are not saying that *morally wrong* actions (*ex objecto*) can be justified by the end. They are saying that an action cannot be qualified morally simply by looking at its *materia circa quam*, or at its object in a very narrow and restricted sense. This is precisely what tradition has done in the categories exempted from teleological assessment (e.g., contraception, sterilization). It does this in no other area.

If we want to put this in traditional categories (object, end, circumstances), we can say that the tradition has defined certain actions as morally wrong *ex objecto* because it has included in the object not simply the *materia circa quam* (object in a very narrow sense) but also elements beyond it which clearly exclude any possible justification. Thus, a theft is not simply "taking another's property," but doing so "against the reasonable will of the owner." This latter addition has two characteristics in the tradition. (1) It is considered as essential to the object. (2) It

³⁶ TS 36 (1975) 86-89.

excludes any possible exceptions. Fair enough. Yet, when the same tradition deals with, e.g., masturbation or sterilization, it adds little or nothing to the *materia circa quam* and regards such *materia* alone as constituting the object. If it were consistent, it would describe the object as “sterilization *against the good of marriage*” as the object. This all could accept.

This consideration leads to a much broader one. It concerns the very usefulness of the traditional object-end-circumstances terminology. The major confusing element is the usage of “object.” What is to be included in this notion? Sometimes traditional usage has included what really are morally relevant circumstances. Sometimes it has not and it has defined the object in terms of the *materia circa quam* (object in a very narrow sense). If this is unavoidable, then the terminology were better abandoned. I would think it better to speak of two characteristics of actions: (1) *materia circa quam* and (2) all morally relevant circumstances. These would include side effects, possible consequences, intentions, etc.

4) *Demoralization of good and evil in human acts.* Connery sees as a very “basic objection to proportionalism” the fact that it “demoralizes” the goods and evils in our actions. They are “only ontic or pre-moral.” “It is not enough,” he notes, “to judge that what one does goes against right reason to conclude that it is immoral.” One must go a step further and balance the goods and evils in the action. This objection is virtually the same as that noted in no. 3 above, but in different language. Hence it deserves the same response. Take Connery’s phrase “what one does.” Suppose we describe this “what” as “mutilation.” What is its morality? Clearly, we do not know, because no adequate human action has been described, only its *materia circa quam*. An action so described is neither in accordance with nor contrary to right reason.

Of course we must look to the goods and evils in the action, but we do that to find out “what one does.” Only then can we determine whether it is against right reason or not. So, far from “demoralizing” the good and evil in our actions, contemporary authors are insisting that one cannot adequately describe a human action simply by presenting the *materia circa quam*. If the action is described as “adultery, stealing”—as Connery repeatedly does—this point is missed. No one to my knowledge is trying to discover whether such acts (adultery, stealing) “would produce more evil than good.” Contemporary writers are trying to discover what should count as adultery. For instance, is every couple in an irregular second marriage living in adultery? We cannot know whether something is contrary to reason unless we know what it is. To miss the point is, in my judgment, a fundamental misunderstanding of the literature.

5) “*Praeter intentionem*” and the tradition. Connery states that the

“main concern of the traditionalist is that the evil in the act be *praeter intentionem*.” No weighing or calculus of good and evil is required. He attributes this position to St. Thomas. I shall leave it to Knauer and Janssens to deal with Connery’s understanding of Thomas. One can get almost anything from Thomas if enough texts are adduced. Still, several brief remarks are called for. First, while Thomas may not speak of a calculus of values and disvalues, I would further contend that he does not provide a true justification for violent self-defense. As Connery notes, “Thomas is satisfied with the simple explanation that it is natural for a person to defend himself.” I think Connery is correct here. But to say that something is natural is hardly an adequate defense. Or if it is, it is arguably unchristian.

Second, if the main concern of the traditionalist is that the evil be *praeter intentionem*, and if “the requirement that the good effect be proportionate to the evil effect is meant to guarantee the proper direction of the intention” only, as Connery argues, then this reveals an unconcern with the evil effect. It looks very much like a “keep-the-hands-clean” morality, as Daniel Callahan has repeatedly noted. Franz Scholz has pointed out that looking evil in the eye avoids an “exoneration mentality” so easily associated with phrases such as “merely permitted, only indirectly willed.”³⁷ In his lectures Joseph Fuchs constantly refers to *praeter intentionem* as a “psychological drug.”

Finally, if one “does not have to weigh it [evil] against the good to be achieved to make a moral judgment about the legitimacy of self-defense,” then any defensive reason could justify killing. I could kill my neighbor who is spanking my child. This reveals the inadequacy of a notion of agency centered solely on *praeter intentionem*.

6) *The novelty of proportionalism*. Connery notes that there is a history of exception-making in the Church. “One did not have to wait for proportionalism to provide for exceptions.” Connery’s presentation—as well as that of other discussants—makes it look as if we are talking about an entirely new system or method. Actually that is not the case. In nearly all areas of moral concern, whether prescriptions or prohibitions, whether of natural law or positive law, it was the notion of *ratio proportionata* that qualified the norm and established the possibility of exceptions.³⁸ One can see this at work in the restrictive interpretation of the prohibition

³⁷ Franz Scholz, “Objekt und Umstände, Wesenswirkungen und Nebeneffekte,” in *Christlich glauben und handeln*, ed. Klaus Demmer and Bruno Schuller (Düsseldorf: Patmos, 1977) 243–60.

³⁸ As Daniel Maguire notes, “In a sense it [the principle of proportionality by which “we face the delicate challenge of balancing goods and bads”] may be said to be the master principle of ethics” (*The Moral Choice* [Garden City: Doubleday, 1978] 164).

against killing, in the exceptions established in the area of taking another's property, in the area of deceitful speech, of promise- and secret-keeping, of the Sunday obligation, of the duty of integral confession, of the obligation of the divine office, of the duty of fraternal correction, of the duty to procreate, and on and on. Of course, we did not have "to wait for proportionalism to provide for exceptions," because we always had it. That is why Schüller and Gustafson have noted that traditional Catholic moral theology in its understanding of norms is profoundly teleological.³⁹ As Schüller earlier put it, "The point of the above hypothesis . . . is that an ethical principle which in its more particular form has long been recognized and acknowledged is being widened out to include all the actions of persons except those that have as their immediate object the absolute value of salvation and the moral goodness of the neighbor."⁴⁰

For instance, with regard to the duty to procreate, Pius XII referred to "serious reasons" (medical, eugenic, economic, social) that could exempt a married couple from this affirmative duty. Of these "serious reasons" Ford and Kelly write: "We believe that a careful analysis of all these phrases in the context would justify the interpretation that they are the equivalent of 'proportionate reasons.'"⁴¹ Does this make Ford and Kelly purveyors of a new system called "proportionalism"? Hardly.

Indeed, even those norms which were regarded as exceptionless were analyzed within such a framework. Take the confessional secret as an example. Lugo defends the absoluteness of this obligation as follows:

If it [revelation of sins] were allowed in some circumstances because of some extremely important need, this alone would be sufficient to make sacramental confession always difficult. Penitents would always fear that the confessor would reveal their sins because he would think this is an example of the exceptional instance. To avoid this evil, it was necessary to exclude any exception. That rare evil which would be obviated by revelation of sins is *in no proportionate relationship to the perpetual evil and continuing harm* which would be associated with the difficulty of confession if an exception were allowed.⁴²

Similarly, Lucius Rodrigo, S.J., in his massive *Theoria de conscientia morali reflexa*, argues that where doubts occur, probabilism must be excluded in dealing with the confessional secret. He argues as follows:

This *certain* obligation exists or continues as long as the basis of the prohibition against using confessional information continues—that is, the probable common

³⁹ James Gustafson, *Protestant and Roman Catholic Ethics* (Chicago: University of Chicago, 1978) 49.

⁴⁰ Bruno Schüller, S.J., "Zur Problematik allgemein verbindlicher ethischer Grundsätze," *Theologie und Philosophie* 45 (1970) 1-23, at 7.

⁴¹ John C. Ford, S.J., and Gerald Kelly, S.J., *Contemporary Moral Theology 2: Marriage Questions* (Westminster, Md.: Newman, 1963) 425.

⁴² *Tractatus de fide*, disp. 4, sect. 4, n. 57.

repugnance toward the sacrament traceable to the use of information that is certainly or probably sacramental in character, with the danger of the aforementioned annoyance [of the faithful]. For this repugnance is rightly judged to be such a huge common harm that even the danger of it is to be excluded *regardless of the inconvenience, because such inconvenience is rightly judged as the lesser inconvenience.*⁴³

Rodrigo is arguing, just as Lugo had, that there is no *ratio* truly *proportionata* to the harm that would ensue if exceptions were allowed.

Considerations like these make it clear that we are not dealing with some new system of establishing exceptions, as Connery implies, when we use the notion *ratio proportionata*. The notion is utterly traditional. The only question, in my judgment, is: Why, if we are to be consistent, does not such utterly traditional moral reasoning apply to all areas where moral norms attempt to state the rightness and wrongness of human action? Specifically, there are two areas where this *Denkform* has been excluded. They are: (1) actions considered wrong because *contra naturam* (e.g., contraception, masturbation); (2) actions considered wrong *ex defectu juris* (e.g., direct killing of an innocent person). These actions were said to be intrinsically evil in the manualist tradition. Applying a new *Denkform* to these excluded categories does not necessarily change the conclusions, as Benedict Ashley, O.P., has noted,⁴⁴ and as Connery concedes—though I think it does in some cases. In fact, it might open us to a much richer analysis of the actions in question, and to a sharper insight into the Church's substantial concerns in these areas.

To call this fairly modest attempt "proportionalism" leaves the impression that one is abandoning a long tradition and introducing something entirely novel. That has apologetic advantages, for people are wary about "a whole new system." But it is historically inaccurate, as anyone familiar with Catholic moral tradition will realize.

7) *Proportionalism as dangerous.* Connery's final problem is that so-called "proportionalism" is dangerous. It calls for a continuous "calculus" and he sees this as unhealthy for the moral life "particularly in the area of sexuality."⁴⁵

I disagree with that judgment and for several reasons. First, it supposes a notion of the moral-spiritual life as a succession of decisions about conforming (or not) to rules. Donald Evans rightly refers to the "sheer irrelevance of a formulated-rule morality in much of our moral life."⁴⁶

⁴³ Lucius Rodrigo, S.J., *Praelectiones theologico-morales Comillenses 4/2: Theoria de conscientia morali reflexa* (Santander: "Sal Terrae," 1956) 635–36, n. 1760.

⁴⁴ Benedict M. Ashley, O.P., "The Use of Moral Theory by the Church," in *Human Sexuality and Personhood* (n. 21 above), 223–42, at 237.

⁴⁵ Cf. *TS* 42 (1981) 501.

⁴⁶ Donald Evans, "Paul Ramsey on Exceptionless Moral Rules," *American Journal of Jurisprudence* 16 (1971) 184–214, at 188.

There just is not that much of it. We do not live amidst crises as a regular way of life. The shape of most of our days is determined by vocation, employment, habit, family, etc.

Second, even when we get embroiled in conflict situations, there is often no calculus to be made for the simple reason that it has often already been made by the community. Being a Christian means being a member of a body, a *communio*, a people with experience, reflection, and memory. Just as our knowledge of the *magnalia Dei* is shared knowledge, so is our grasp of its implications for behavior. In other words, we form our consciences in a community. And not infrequently this community has made over its history certain value judgments that ought to instruct the individual, even though they are capable of being nuanced or even changed. For instance, Stanley Hauerwas has noted of abortion that it is meaningful to say that "Christians just . . . do not do that kind of thing."⁴⁷ I think something similar can be said about other conduct (e.g., premarital intercourse). In a sense, the very values one desires to achieve in such conduct have been judged disproportionate by the community to the disvalues inhering in it. One need not struggle through this calculus on every date. Therefore the danger Connery sees in this *Denkform* can reflect a lurking individualism of outlook.

Third, it can easily reinforce a kind of brinkmanship in attitude that is rather immature. One who is constantly concerned with rules, who needs rules to control life (especially absolute rules), was recognized by St. Paul as spiritually immature.⁴⁸ The mature do the just, fair, chaste thing by a kind of enthusiastic connaturality, without the coercive force of the law. That is what we should be aiming at in moral education.

Fourth, to regard personal conscience judgment (here the judgment of proportion) as dangerous is to perpetuate a kind of paternalism (let someone else make the judgment) in the moral life, the dependency syndrome. If anything is unhealthy and dangerous in the long run, it is that.

Finally, the objection seems to imply that conduct will be more chaste and consistent if rules are stated as unquestionable absolutes. And conversely, that suggests that cultural permissiveness is due to the theoretical rethinking of the meaning of norms in certain areas. There is no evidence that the rethinking of norms that Connery calls "proportion-alism" has led to the permissiveness of our time. Such permissiveness is

⁴⁷ Stanley Hauerwas, "Abortion: Why the Arguments Fail," *Hospital Progress* 61, no. 1 (1980) 38-49, at 42. To say that such a statement is meaningful is not to say that it is a moral argument. It is rather the announcement of a finished moral argument, one that has grappled with the conflicting values.

⁴⁸ 1 Tim 1:9.

due to a whole host of cultural factors and would have occurred had all Catholic moral theologians been on vacation throughout.

I have devoted this large space to Connery's article for several reasons. First, he is thoughtful and careful. Furthermore, it is necessary to unpack the jargon that all too often infects this discussion ("consequentialism," "proportionalism"). But another very important reason is that phrases in his essay such as "Church moral teaching," "Church's rules," etc. can leave the impression that the teleological tendencies of many contemporary moralists involve "going against the Church's teaching." Paul McKeever is correct, I believe, when he notes that "defending proportionalism is not directly contrary to the explicit teaching of the Church. There is no such explicit teaching."⁴⁹ Indeed, there is the contrary practice, if not the full-blown theory. So, rather than "going against the tradition," recent efforts are much more a dialogue with certain aspects of that tradition by adherents of the tradition.

A splendid article by Lisa Cahill in this journal makes this last point very well.⁵⁰ Since her study concerns the writings of the author of these "Notes," I shall leave detailed response to other and wiser heads—except to suggest that the clarity of her analysis of the state of the question is in direct proportion (if I may!) to the absence of the type of apologetical fervor we find in Composta and others.⁵¹

⁴⁹ Paul McKeever, "Proportionalism as a Methodology in Catholic Moral Teaching," in *Human Sexuality and Personhood* (n. 21 above) 211–22.

⁵⁰ Lisa Sowle Cahill, "Teleology, Utilitarianism, and Christian Ethics," *TS* 42 (1981) 601–29.

⁵¹ Among these "others" William B. Smith must surely vie for the lead ("The Revision of Moral Theology in Richard A. McCormick," *Homiletic and Pastoral Review* 81, no. 6 [1981] 8–28). Smith's misuse of facts and his ideological innuendo are unrelenting. Just a few of the grosser errors can be noted here. (1) On abortion. Smith refers to my "studied silence" on the "Declaration on Abortion" of the Sacred Congregation for the Doctrine of the Faith. "It is strange," he writes, "that any moralist would be that silent about it. . . ." *False*. Cf. *TS* 36 (1975) 125–26, where I discuss it and refer to it as "this otherwise splendid Declaration." (2) On Hospital Directives. Smith states that our committee "so 'revised' the 1955 Directives that they were unrecognizable and so at variance with authentic Catholic teaching that the version was unacceptable to the Bishop Chairman of the USCC Department of Health Affairs." *False*. We (John Connery, Paul McKeever, and I) changed practically nothing in the Directives, a point that can be checked out with my colleagues or by consulting the doctoral dissertation on the subject by the late Clarence Deddens. (3) On the Ethics Advisory Board (DHEW), Smith writes: "When McCormick cast his vote with the unanimous recommendation of the EAB . . . he judged 'ethically acceptable' the Pierre Soupart proposal to initiate human life in a testtube for six days, study it, then destroy it." *False*. We never voted on the Soupart protocol. We returned it to Vanderbilt University for a rewrite. And if we had voted, I would have rejected it, a point well known to the members of the EAB.—In the good days of yore, Smith's recidivism would be an invitation to a duel. The postconciliar Church, however, suggests a gentler wrist-rapping, a reading of Genicot's treatise *De calumnia*.

LABOREM EXERCENS AND SOCIAL MORALITY

May 15, 1981 was the 90th anniversary of the encyclical *Rerum novarum*. This same year was also the 50th anniversary of *Quadragesimo anno*, the 20th of *Mater et magistra*, and the 10th of *Octogesima adveniens*. Not surprisingly, these anniversaries were not overlooked. On Sept. 15 Pope John Paul II belatedly issued his long encyclical *Laborem exercens* to commemorate the occasion.⁵²

This encyclical, clearly in substance the work of the pontiff himself,⁵³ is in my judgment an outstanding piece of work. The early journalistic reception given it was extremely interesting. A few samples will set the tone. The irrepensible Malachi Martin sees it as the "most amazing papal document since Alexander VI sat down in the early 1500's and . . . calmly disposed of one quarter of the globe."⁵⁴ Both the right and the left "recoiled" from the encyclical because "it contained stark rejections of both their positions." Martin feels that "with one stroke John Paul . . . has severed the economic chain that has shackled Christendom to capitalism." Francisco Forte, a professor of economics, and historian Valerio Castronovo view the encyclical as a bit old hat ("una sorta di rerum vecchiarum").⁵⁵

Quite the contrary, argued sociologist Pier Luigi Zampetti. "The real novelty of the encyclical escaped for the most part both supporters and critics of *Laborem exercens*."⁵⁶ He sees this novelty in the papal concept of work which can "modify the structure of capitalism." Michael Novak sees here a "text more philosophical and more experiential than any in this ninety-year tradition."⁵⁷ It "radiates with new and unusual angles of light." Arthur Jones asserts that "it further thrusts Church teaching as a weapon into the hands of those struggling for economic justice here and globally."⁵⁸ Peter Hebblethwaite regards it "more like a position paper for discussion than an authoritative statement."⁵⁹ The Holy Father is attempting to "breathe some new life into Catholic social teaching."

Harley Shaiken (Massachusetts Institute of Technology) argues that in the United States the Pope "would be viewed as among the more radical leaders," because "the teachings that are being stressed in the encyclical would require a profound change to implement."⁶⁰ Michel

⁵² John Paul II, "On Human Work," *Origins* 11 (1981) 225-44.

⁵³ This becomes clear when we read Card. Casaroli, "La célébration de l'anniversaire de 'Rerum novarum,'" *Documentation catholique* 78 (1981) 626-30.

⁵⁴ *The Prince George's Journal*, Oct. 9, 1981.

⁵⁵ *L'Espresso*, Sept. 25, 1981.

⁵⁶ *Gente*, Oct. 2, 1981.

⁵⁷ *National Review*, Oct. 16, 1981, 1210.

⁵⁸ *National Catholic Reporter*, Sept. 25, 1981.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

Schooyans believes that the encyclical "is without doubt the most important document ever devoted to the social teaching of the Church by a sovereign pontiff."⁶¹ Bartolomeo Sorge, S.J., editor of *Civiltà cattolica*, proposes that the encyclical, distancing itself from both collectivism and capitalism, "is an invitation to elaborate together a new model for living together."⁶² Flaminio Piccoli praises the document for its positive tone, "not lamentations and condemnations" but cogent proposals for social justice.⁶³ *Il Tempo* notes that while the reactions in Italy contain pros and cons, in Poland there was "broad and enthusiastic agreement."⁶⁴

Bryan Hehir calls attention to the gradual development of Catholic social thought from national problems to international ones, and finally in *Laborem exercens* to transnational problems.⁶⁵ Nicholas von Hoffman underlines the difference in world view between John Paul II's encyclical and the economism of the Reagan administration, or, as he puts it, "between the Christian way and the American way, between social justice and the social models purveyed by Ron Reagan and Al Haig."⁶⁶ He says that "if the pope be inspired from on high, then it would appear that the late doggedly and dedicatedly liberal Hubert Humphrey sitteth at the right hand of the Creator with full permission to beam down the liberal agenda."

It will be some time, of course, before serious studies of the encyclical appear. But already the editors of *Civiltà cattolica* have some helpful remarks.⁶⁷ They note that *Laborem exercens* has a different methodology than *Populorum progressio* and *Octogesima adveniens*. John Paul II wanted to treat a single theme in depth,⁶⁸ whereas Paul VI's documents ranged over a whole host of social problems. Thus John Paul II underscores the point that "human work is a key, probably the essential key, to the whole social question." In approaching work, the Pope wants to provide an overall vision. Thus the positive tone of the encyclical.

The editors see as absolutely fundamental the principle that work is for man, not man for work. The encyclical is constructed on this foundation. Furthermore, the novelty of the Pope's approach is that he rigorously remains on the ethical-religious plane, and this provides him

⁶¹ *La libre Belgique*, Sept. 23, 1981.

⁶³ *Il popolo*, Sept. 16, 1981.

⁶² *Oggi*, Sept. 30, 1981.

⁶⁴ *Il tempo*, Sept. 17, 1981.

⁶⁵ Bryan Hehir, "A New Era of Social Teaching," *Commonweal* 108 (1981) 585.

⁶⁶ *New Republic*, no. 3486, Nov. 4, 1981.

⁶⁷ "Scoprire i nuove significati del lavoro umano: L'enciclica sociale di Giovanni Paolo II," *Civiltà cattolica* 132, no. 3151 (1981) 3-14.

⁶⁸ This is also noted by Oswald von Nell-Breuning, "Menschliche Arbeit," *Orientierung* 45 (1981) 195. Nell-Breuning calls attention to the fact that Leo XIII and subsequent popes, never having been workers, spoke of the subject "from above." John Paul II was a worker and could speak to the subject from his own experience.

with "exceptional clarity and freedom of judgment." But it also means fewer of the concrete pastoral judgments found in *Mater et magistra* and *Octogesima adveniens*. Far from being a step backwards—as some commentators stated—this simply indicates John Paul II's different purpose and method. He wanted, the editors assert, to offer a "gospel of work" (the Pope's words), a kind of profound meditation. He leaves to us the choices to be made "to safeguard the personalistic character of work, to overcome the mentality of economism and materialism, to change unjust economic structures."

Laborem exercens deserves careful reading and discussion. Rather than detailing and commenting further on its substantial content, I want to offer three remarks stimulated by this encyclical's style and content. First, the encyclical seems to represent a different type of teaching, one describable perhaps in terms of enlightenment and understanding rather than prescriptions and prohibitions. It is as if John Paul II is inviting us to share an ongoing philosophical meditation with him. This has not always been the style of so-called "authoritative teaching," and especially so in the areas of what might be called domestic morality. In this latter area, concrete prescriptions and proscriptions have played a central role.⁶⁹

Second, the enlightenment occurs by identifying, analyzing, and constantly returning to certain basic and general notions. In the case of *Laborem exercens* there are two key notions. (1) Work is for the person (unfortunately, the rendering is constantly "man" in the English version), not the person for work. Hence the evil dimension of any system that reduces the person to a mere instrument. Work should bring about growth and a sense of accomplishment in the human person. It is, therefore, not primarily what is done but the person doing it (work in the subjective sense) that is primary. (2) The priority of labor over capital. Capital is for labor, not vice versa. Thus the error of an economism that considers labor only according to its economic purpose. Both capitalism and socialism are critiqued by these principles. John Paul II returns over and over again to these two principles, examines them from several points of view, and traces everything he subsequently says to these bases. This means that he provides an element of unity and simplicity in what could otherwise collapse into a confusion of details and of unrelated particulars.⁷⁰

⁶⁹ Cf. Kenneth R. Overberg, *An Inconsistent Ethic? Teachings of the American Catholic Bishops* (Lanham, Md.: University Press of America, 1980).

⁷⁰ There is an interesting detail in the encyclical that is suggestive. When speaking of emigration (no. 23) John Paul II refers to it as "in some aspects an evil." But it is, as he writes, "a necessary evil." He continues: "Everything should be done . . . to prevent this *material* [emphasis mine] evil from causing greater moral harm." This reflects the distinction between moral and nonmoral evil. That John Paul II is utterly familiar with this

Finally, such a procedure leaves room for specification by other disciplines and for disagreement about applications and tactics. The Pope is providing a prophetic vision, a way of construing the world theologically, rather than providing a series of concrete answers. The *National Catholic Reporter* referred to it as "philosophy and ground rules from which Catholics and others can begin forays in search for new answers."⁷¹ That strikes me as an excellent direction for the magisterium to take, and for several reasons. For one, it is much more likely to persuade, and it is precisely persuasive analysis that commands assent in moral matters.⁷² For another, it properly recognizes the competence and responsibility of others in the development and implementation of the Church's social teaching. Responsibility is to be underlined here. There is a gap between formulated social teaching and its practical implementation. That gap reflects the socially dormant conscience, and this notwithstanding Vatican II's statement: "Let everyone consider it his sacred obligation to count social necessities among the primary duties of modern man."⁷³

If there are aspects of this encyclical that may provoke critical comment, I suspect that they may organize around four points. First, the treatment of management in *Laborem exercens* seems inconsistent, because in the papal categories it is a form of labor, yet a part of capital. Management and its dynamics and philosophy have a powerful, even dominating influence in contemporary times on work and workers.

Second, the political dimension of organized labor may be viewed by some as treated too uniquely with a view to the Polish situation. The Pope sees political activity as creating the danger that unions will "lose contact with their specific role, which is to secure the just rights of

language is clear from Andrzej Szostek's *Normy i Wyjatki* (Lublin: Katolicki Uniwersytet Lubelski, 1980), for which dissertation the then Cardinal Wojtyla was a reader.

⁷¹ *National Catholic Reporter*, Sept. 25, 1981, 10.

⁷² As James Burtchaell, C.S.C., notes of a bishop who encounters things that grieve him in the Catholic press: "Better to exercise what authority one does have by becoming a more persuasive (and hence more authoritative) shepherd by becoming a more cogent teacher" ("The Catholic Press and Church Authority," *Origins* 11 [1981] 304-8, at 305). In this respect I recommend highly a little gem of an essay by Quentin de la Bedoyere ("Christian Disobedience," *Tablet* 235 [1981] 518-19). He notes: "What is required at the spiritual level . . . is for the Church consciously to become the leader in the development of moral autonomy To her surprise she will, I believe, discover that her influence will become greater rather than less, and this influence will be effective not only among her own members but in a society which is looking for moral leadership." He asserts that the way the Church has exercised her authority in the past (and the way it still does exercise it) has "produced Catholics who have either been conformists or have broken away dramatically from the moral order."

⁷³ *Gaudium et spes*, no. 30.

workers." In many Western democracies union political activity is precisely the means of securing these rights.

Third, there appears to be some ambiguity about the role of women. Should they aspire to some role other than wife and mother? It is clear in the encyclical that they should receive equal pay, should not be discriminated against, etc. But is their very presence in the labor force a reluctant concession on the part of John Paul II?

Finally, there is the very composition of the encyclical. It seems clear that *Laborem exercens* is substantially the work of the Pope himself. But is that really appropriate? Philip Land, S.J., at a conference on the encyclical, suggested that "the day of a pope writing encyclicals by himself ought to be over. People in this room ought to be helping writing encyclicals."⁷⁴ At the same conference George Higgins, surely one of the nation's most expert persons in this area, stated that "there ought to be a more collegial way of writing these documents."

The Land-Higgins statements—which in no way derogate from the timeliness and power of *Laborem exercens*—bring to mind a very remarkable article that many may have missed. Though it appeared in 1971, it is still highly pertinent. It is Oswald von Nell-Breuning's account of his authorship of *Quadragesimo anno*.⁷⁵ Wlodimir Ledochowski, then the General of the Society of Jesus, was entrusted with the preparation of this commemorative encyclical. He in turn assigned the task to Nell-Breuning. "In strict secrecy. . . . Neither my local superior nor my provincial knew what work I had to do for the General." Nell-Breuning could consult no one and "was left wholly on my own." At the end of this absorbing article Nell-Breuning remarks: "When I think back on it today, it seems to me that such a procedure, that allowed the whole bearing of an official document to be determined by a consultant . . . without any countercheck worth mentioning, seems frighteningly irresponsible." He finds it distressing that "even today [1971], apparently, if the occasion arose, they would proceed in a manner similar to that for *Quadragesimo anno*." His final paragraph reads:

Today people expect that announcements of the highest Church authorities—on questions in which the profane sciences also have a voice—be on just as high a level as that of scientific statements of the most qualified international bodies. This presumes that an international group of recognized specialists in the sciences participate in the elaboration and assume the technical scientific responsibility for such new statements.

⁷⁴ *Washington Post*, Oct. 24, 1981, C10.

⁷⁵ Oswald von Nell-Breuning, S.J., "Octogesimo anno," *Stimmen der Zeit* 187 (1971) 289–

Nell-Breuning's words point to the continuing interesting literature on the magisterium.⁷⁶ Just a single article will be noted here in passing.⁷⁷ Since everyone has a dream these days (e.g., Cardinal Hume at the Synod of 1980), Karl Rahner presents his. He is present at a meeting in 1985 where the pope is addressing leading representatives of the Christian churches from all over the world. The pope is attempting to put papal teaching authority in a more understandable context to still non-Catholic fears and misgivings. Rahner's pope has several interesting observations. One is that since the pope is, in his *ex-cathedra* decisions, defining the faith of the Church, "the pope must necessarily have recourse to the sense of the faith of the whole Church." An explicit recourse to the episcopate is "absolutely morally necessary," and a "moral obligation." An analogous "moral obligation" would seem to be the case in the situation of practical moral matters.

But what is of more interest is the statement of Rahner's pope on noninfallible teaching. He states: "Even the second Vatican Council did not speak clearly enough about such authentic but reformable Roman doctrinal decisions." The pope then adds: "Roman procedure after the council left something to be desired by way of straightforward clarity and modesty."

It is a well-known fact that Rahner refuses to believe that no. 25 of *Lumen gentium* is the last word on authentic noninfallible papal pronouncements. The matter is mentioned here for the record, so to speak. There are still theologians whose theology has no room for dissent. This overlooks the fact observed by Rahner's pope: "The ordinary magisterium of the pope in authentic doctrinal decisions at least in the past and up to very recent times was often involved in error and, on the other hand, Rome was accustomed to put forward and insist on such decisions as if there could be no doubt about their ultimate correctness and as if any further discussion of them was unbecoming for a Catholic theologian."

In the course of *Laborem exercens* John Paul II makes note of "a principle that has always been taught by the Church" (scil., the priority of labor over capital; no. 12). He also states that his reflections are "in

⁷⁶ B. C. Butler, "Ordinary Teaching," *Clergy Review* 66 (1981) 3-8; Pierre Grelot, "L'Eglise et l'enseignement de la morale," *Esprit et vie* 91 (1981) 465-76, 481-89; Karl Lehmann, "Lehramt und Theologie," *Internationale katholische Zeitschrift* 10 (1981) 331-38; Joseph A. Komonchak, "Research and the Church: A Theologian's View," *Living Light* 18 (1981) 112-20; M. Seckler, "Eine Wende im lehramtlichen Theologie-Verstandnis?" *Theologusche Quartalschrift* 161 (1981) 131-33; Ludiger Oeing-Hanhoff, "Ist das kirchliche Lehramt fur den Bereich des Sittlichen zustandig?" *Theologusche Quartalschrift* 161 (1981) 56-66.

⁷⁷ Karl Rahner, "Dream of the Church," *Tablet* 180 (1981) 52-55. Cf. also *Concern for the Church* (New York: Crossroad, 1981) 133-42.

organic connection with the whole tradition" of early social teaching. When one hears the phrase "the social teaching of the Church," the impression left is one of a coherent body of unified teaching. In an extremely interesting study, John Coleman, S.J., shows convincingly that this is not the case.⁷⁸ For instance, Leo XIII viewed private property as "an almost metaphysical right." This is in sharp contrast with *Mater et magistra* and *Populorum progressio*, where such a right is not absolute, and to John Paul II's noted phrase about "a social mortgage" on all property.

Similarly, subsequent tradition would not follow Pius XI when he asserted (*Quadragesimo anno*) that "no one can be at the same time a sincere Catholic and a true socialist." Indeed, more to the point there is Pius X's distorted interpretation of *Rerum novarum*, in which he asserted that the authority of capital over labor is as essential to the social organism as the authority of the Church, government, or family. John Paul II would certainly frown over that tenet. Then there is the heavy philosophical emphasis prior to Vatican II, but after that council "explicitly theological thought strongly informs the papal teaching." Coleman sees this as "a massive sea change," his only point being that history will not bear out the contention that in social teaching there is an unbroken coherent unity untouched by the waves of time.

To discover these waves of time or the historical context of encyclicals, we must attend to a whole variety of factors: the mind of the principal author (e.g., Nell-Breuning for *Quadragesimo anno*), the movements and disputed questions to which the pope was responding, the other writings of the papacy, etc.

Coleman's article deserves careful thought. Undoubtedly there will be some who will see in such historical exegesis a systematic undermining of the authority of papal statements. After all, the argument would run, what does it matter that Nell-Breuning wrote *Quadragesimo anno*? The pope "made it his own." That is what counts. I have heard this response many times before. An answer might be: "Of course it counts. But for what?" Certainly it does not purge the document of its limited perspectives and human ingredients. If one thinks so, then that person is attributing in a quite magical way a more unearthly, unhistorical character and authority to papal composition than we do to the composition of the Gospels. The recognition of limited, imperfect, even inconsistent elements in these magisterial documents should detract no more from their abiding value than do similar elements from the inspired word.

⁷⁸ John Coleman, S. J., "Development of Church Social Teaching," *Origins* 11 (1981) 33-41. For a comparison of the social teaching of Leo XIII and John Paul II, cf. Ph.-I. André-Vincent, "Pour le centenaire de 'Rerum novarum,'" *Esprit et vie* 91 (1981) 509-11.

In a long and thorough article Charles Curran amply documents the thesis of Coleman.⁷⁹ He shows that from Leo XIII to the present there have been important anthropological shifts, both personal and social, that ground Catholic social ethics. At the personal level, these changes have culminated in our contemporary emphasis on freedom, equality, participation, and historical consciousness. The methodological consequences of this are considerable. For instance, Curran sees in the early documents the formation of a social doctrine drawn out of a deductive reasoning process based on the immutable natural law applicable to all nations. Over the decades the approach has shifted to an "objective scrutiny of the present reality in the light of the gospel and of the teaching of the Church," a much more dynamic discernment process.

As examples of the social aspects of a shifting anthropology, Curran adduces private property and socialism. From the rather hardened attitude of Leo XIII, a certain relativizing characterizes magisterial statements on both these aspects. For instance, the right of private property is now seen as subordinate to the universal destiny of the goods of creation. Similarly now "with due prudence and discretion one could opt for a Marxist analysis of social reality provided that one recognizes the danger of its connection with Marxist ideology." Why? Because *Octogesima adveniens* acknowledges that there are various levels of expression in Marxism, even though it would be illusory to forget the link that binds them together.⁸⁰

Curran's study is a fine synthetic overview of an important and still developing papal literature.

Before the publication of *Laborem exercens*, the editors of *Civiltà cattolica* published a study that makes many of the points noted by Curran and Coleman.⁸¹ They note that in a sense *Rerum novarum* is a document that has to be "written on an ongoing basis" ("deve continuare ad essere scritta"). It is a kind of dynamic presence in all the social encyclicals that followed it. This dynamic presence and the real novelty of *Rerum novarum* is found not in its conclusions, many of which are dated, but in the fact that for the first time the Church's social concerns were given a systematic philosophical and theological justification. Thus its continuing relevance consists in the method in which it approached social problems.

⁷⁹ Charles E. Curran, "The Changing Anthropological Bases of Catholic Social Teaching," *Thomist* 45 (1981) 284-318.

⁸⁰ For critiques of Marxist analysis, cf. Pedro Arrupe, S.J., "Marxist Analysis by Christians," *Catholic Mind* 74, no. 1355 (1981) 58-64; Quentin Lauer, S.J., "Christians and Marxist Analysis," *Ateismo e dialogo* 16 (1981) 43-47.

⁸¹ "Dalla 'Rerum novarum' ad oggi," *Civiltà cattolica* 132 (1981) 345-57.

However, that encyclical must be continually reworked, because the social teaching of the Church developed in stages. *Rerum novarum* represents the first stage. It was dominated by "Christian philosophy" and a "rigidly deductive" method, as Curran noted above. This had two shortcomings. First, it left no room for the relevance of the sciences (political science, sociology, economics). Second, and a consequence, doctrinal elaboration was seen as an exclusively hierarchical task, lay persons being merely "faithful executors."

The second stage covers the pontificates of Pius XI and Pius XII and might be called the stage of "social doctrine." Indeed, *Quadragesimo anno* used this term for the first time. It referred to an organic corpus of universal principles still rigidly deduced from social ethics and constituted a kind of third way between liberalism and socialism. However, there is greater emphasis on the historical moment and applications of principles to practice, hence the beginnings of a re-evaluation of the place of lay persons in the process. Pius XI distinguished "unchanged and unchangeable doctrine" from social action, this latter being the competence of lay persons.

The third stage began with John XXIII. John moved from the deductive to the inductive method, his point of departure being the "historical moment," to be viewed in light of the gospel. This led to a complete re-evaluation of the place of lay persons vis-à-vis social teaching, a re-evaluation completed by Vatican II. Lay persons do not simply apply the Church's social teaching; they must share in its very construction.

The novelty of this third stage is clear in the fact that the social teaching of the Church no longer refers to an immutable corpus of doctrine. Even the term "social doctrine" has fallen into disuse and is reserved for the period from Leo XIII to John XXIII. It is also clear in the new emphasis on the responsibility of the Christian community in the elaboration and application of the Church's social teaching, an emphasis most completely stated at Puebla (no. 473).

This extremely interesting and very realistic analytic chronicle suggests a question: Has such a development occurred in the area of the Church's approach to familial and sexual morality? The answer is rather clearly no. Perhaps the question were better worded as follows: Should not such a development occur in the approach to these other questions? If a clearly deductive method, one that left little room to the sciences and lay experience, prevailed in the elaboration of social teaching, it is reasonable to think that the same thing occurred in familial and sexual morality. And if this method has evolved and changed during the pontificates of John XXIII, Paul VI, and John Paul II, as the editors of *Civiltà cattolica* correctly note, it is reasonable to think that the same thing ought to happen in all areas of Church teaching. Yet two things seem clear about

the Church's teaching on sexual and familial morality. First, earlier popes are invariably cited for their conclusions, not simply their systematic method. Second, the sciences and lay experience remain marginal factors in the continuing reflection of the Church on familial and sexual matters, as noted above.

Adverting to some of the changes mentioned by Curran and Coleman, Oswald von Nell-Breuning, S.J., asks if the Church's social teaching has not lost its identity.⁸² Not surprisingly, his answer is a firm no. But one must distinguish between the changeless principles and their concrete application. These latter are conditioned by historical times and changes, and the perspectives of those living in such times. This happens even in our times. Thus, even Vatican II views the "Church in the Modern World" within a pronounced European-American (developed) perspective. For our social teaching to be freed from this narrowing of perspectives, we need the voice of the Third World bishops.

Nell-Breuning reviews the social teaching on the Church to highlight the distinction between abiding principles and time-conditioned and no longer valid applications. For instance, he cites two encyclicals of Leo XIII (*Diuturnum* [1881] and *Immortale* [1885]). Leo correctly recognized the basically different duties of church and state—and this assertion is timeless and unchanging. Here he breaks with the Middle Ages. However, he remained within the confines of *his* time and context. Leo grew up in a Catholic country and was familiar only with Catholic countries. Therefore for him the state is the political unity of a people united in the Catholic faith. Out of these perspectives he developed much of his teaching on the relation of church and state. But because these perspectives are time-conditioned, the normative conclusions he draws from them do not pertain to changeless principles. When this distinction is properly made and carefully applied, we will see that the Church's social teaching is a system of "open statements," what Nell-Breuning calls a "constant learning process."

He concludes the essay by insisting that most magisterial statements are not the best formulations of the matter, and that that which does get expressed is not an exhaustive account of objective reality, but merely a piece of it. Nell-Breuning's essay further confirms Wright's distinction between faithfulness to the magisterium and magisterial fundamentalism.

The distinction between abiding principles and time-conditioned application is also at work implicitly in Andrew Greeley's essay.⁸³ Greeley argues that Catholics have forgotten the fundamental social theory of

⁸² Oswald von Nell-Breuning, S.J., "Hat die katholische Soziallehre ihre Identität verloren?" *Internationale katholische Zeitschrift* 10 (1981) 107–21.

⁸³ Andrew Greeley, "Quadragesimo anno after Fifty Years," *America* 145 (1981) 46–49.

Quadragesimo anno and “replaced it with a slightly baptized form of vulgar Marxism.” The dominant social wisdom is concerned about the conflict between self and society. The individual strives for freedom; society strives to constrain this. Greeley sees this as a false picture of the relationship. There is an informal, intimate network of relationships that integrate self and society.

The common themes suggested by *Quadragesimo anno* are solidarity, decentralization, smallness, co-operation, respect for pre-existing networks of workers, families, and neighbors. This is the unique and still radical critique mounted by *Quadragesimo anno* in the face of both capitalism and Marxism. But Greeley despairs of its having any effects because “no one is even remotely aware” anymore of this Catholic heritage. Greeley seems to be suggesting that *Quadragesimo anno* is a relic because we never really did grasp its abiding substance.

An excellent article by David Hollenbach, S.J., represents a kind of contemporary footnote to *Laborem exercens*.⁸⁴ It points out that human rights are the central norms of social morality proposed by the Church. These rights, based on the dignity of the human person, concern essential needs, basic freedoms, and relationships with others. These needs, freedoms, and relationships are equally and integrally normative in the Church’s approach.

However, the papal supposition that these values should be simultaneous and equally important is rejected by both the right and the left. Both Marxist socialists and authoritarian capitalists endorse a restriction of freedom for the alleviation of poverty. Both ideologies regard the Catholic “third way” approach (clearly that of John Paul II in *Laborem exercens*) as naive and moralistic in its failure to recognize genuine conflicts and the need for hard and nasty choices.

In his response to this criticism, Hollenbach distinguishes three distinct but related levels of analysis. (1) The foundational level (based on the dignity of the human person as an *imago Dei*). There is little disagreement at this level. (2) The level of social contexts most conducive to the realization of these fundamental values. (3) The level of analysis that proposes explanations of what causes the realization or destruction of these values. The sharpest and most heated disagreements occur at the second and third level.

For instance, one reading of the context and cause for the denial of human dignity sees imperialist capitalist governments and multinational corporations as the key driving force. Another reading would emphasize

⁸⁴ David Hollenbach, S.J., “Both Bread and Freedom: The Interconnection of Economic and Political Rights in Recent Catholic Social Thought,” forthcoming in the bimonthly *Freedom at Issue* (Freedom House).

the deprivation of human rights as the context and cause. These models of interpretation can gradually get identified with the fundamental value of human dignity itself. When they do, they become ideologies that easily spawn blinding and misdirected passion.

Hollenbach argues that the Church is particularly, and rightly, sensitive to the dangers of identifying a model of social context and causality with the basic value of human dignity itself. She has a long memory about the injustices associated with both authoritarian regimes and liberal capitalism. Furthermore, living as she does in a variety of cultures and economic regimes, the Church is properly sensitive to their differences. Finally, her mission is particularly concerned with the fundamental values. These three considerations keep her alert to the dangers of competing ideologies and lead her to emphasize "the provision of *both bread and freedom*" as the appropriate goals of political economy.

As I read John Paul II's *Laborem exercens*, it is discussing above all Hollenbach's foundational level and from that level providing food for thought for the levels of context and causality. It constitutes a critique of any absolutizing at this second and third level.

PASTORAL PROBLEMS

Sterilization

Johannes Grundel of the University of Munich treats the very practical problem of sterilization in Catholic hospitals.⁸⁵ He first reviews official Catholic teaching on sterilization, a teaching that must be observed "as long as there are no correspondingly decisive reasons against it." This teaching is that direct sterilization is intrinsically evil. The reason for this conclusion, Grundel notes, is that "every marital act remains by its nature ordained to the procreation of new life" and hence that a sterilizing intervention is "unnatural." Thus Pius XI (1930), Pius XII (1951), Paul VI (1968), and the Congregation for the Doctrine of the Faith (1975). Of this teaching Grundel says: "If one proceeds in a fundamentalistic manner, if one relies only on the statements of Church authority, then there can be no doubt on this matter, no discussion. There is only a clear no."

Grundel notes that by no means can we exclude a further development of such teachings. "Precisely in this area many contemporary moral theologians have noted that the underlying argumentation is no longer convincing." It is the task of moral theology, as a science, to test these teachings. Just as John Wright did, Grundel adduces Pius IX's *Quanta cura* as an example where this testing led to change.

⁸⁵ Johannes Grundel, "Zur Problematik der operativen Sterilisation in katholischen Krankenhäusern," *Stimmen der Zeit* 199 (1981) 671-77

Gründel next turns to the argument supporting traditional formulations and finds it unsupportable. "The biological-physiological integrity of conjugal intercourse does not represent an absolute value but is in the service of total personal well-being (*im Dienst des ganzheitlich personalen Vollzugs*)."⁸⁶

Gründel then adverts to the document of the Congregation for the Doctrine of the Faith. The Congregation, while admitting broad dissent, asserted that such dissent does not have doctrinal significance so as to constitute a theological source. Gründel believes that this assertion questions the very nature of theology as a science, and he rejects it. "Regard for Catholic teaching means also, when the occasion arises, inclusion in the decision-making process of well-founded theological opinions at variance with official Church teaching."

He concludes that sterilization is a "physical evil" but it does not constitute a moral evil "if there are correspondingly serious reasons for its performance." He words his conclusion as follows: "If direct sterilization is not absolutely prohibited and immoral according to its nature, then there can be conflict situations in which such an intervention is morally responsible, and therefore may also be performed in a Catholic hospital."⁸⁷ In such conflict situations where procreation is absolutely counterindicated, "the fruitfulness of the couple has lost its function and meaning." Gründel's only remaining concern is that the intervention be strictly controlled against arbitrary abuse.

I cite this article by Gründel because he is representative of very many truly responsible theologians.⁸⁸ The article's very special value is that Gründel refuses to analyze the situation in terms of a juridical standoff between official teaching and theological opinion. In juridical terms, theologians are not official teachers as this term is ordinarily understood. Therefore, if the matter is couched juridically in terms of who is official, who is not, the traditional formulation wins out. It is a confrontation of unequals and eventually turns into a dialogue of the deaf. But, Gründel argues, to see the problem in this way is to rob theology of its scientific

⁸⁶ Similarly, Bernard Haring points out that many moral theologians judge the intervention "with a view to the whole good of the person and of healthy relationships in marriage." This is not the view of "influential theologians in the Congregation for the Doctrine of the Faith." However, Haring cites Cardinal Ratzinger's report to his priests on the 1980 Synod as supporting the possibility of exceptions: "Wherefore the criterion of *Humanae vitae*, clear as it is, is not inflexible, but open for differentiated judgments of ethically differentiated situations" ("Pastorale Erwagungen zur Bischofssynode über Familie und Ehe," *Theologie der Gegenwart* 24 [1981] 71-80).

⁸⁷ Gründel, "Zur Problematik" 675.

⁸⁸ Several theologians in Germany have informed me that there is only one theologian in that country (G. Ermecke) who still defends the formulations and conclusions of *Humanae vitae*.

character and in the process to paralyze doctrinal development *in principle*.⁸⁹ Were this the case, we would still have *Quanta cura* and not *Dignitatis humanae*. Therefore dialogue on these matters should occur on the merits of the argument, not solely on the respective juridical positions of the dialoguers. Otherwise authority is served, but not necessarily the truth.

Both John Wright and Johannes Gründel make reference to a kind of fundamentalism of procedure in the approach to statements of the magisterium. In this connection I should like to refer to three outstanding essays by the Irish Augustinian Gabriel Daly.⁹⁰ He describes the growth of two conflicting attitudes in the post-Vatican II Church. One is a fundamentalism that consists "in the rooting of one's entire faith in the pronouncements of authority." This is a kind of fideism, "the kind of religious faith which does not regard itself as in any way accountable to reason."

Daly observes that during the century preceding Vatican II there were three major attempts to open the Church to its critical responsibilities (Liberal Catholicism, Modernism, the "New Theology" of the 1940's). All were literally wiped out (*Tuas libenter* [1863], *Pascendi* [1907], and *Humani generis* [1950]) "by an alliance between fundamentalist attitudes and juridically centralized authority." These condemnations enshrined two constant features: (1) Neo-Scholastic supremacy over all other systems; (2) the use of papal power to impose Scholasticism, and Thomism in particular. These were the integral props of the "ultra-montane program." Daly sees a new ultramontanism developing, but without the former props.

The collegial ideal which might have been the queen of Vatican II's achievements is now a sleeping princess. Some day her prince will come; but on present showing he will need to be a man of unusual qualities not indeed in order to awaken her . . . but to occupy the fortress where she has been placed in suspended animation.⁹¹

The essence of ultramontanism, according to Daly, "is the wish for *total* conformity with papal ideas and ideals in *all* things." It is the

⁸⁹ This is what the long pastoral of the Irish bishops actually does. Those who disagree with official formulations, they say, "very often advance as their reason for their conduct not their own ideas, but the authority of theologians in disagreement with the institution." This, the bishops note, involves a false notion of the role of theologians in the Church, "for their authority does not, indeed cannot, surpass that of the pope . . ." The bishops go on to condemn actions like contraception and sterilization as "morally evil in themselves." Cf. "Conscience et morale," *Documentation catholique* 63 (1981) 31-40.

⁹⁰ Gabriel Daly, "Conflicting Mentalities," *Tablet* 235 (1981) 361-62; "The Ultramontane Influence," *ibid* 391-92; "The Pluriform Church," *ibid.* 446-47.

⁹¹ Daly, "The Ultramontane Influence" 391.

ultimate form of Roman Catholic fundamentalism. It becomes tyranny whenever it creates an atmosphere "in which open enquiry and honest dissent are arbitrarily construed as disloyalty or worse." Daly argues powerfully that "orthodoxy is meaningless and possibly immoral if it is not the answer to a genuine search for truth."

These simulating articles represent a passionate plea for the commercialism of ideas in the Church against what Daly sees as the oncoming crisis: "the danger that the Church's institutional influence and power may be invoked and used to stifle open discussion and to promote the aims of one school of thought to the exclusion of all others." Such attempts have not only failed in the past but have constituted self-inflicted wounds on the Church. As a matter of historical fact, much of what was put forward in the century before Vatican II and was suppressed was later adopted, but in what Daly calls a "haze of historical amnesia."

I mention these essays here because there is every indication that the problem of sterilization will be "solved," especially in this country, by repeated appeals to authoritative statements rather than by Daly's "normal commerce of intellectual life," the very condition for keeping Christian faith in the marketplace.

The Hunger Strike

1981 was the year of the hunger strike. Ten prisoners succumbed in the H-Block of Belfast's Maze Prison before the strike was terminated. Understandably, these dramatic events evoked a great deal of ethical comment. When Bobby Sands died, Bishop Edward Daly of Derry stated in a television interview:

Whilst I think the British Government has been intransigent, I find it very difficult—in my own conscience—to morally justify a hunger strike. I would not describe Bobby Sands' death as suicide. I could not accept that. I don't think he intended to bring about his own death. I think that he thought there was a possibility, that he hoped that something else would be achieved.⁹²

The Irish bishops issued a statement after Bobby Sands' death saying that "the Church teaches that suicide is a great evil." However, they added that "there is some dispute about whether or not political hunger striking is suicide, or more precisely, about the circumstances in which it is suicide."⁹³

The editors of the *Tablet* saw Bishop Daly's comment as "equivocal." They note: "It is the constant teaching of the Christian Church that hunger striking to death amounts to the serious sin of suicide."⁹⁴ They

⁹² Cf. "Bobby Sands' Death," *Tablet* 235 (1981) 472.

⁹³ *New York Times*, June 8, 1981, B7.

⁹⁴ *Tablet* 235 (1981) 472.

fault the Primate of All Ireland for his silence. If a straightforward statement had been made, the bishops "might be regarded as reliable guides on other moral issues." There is no question where the *Tablet* editors stand on this matter.

Alberic Stacpoole (St. Benet's Hall, Oxford) traces such equivocation to the Church's desire to give people the benefit of the doubt.⁹⁵ "In this forgiving manner, it can speak of starvation-to-death as overplayed brinkmanship (without intent finally to take life); or as a political martyr process, where by double effect the witness-to-value, rather than the dying at the end of it, is of the essence."

Raymond E. Helmick believes that the different response of people to the hunger strikes means that they are responding not to the hunger strikes themselves "but to the context and purpose of these hunger strikes in particular . . . in terms of their approval or disapproval of the hunger strikers' aims."⁹⁶

Shortly after the *Tablet* editors had faulted the hierarchy for equivocation and silence, the Irish bishops issued a strongly worded statement.⁹⁷ On the hunger strike they wrote: "We therefore implore the hunger strikers and those who direct them to reflect deeply on the evil of their actions and their consequences." They deplored injustice and violence in Ireland and referred to the contempt for human life, the incitement to revenge, intimidation of the innocent, initiation of children into violence as "as appalling mass of evil." It is not clear whether their phrase "evil of their actions" refers to the strikes themselves or their violent repercussions. One might speculate that sensitivity to the plight of Catholics in Northern Ireland may have exercised a restraining influence on public statements by Catholic leaders.

In a letter to Bishop Edward Daly, Cardinal George Basil Hume repeated what he had said in an earlier pastoral: "The hunger strike to death is a form of violence." It "surely cannot be condoned by the Church as being in accordance with God's will for man."⁹⁸ Terence Cardinal Cooke shares this view.⁹⁹

The H-Block strikers have, in a sense, resurrected a dispute that goes back at least sixty years (to 1920) to the hunger strike of Terence James MacSwiney, Lord Mayor of Cork. The lively moral discussion that surrounded MacSwiney's strike and death is detailed by Carroll Ed-

⁹⁵ *Tablet* 235 (1981) 473.

⁹⁶ Raymond E. Helmick, "Northern Ireland in Moral Focus," *Tablet* 235 (1981) 516-17.

⁹⁷ *Tablet* 235 (1981) 629. For the statement of four religious leaders (Archbishop Armstrong, Church of Ireland; Dr. Callaghan, Methodist; Dr. Craig, Presbyterian; Cardinal O' Fiaich, Roman Catholic), cf. *Tablet* 235 (1981) 436.

⁹⁸ *Catholic Chronicle*, May 15, 1981, 3.

⁹⁹ *New York Times*, June 8, 1981, B7.

wards.¹⁰⁰ The debate at that time centered on two key issues: whether the hunger striker intends his own death and whether there is a truly proportionate reason for such a drastic act. Thus P. J. Gannon, writing in *Studies*, argued that "no hunger striker aims at death. Quite the contrary; he desires to live."¹⁰¹ Similarly, *America* appealed to the principle of double effect.¹⁰² MacSwiney was not seeking to destroy himself but to live in a just society. Thus suicide is not an appropriate description of his conduct.

René Brouillard, writing in the Jesuit journal *Etudes* (see Edwards), noted that the striker must not choose death. His death is to be the result of his testimony, not a chosen cause of it. Brouillard concluded that the striker must be given the benefit of the doubt as long as respectable theological opinion was divided. Thus the discussion was conducted very largely in terms of MacSwiney's intention. Was he intending his own death? Or was it unintended? On more than one occasion he stated that he had no suicidal intent.

The shape of that earlier discussion can be gathered from five articles in the *Irish Ecclesiastical Record*.¹⁰³ There Canon John Waters and Dr. Patrick Cleary, then professor of moral theology at Maynooth, agreed that direct or intentional self-killing is suicide. But they disagreed sharply on what the hunger striker is actually intending. Waters argued that the men were aiming at death and that by dying (means) they intended to rally support for their cause. Cleary contended that they were simply refusing to co-operate with the regime even in a fast to death. Death was merely permitted.

In recent months this same discussion has been renewed. A few examples will suffice here. Denis O'Callaghan, professor of moral theology at Maynooth, notes that Irish moral theologians have classified hunger strikes in three categories. (1) The deliberate strike to death, morally equivalent to suicide. (2) The exercise in brinkmanship in which death, if it occurs, is accidental and not intended. (3) The case of the hunger striker who does not want to die but is prepared to tolerate his own death if the other side is not prepared to give in. O'Callaghan states that most moral theologians would regard this last category as indirect, not direct,

¹⁰⁰ Carroll Edwards, "Hunger Strike: Protest or Suicide?" *America* 144 (1981) 458-60.

¹⁰¹ P. J. Gannon, "The Ethical Aspect of the Hunger Strike," *Studies* 9 (1920) 448-54, at 450.

¹⁰² "Mayor MacSwiney's Hunger Strike," *America* 23 (1920) 495.

¹⁰³ John C. Waters, "The Morality of the Hunger Strike," *Irish Ecclesiastical Record* 12 (1918) 89-108; P. Cleary, "Some Questions regarding the Morality of Hunger Strikes," *ibid.* 265-73; John C. Waters, "The Morality of the Hunger Strike—Rejoinder," *ibid.* 13 (1919) 14-26; P. Cleary, "Some Further Questions regarding the Morality of the Hunger Strike," *ibid.* 219-29; John C. Waters, "A Further Rejoinder," *ibid.* 391-403.

self-killing.¹⁰⁴ As he notes elsewhere: "The suicide verdict turns on a question of fact—does the hunger striker intend his death (as the Czech student Jan Palach did when he burned himself to death in protest against the Russian invasion of his country), or is he prepared to accept death possibly as the inevitable side-effect of a protest action on which he has embarked?"¹⁰⁵

O'Callaghan feels that attention to this aspect of the problem ("amounting almost to an obsession") has obscured consideration of the motives and circumstances of the hunger strikes. On these grounds he judges the strikes to be "morally unjustifiable."

Joseph Farraher, S.J., is quite emphatic on his stand. "I have always held and still hold that to kill oneself or seriously threaten to kill oneself, even for a noble cause, is a usurpation of God's dominion over life and is objectively gravely sinful."¹⁰⁶ Farraher clearly believes that a "hunger strike to death" is killing oneself. He thinks that O'Callaghan's third category is not indirect killing but "direct killing in intention, even if only conditionally." Farraher is convinced that the pseudonymous writer (Carroll Edwards) in *America* completely confuses the notions of direct and indirect "in saying that since death was not the strikers' desire or aim, it was not directly intended, while at the same time making it clear that death is intended as a means even if not desired for itself."

Responding to a rather fuzzy letter in *The Times*, moral theologian John Mahoney, S.J., of Heythrop College, asks: Is death from a political hunger strike suicide?¹⁰⁷ He admits that during the prolonged and progressive nature of the action there is room for bluff and brinkmanship. However, "it is difficult to avoid concluding that, as far as it is humanly evident, the hunger-striker who dies has at some stage deliberately and irrevocably chosen to do so." It is clear that Mahoney regards this as morally wrong.

Herbert McCabe, O.P., is not so sure.¹⁰⁸ He begins by supposing (*dato non concessio*) that the strikers' cause is just (i.e., that they are unjustly imprisoned). If the hunger striker is determined to discontinue the strike as soon as his just demands are met, "it does not seem plausible to describe the hunger striker who dies as a suicide." However, if he threatens to take his own life if his demands are not met, then that is different. If it is wrong to intend one's death, it is wrong to threaten to do

¹⁰⁴ *Catholic Chronicle*, May 15, 1981, 3.

¹⁰⁵ *Irish Times*, June 15, 1981.

¹⁰⁶ Joseph Farraher, S.J., "Are Hunger Strikes Moral?" *Homiletic and Pastoral Review* 82, no. 1 (1981) 67-68.

¹⁰⁷ *The Times*, May 6, 1981.

¹⁰⁸ Herbert McCabe, O.P., "Thoughts on Hunger Strikes," *New Blackfriars* 62 (1981) 303-10.

so; for a threat "is nothing but the announcement that under certain conditions he will do this thing that is wrong." A person who proposes to commit adultery if the weather is not good enough for tennis intends to do what is wrong just as much as the person who intends to commit adultery whatever the weather. Interestingly, McCabe remarks as an aside that this argument is not available to anyone who believes in the moral acceptability of the nuclear deterrent.

In the final analysis, McCabe does not believe that the hunger striker need be threatening suicide. He need not be intending to discredit authorities *by his death*. In the case of the Czech student, the student's intention would be thwarted if he did not die. McCabe is unable to say whether factually this is what the hunger strikers were doing.

This is a sampling of how the recent discussion has proceeded. The heavy emphasis is on the intention and there is virtually unanimous agreement that the hunger strike is morally wrong if it must be said that the striker at some point intends his own death. Thus the key assumption is that it is always wrong to intend to kill an innocent person, including oneself. This reflects the quite traditional teaching summarized by Zalba twenty-five years ago: "It is permissible for one fasting for a public cause . . . to extend the fast to the point of great danger of death and *therefore with the intention of taking food when the stomach permits.*"¹⁰⁹

Now enter Walter Kerber, S.J.¹¹⁰ Kerber considers the hunger strike in itself, that is, in abstraction from the circumstances of any particular strike. He notes that traditional moral theology must condemn the hunger strike as a threat to kill oneself. This is judged to be intrinsically evil.

However, certain characteristics of the hunger strike suggest questions about the plausibility of this absolute condemnation. Our sensitivities do not always equate the hunger strike with suicide. Furthermore, the public regards some hunger strikers (e.g., Gandhi) as moral heroes. There is often expressly Christian motivation present. Finally, only Catholic theology uses the double-effect principle to judge such actions, a principle borrowed from philosophy, not the gospel.

Such "plausibility considerations," however, do not suffice. We must get a true picture of what a hunger strike is. Kerber sees it as a form of nonviolent protest, a political strategy that is far better than its alternative, war. When compared to war, it uses a minimum of physical force. It provides less occasion for hate and it respects the human dignity and

¹⁰⁹ M. Zalba, S.J., *Theologiae moralis summa* 2 (Madrid: Editorial Catolica, 1957) 62, no. 149; emphasis added.

¹¹⁰ Walter Kerber, S.J., "Zur moraltheologischen Beurteilung eines politisch motivierten Hungerstreiks," *Theologie und Philosophie* 57 (1982) forthcoming in Heft 1. The final manuscript was kindly forwarded to me by the author.

ethical responsibility of one's opponent. It distinguishes more clearly between the person and the injustice. Thus it is a strategy aimed at doing away with violence.

The hunger strike is at one with the just-war theory in holding that force cannot be completely avoided. It differs from such a theory in its claim that force against *another* is not always the best means. Sufficient is a means involving less evil than war. Indeed, when the actual use of force in most wars is submitted to rigorous ethical scrutiny, it cannot be justified.

Kerber argues that the hunger strike cannot be seen as a matter of individualistic ethics. It must be viewed "in conjunction with a more general political ethic of violent confrontation." Thus it should be seen as an alternative to war, and when it is, it is unintelligible how it can be absolutely forbidden. Kerber argues that, as long as it cannot be shown to be evil in itself, the hunger strike can be justified as the lesser evil.

Kerber then adverts to an interesting paradox provoked by his reflections. On the one hand, traditional theology (especially its doctrine of double effect) would have to view the hunger strike as suicide, as *actio intrinsece mala*. On the other hand, the hunger strike can under certain conditions represent a more humane means, one that is in closer conformity with the gospel. This paradox, he suggests, is not traceable to a poor application of basic principles, but to the principles themselves, scil., *actio intrinsece mala* and the double effect.

He then turns to the notion of *actio intrinsece mala*. There are very few of these in traditional theology, and direct killing of self or an innocent third party is one of them. In other cases, he notes, "ordinarily Catholic moral theology judges the ethical character of an action according to a weighing of premoral, but morally important consequences, therefore 'teleologically.'" So why not also with direct killing of self or an innocent third party?

The standard justification for calling such killing *actio intrinsece mala* is that "God alone is the Lord of life." But, Kerber argues, the only conclusion that follows from that formulation is that we may not dispose of human life at our pleasure ("beliebig"). What gives the conclusion (*actio intrinsece mala*) plausibility is that we can think of very few goods that take precedence over an individual life.

As a way of approaching the hunger strike, Kerber next takes up capital punishment as an exception to the prohibition of killing. Capital punishment certainly represents a direct killing. In traditional teaching, only the state has the right to enact it. But where did it get the right directly to dispose of human life? The ordinary explanation is that God established the order of basic human rights as the unconditional presup-

position of a life worthy of human beings and that the death penalty is a necessary means to this. In other words, "the maintenance of the civil order is so important, so unconditioned a good, that it can be concluded that God has given the power of the death penalty to the state." This grant of power in no way detracts from God's lordship over life, because the decision about the licitness or illicitness of capital punishment is not arbitrarily made but "from considerations touching what best corresponds to God's plans for the life of human beings in society."

Kerber suggests that the same form of reasoning can throw light on the hunger strike. Under certain very detailed conditions, the taking of one's life could represent the avoidance of the terrible evils of war and represent an intervention in the service of a just order and the common good. In this case, too, God's lordship over life is not diminished, "because the hunger striker does not arbitrarily dispose of his own life, but seeks the plan of God, namely, peace and justice." Just as with capital punishment, the conclusion about the hunger strike is drawn from "considerations touching what best corresponds to God's plan for the life of human beings in society." In the circumstances it would represent the lesser evil.

Kerber concludes his analysis by noting that it is a first tentative attempt that needs further discussion by experts. As for the H-Block strikers, he suggests that they lack ethical credibility because the responsible organization is not committed solely to nonviolence.

This is an interesting and important article. It is basically providing grounds for questioning the two handles that we have grasped to analyze hunger strikes (*actio intrinsece mala*, double effect). Kerber clearly opts for a teleological understanding of the prohibition against killing, specifically the direct killing of self or an innocent third party. What he does well is to show that abandoning the notion of direct self-killing as intrinsically evil does not derogate from God's lordship over life and need not open all kinds of doors onto slippery slopes.

Kerber makes it very clear that one's analysis of a relatively rare and marginal happening like the hunger strike is inseparably bound up with and transparent of one's methodology. He explicitly notes that he is drawing on the works of Schüller *et al.* From my own comments in these "Notes" over the years, it is clear that my analysis would follow the lines of Kerber's. Concretely, it means that I would judge the H-Block hunger strike in terms of the circumstances Kerber mentions. From all I know (and it is not all by any means), that particular political strategy in those circumstances would not survive moral scrutiny. That is to say nothing about the good will or culpability of the strikers. It is simply to take seriously an analysis that finds justification of the hunger strike only as an alternative to war.

Nuclear Disarmament

"The most historic change in late 20th-century U.S. history." That is the way veteran journalist Arthur Jones referred to the ground swell within the Catholic community against U.S. militarism and the nuclear-dominated national security mentality.¹¹¹ Bishop Thomas Gumbleton, president of Pax Christi, has been urging this "no" for many years in a crusade that must have been lonely and was at times misunderstood. But this courageous and thoughtful bishop should be seen for what he truly is—a prophetic voice.

The perceptions of many others have caught up with Gumbleton's foresight. Thus there has been a veritable outpouring of episcopal statements against nuclear buildup and proliferation.¹¹² Elden F. Curtiss (Helena) and Thomas J. Murphy (Great Falls) repudiated the MX, declaring that "continued stockpiling of arms, in a world already capable of destroying itself, is a false and precarious means of assuring lasting peace." Thomas Grady (Orlando) asserted that "nuclear war should be opposed as an unjust war. Nuclear weapons should be banned." Raymond Lucker (New Ulm) wrote: "Nuclear weapons may not be used for attack or for first strike. They may not be used in defense. They may not be threatened to be used. Therefore it seems to me that even to possess them is wrong." Twenty-nine American bishops signed a statement saying just that.

Anthony Pilla (Cleveland), in a pastoral letter, declared that it is "imperative that we take action now to end proliferation of nuclear arms, the reliance on militarism and the use of war to alleviate international problems." Michael Kenny (Juneau) declared himself "categorically opposed not only to the use but to the possession of nuclear weapons." Walter Sullivan (Richmond) told a largely military audience that it is "immoral to be associated with the production or use" of nuclear weapons.

John R. Roach (St. Paul-Minneapolis) argued that Reagan's decision (announced Aug. 8) to build and stockpile neutron warheads was simply fueling the arms race. He was supported by Frank J. Rodimer (Paterson) and Phillip F. Straling (San Bernardino). Undoubtedly in the days ahead (I write in November 1981) there will be continuing additions to these statements. A few years ago Pax Christi counted only three bishops; now the number is fifty-four.

Three episcopal statements attracted special attention. The first was

¹¹¹ Nicholas von Hoffman wrote that while the mass media focus on allegations against Cardinal Cody, "the real news about the American Roman Catholic Church is its swinging toward a resolutely anti-bomb stance" (*Philadelphia Daily News*, Oct. 3, 1981).

¹¹² The following episcopal citations are from NC releases.

that of Raymond Hunthausen (Seattle).¹¹³ In a speech to the Pacific Northwest Synod of the Lutheran Church of America (June 12), Hunthausen referred to "our willingness to destroy life everywhere on this earth for the sake of our security as Americans" as the root of our problems. He referred to the basing of Trident submarines in his territory as the "Auschwitz of Puget Sound." They, together with MX and cruise missiles, are to be understood as "a buildup to a first-strike capability. The common element in all political analyses to check this buildup is despair." Therefore, Hunthausen concludes, taking up our cross with Christ in the nuclear age means unilateral disarmament. To the objection that this is to encourage risk, Hunthausen replies that it is a "more reasonable risk than constant nuclear escalation." He concludes by suggesting that "our paralyzed political process" needs a catalyst and that catalyst is tax resistance.

Hunthausen's statement was backed by sixteen leaders of nine denominations in Washington State. Rev. Loren Arnett, executive minister of the Washington Association, stated that the response of other religious leaders to Hunthausen's statement was "bravo."¹¹⁴ He continued: "We've been waiting for someone in our group to have the courage to forthrightly state the commitment that the archbishop declared that day in Tacoma." The Catholic Biblical Association, meeting in Seattle at the time, unanimously passed a resolution supportive of Hunthausen.

The impact of this dramatic speech was enormous. Its twin suggestion (unilateral disarmament, tax resistance) has been both praised and criticized. In this latter category there have been allegations that Hunthausen does not represent Catholic teaching, that his position is naive and emasculates the nation's right to security, that it is incompatible with the just-war theory, etc.

I believe that such responses (often emanating from the archconservative community) miss the point and purpose of Hunthausen's intervention. He referred to the "paralyzed political process" and "despair" at the political analysis of the nuclear buildup. There is an independent and uncontrollable dynamic of escalation in nuclear buildup in our time. It seems that nothing we think or do can stop such madness. And that incapacity can lead to public apathy. And where there is apathy, there is no serious wrestling with moral issues. As Volkmar Deile, a leader of West Germany's Action for Reconciliation, worded it: "There is an increasing feeling in Germany that talking to the superpowers about disarmament is like trying to persuade drug dealers to stop deliveries of dope. The feeling is that they are hooked on armaments."¹¹⁵ That is a

¹¹³ Raymond Hunthausen, "Faith and Disarmament," *Christianity and Crisis* 41 (1981): 229-31.

¹¹⁴ *Inside Passage*, Sept. 18, 1981.

¹¹⁵ *Time* 118 (Oct. 19, 1981) 52.

pervasive feeling in the United States and it was in that atmosphere that Hunthausen's statement makes eminent good sense. The sheer madness (to use a phrase frequently used by Bishop Walter Sullivan) of what is going on and what the Reagan administration intends even to increase, calls for a symbolic response, a gesture whose very radicalness alone is capable of disturbing apathy and making people think about ethical issues they have too often left to the political process and the armaments industry. That is what Hunthausen has provided.

In this spirit Archbishop Francis T. Hurley (Anchorage) wrote that the Hunthausen "proposal forces the conscience of Christians who profess Christ and His teachings to make some judgment about the arms race."¹¹⁶ Similarly, the *National Catholic Reporter* editorialized that Hunthausen's remarks "should have the effect of causing more Christians, including other bishops, to confront themselves on this question."¹¹⁷

The second incident involves Leroy T. Matthiesen (Amarillo) and the Texas bishops. On Aug. 21, Matthiesen, in whose diocese final work on the neutron bomb will be done (Pantex Corporation), denounced the decision of the Reagan administration to build neutron warheads. "The announcement of the decision to produce and stockpile neutron warheads is the latest in a series of tragic, anti-life positions taken by our government."¹¹⁸ He then asked those involved in production of neutron weapons to quit their jobs and seek "employment in peaceful pursuits." On Sept. 10, all twelve Catholic bishops of Texas joined Matthiesen. "We his brother bishops of Texas share Bishop Matthiesen's concern and fully support his appeal to those involved in the manufacture of these weapons in every nation to consider seriously the moral and ethical implications of what they are doing."¹¹⁹

The third statement of note is that of Archbishop John R. Quinn.¹²⁰ To respond in a Christian way to the arms race, we must "change our very ways of thinking." We have already stockpiled enough nuclear weapons to destroy every major Soviet city forty times over. When he considers the vast and indiscriminate destructiveness of nuclear weapons, he concedes that "a 'just' nuclear war is a contradiction in terms." He asks, interestingly, in the light of the discussion above on method: "What good could possibly be proportionate to such uncontrollable destruction and suffering?" Quinn admits that no one can preprogram the response of another to the "madness." Some might be called to a "radically prophetic response." Whatever the case, Quinn invites all to a day of prayer a month to gain grace "which can change our hearts in this critical time of

¹¹⁶ *Inside Passage*, July 17, 1981.

¹¹⁷ *National Catholic Reporter*, July 3, 1981, 12.

¹¹⁸ *New York Times*, Sept. 13, 1981, 37.

¹¹⁹ *Ibid.*

¹²⁰ John R. Quinn, "Instruments of Peace, Weapons of War," *Origins* 11 (1981) 284-87.

need." He further urges broad-based educational programs to heighten awareness of the ethical horrors our policies imply. And he concludes by recommending practical expressions of concern in the political and social arenas.

What is interesting about these statements is that they emanate not from a handful of pacifists but from an increasingly large number of mainstream religious leaders who are in some other respects quite self-effacing and even in some areas conservative. Religious leadership in the United States, especially Catholic, is on a collision course with the U.S. Government. That just may be the best thing to happen to both in a long time.

As I read the episcopal statements, in varying degree and with different emphases they display several characteristics. (1) There is a straightforward moral condemnation of the use of nuclear weapons. (2) There is, in addition, a condemnation of the arms race ("stockpiling toward annihilation") to the neglect of more basic needs. (3) There is a pervasive sense of frustration at the insensitivity and intransigence of the processes responsible for this policy of a race toward death. (4) There is a deep desire to alter the consciousness of people to the moral dimensions and implications of nuclear weaponry. Thus we hear phrases such as "change of heart" and "conversion" being frequently used. Bishop Matthiesen remarked in the aftermath of his statement: "On the whole I accomplished what I wanted to by bringing an issue to the consciousness of people. It's amazing how people have begun to live with the unlivable."¹²¹

This remarkable spate of episcopal statements in one sense should not be surprising. The Church's official teaching has for decades condemned indiscriminate force. This teaching was clearly summarized by Vatican II (*Gaudium et spes*, no. 80).

Yet several things have converged to bring the individual bishops out of the nuclear closet. Patty Edmonds mentions four.¹²² (1) Current events, and the direction our government is taking. (2) Personal experience. A number of bishops have been exposed to Pax Christi literature and talk of their own conversion. (3) John Paul II's very strong statements on the arms race. (4) Fellow bishops' statements.

Leroy Matthiesen's suggestion that persons working on the neutron warhead leave their jobs and seek "employment in peaceful pursuits" reflects the analysis made by Francis X. Winters, S.J., in a seminal article.¹²³ Winters first describes the grave doubts beginning to emerge about the wisdom of SALT agreements as a way of limiting the dangers

¹²¹ *New York Times*, Sept. 8, 1981, 20.

¹²² *National Catholic Reporter*, Oct. 30, 1981, 19.

¹²³ Francis X. Winters, S.J., "The Bow or the Cloud? American Bishops Challenge the Arms Race," *America* 145 (1981) 26-30.

of nuclear war. For instance, there is the dilemma of negotiating with the Soviets at the very time we are punishing them for aggressive international behavior.

Winters next turns to the teaching of the American bishops personified in Cardinal Krol. This teaching can be summarized in three steps. (1) It is immoral to use the strategic nuclear arsenal of the United States. (2) It is immoral to threaten to use such weapons as part of a strategy of nuclear deterrence. (3) Mere possession of nuclear weapons can be tolerated as the lesser of two evils "while negotiations proceed."

Winters underscores the radical character of this testimony. It demands of us that we deny ourselves the option of certain strategies (targeting cities). "With this imperative, the Church rejects the essential capstone of all U.S. deterrent strategy." Furthermore, the use of any nuclear weapons against any targets is rejected "precisely because it runs the risk of escaping human control." Thus there is a moral obligation of unilateral renunciation of the right to use and the threat to use nuclear weapons. If arms control means that a nation is constrained to observe limitations only insofar as its adversary admits the same duty, it "is alien to the moral teaching of the Church." As Winters summarizes it, "Unilateral obligation to forego nuclear threats and attacks, yes; unilateral disarmament, no."

Winters concludes this well-informed study by noting the dilemma this poses for Catholic government officials. On the one hand, they have assumed a constitutional obligation to execute and/or articulate our nuclear deterrent policy. On the other, if their consciences are formed by Catholic teaching, they may not do this.

Why have the bishops been moved to embrace such a radical stance? Winters surmises that the very security of the nation demands this renunciation. National security is not compatible with the use of nuclear weapons, though it may be agonizingly and arduously compatible with what most Americans shudder to contemplate: military defeat. Winters notes that here "the generals will bolt" and many officials will probably ignore the teaching. "But the debate will have begun. A seed will have been sown, a tension created in American society."

Winters has, I believe, captured beautifully the essence of the problem as many of us experience it. We are pursuing a deterrent policy (if there is serious resolve ever to use these weapons) which no acceptable moral principles can justify. Several points merit comment. The Winters study argues that no use, whatever the target, of nuclear weapons can be justified, because on all accounts any use will necessarily involve civilians indiscriminately. As Winters puts it, he has "yet to meet a U.S. defense official, civilian or military, who argues that strategic nuclear war will allow any meaningful shelter for civilians." This is doubly important at

a time when we hear talk of a "limited nuclear exchange" and of "winning" such an exchange.

Second, it is important to pinpoint just why this conclusion must be drawn. Archbishop Quinn has, I believe, done this very well. As noted above, he asks: "What good could possibly be proportionate to such uncontrollable destruction and suffering?" That is not only an evaluative calculus, and a correct one at that; it implies a methodological approach, one I also believe to be correct.

Third, some contrasts are to be noted in the statements of Krol (who claimed to be speaking for "the great majority of the bishops") and other bishops. (1) Krol did not condemn mere possession of nuclear weapons. A good number of bishops do condemn such a possession (e.g., Raymond Lucker: "It is immoral to possess nuclear weapons"). (2) If it is permissible to possess them, according to Krol, then presumably it is not immoral to make them. Yet Leroy Matthiesen, and with him many other bishops, request those working at Pantex to leave their jobs for more peaceable pursuits. (3) Krol does not believe unilateral disarmament is a moral demand. Hunthausen does, and with him all those who believe mere possession of nuclear weapons is immoral.

These are interesting differences and point to the single area where problems and questions still haunt us: possession of nuclear weapons. It is clear to nearly every ethical commentator that we may never morally use strategic nuclear weapons. If that is so, most would agree that it is seriously wrong to threaten to use them. But what about mere possession?

On the one hand, they do seem to deter. Vatican II seemed to acquiesce in this contention.¹²⁴ On the other hand, many believe that any war between the superpowers begun with conventional weapons is likely to end in nuclear war. It is this danger that leads some to argue that mere possession is immoral. The deterrent effect leads others to an opposite conclusion.

Whatever the proper answer to this question is, two things must be remembered. First, the danger that nuclear weapons might ever be used creates the serious and immediate moral imperative to work for their abolition. Second, we must remember that bishops and academics do not make policy. We can have clear and distinct ethical ideas (e.g., the distinction between the threat to use and mere possession). By and large, I believe these distinctions are regarded as quaint by policymakers. Therefore we must interpret the possession of nuclear weapons in terms of what policymakers actually think and intend about them. Nothing

¹²⁴ I say "acquiesce" because the document certainly did not endorse such deterrence; nor did it condemn it. It simply acknowledged that "many regard this state of affairs as the most effective way by which peace of a sort can be maintained."

that I have seen or heard offers great confidence here. Are not our policymakers ready to use nuclear weapons "if necessary"? This means that there is no such thing, at the present time and realistically, as having nuclear weapons with no intention to use them. It is this that makes the case against mere possession of such weapons so powerful.

What is possibly responsible for these differences is underlined in a very thoughtful study by Francis X. Meehan.¹²⁵ Meehan identifies two different approaches to the nuclear problem, that of the liberal and that of the activist. The analytic detachment of the liberal can end in affirming the reigning militarism. Catholic teaching does not clearly condemn nuclear deterrence and this "manages to deprive Catholic teaching of the clear and unequivocal condemnation of weapons-building. Thus, it also impedes consensus in moral evaluation." In the face of this ambiguity, the rational realism of the liberal can become "absorbed in the militarist's own ground of reasoning." By contrast, the activist does not shy away from application, criticizing this weapon being made at this time in this place. Thus it is different methods and different emphases that are responsible for different conclusions. Meehan is eminently fair but his sympathies lie with the "activist's instinct for the meaning of the concrete as a special theological source of wisdom and insight for the whole Church."

I cannot close this brief roundup without references to three interesting studies. One is William F. Wolff's indictment of the wishy-washy, issue-evading stance of the hierarchy (up to that time) on deterrence.¹²⁶ Another is Alan Geyer's splendid description of the social characteristics of militarism.¹²⁷ Finally, there is Thomas Powers' presentation of eight reasons for getting rid of the bomb.¹²⁸ These articles, together with Meehan's helpful analysis, provide the background for reading what Vincent Yzermans refers to as "a Catholic revolution."¹²⁹

The Divorced-Remarried

What is the situation of the divorced and (irregularly) remarried in the Church today? May they ever receive the sacraments? As everyone knows, at the end of the 1980 Synod Pope John Paul II repeated the "traditional practice" as the norm of the Church. But nearly everyone also knows that the papal statement headed into rather heavy weather—

¹²⁵ Francis X. Meehan, "Disarmament in the Real World," *America* 143 (1980) 423-26.

¹²⁶ William F. Wolff, "The Church and the Bomb," *America* 144 (1981) 11-13.

¹²⁷ Alan Geyer, "Some Theological Perspectives on Militarism," *Nexus* 59 (Summer 1980) 34-44.

¹²⁸ Thomas Powers, "Principles of Abolition," *Commonweal* 108 (1981) 424-26.

¹²⁹ *New York Times*, Nov. 14, 1981, 23.

a virtually unanimous theological opinion that some divorced and remarried may be admitted to the sacraments.

Rather typical of the literature of the past ten years is the study of Gonzalo González, O.P.¹³⁰ González considers the place in the Church of those who have remarried after divorce. He observes that "there are increasing theological voices that demand a new treatment of the problem" and a pastoral practice "contrary to the established one." Using a comprehensive background of theological and ecclesiastical literature, he looks at the reception of the current practice and concludes that the present discipline "has not been received, although it has been obeyed, in many communities."

González then reviews several key emphases that must structure a new pastoral approach, an approach he believes calls for courage (*audacia*). Among these emphases are the recognition that a first marriage has failed irreparably and that not infrequently the couple now have the obligation to maintain and nurture the second union. He rejects their situation as "a state of sin," critiques the usual arguments about full integration as a condition for reception of the Eucharist, and calls for a modification of present discipline. We must maintain the radical nature of the permanence of marriage, but also the radical character of mercy in the faith community.

In the context of full integration in the Church, he discusses those who are incapable of believing that God does not want them to remake their lives, and those who accept the ideal but consider themselves incapable of achieving it in real life (hence the title of the article). Here the Church should display in its attitudes and policies the mercy of God so central to its teaching.

There is little that is new in this study. It repeats themes common in the literature for over ten years. What is interesting is that it appeared after the Pope's closing statement at the 1980 Synod.

Helmut Krätzl, the auxiliary bishop of Vienna, notes that the problem under discussion here has become one of the most discussed in all of pastoral practice.¹³¹ On Nov. 15, 1978, there was a meeting of the Senate of Priests of Vienna. A kind of basic working paper on this problem was the vehicle of discussion. Later on, this basic working paper was distributed to all priests in the diocese and to other dioceses for further discussion. Krätzl puts together in the form of ten theses the results of these discussions.

¹³⁰ Gonzalo González, "Incapacidad para entender, imposibilidad de cumplir: Sobre la situación eclesial y la pastoral de los divorciados que han contraído nuevo matrimonio," *Ciencia Tomista* 108 (1981) 327-46.

¹³¹ Helmut Krätzl, "Thesen zur Pastoral an wiederverheirateten Geschiedenen," *Theologisch-praktische Quartalschrift* 129 (1981) 143-54.

Some of the theses read as follows. "The Church stands under the clear radical demand of Jesus for unconditional fidelity in marriage." "The Church, after the example of Jesus, must show a special care for those who have failed, therefore also for those who have failed in marriage." "The divorced-remarried are not excommunicated—they are simply not in full possession of all rights." "Internal-forum solutions do not change the legal situation for the external forum." "Pastoral care of marriage must not restrict itself to crisis situations, but must have in view the entire problem of marriage." Krätzl discusses all of these in a balanced and compassionate way.

Thesis 5 reads: "There exists in the Church an official consensus that the divorced-remarried may be admitted to the sacraments; but there is no consensus about the required presuppositions for such admission." Krätzl notes that there is a consensus in the Church that those who are in an irregular second marriage but are convinced in conscience that their first marriage was invalid—without the ability to establish this legally—may be admitted to the sacraments.

But what about those whose first marriage was valid? Krätzl reports accurately that even here a broad consensus had grown up in the past ten years that under certain conditions even these persons could responsibly be admitted to the sacraments without living as brother and sister. Josef Ratzinger, then professor at Regensburg, had stated this clearly.¹³² Since then, many theologians have agreed with Ratzinger. Krätzl mentions studies by Häring, Böckle, Hörmann, Fuchs, Gründel, Rotter, Lehmann, and Kasper among others. The most recent study to draw this conclusion was that of K. Forster, professor of pastoral at Augsburg.¹³³ Forster sees his solution not as a denial of official practice but as "a new and deepened interpretation of it." Bishop Krätzl does not deny this but says that theological developments must be placed on a broader and more official basis. To do this, the traditional arguments against the practice must be carefully compared to the newer arguments. "Just how great is the distance between the two kinds of argument appeared before the Roman Synod of Bishops, in the course of the interventions at the Synod itself, and in the reactions to it."

The synodal fathers were aware of this and knew that they had not said the last word on the subject. Indeed, after the Synod, Cardinal Ratzinger, in a letter to priests, noted that the "Synod desired that a new and even more searching investigation—including even consideration of the praxis of the Eastern Church—be undertaken to make our pastoral

¹³² Josef Ratzinger, "Zur Frage nach der Unauflöslichkeit der Ehe," in *Ehe und Ehescheidung* (Munich, 1972) 54.

¹³³ K. Forster, "Möglichkeiten einer Bussordnung für wiederverheiratete Geschiedene," *Herder Korrespondenz* 34 (1980) 462-68, at 466.

compassion even more all-embracing."¹³⁴

Krätzl ends his article by citing the Austrian bishops after the close of the Synod. After stating that the divorced and irregularly remarried deserve understanding, compassion, and acceptance as brothers and sisters in Christ, and that they can count on God's grace, the bishops conclude: "According to the traditional practice of the Church, they cannot share fully in the sacramental life of the Church, unless there are special conditions that need greater clarity in conversation with an experienced priest."

Bishop Krätzl has accurately summarized the German theologians on this matter (a "broad consensus"). As I read the theological literature of the past ten years, a similar consensus had formed elsewhere also, a consensus not exactly in full agreement with the "traditional practice" restated by the Pope. Where does that leave us? Krätzl seems very reluctant to fly in the face of such a consensus. The spirit of his study is to urge more conversation and prudence in the interim. Furthermore, the Austrian bishops clearly seem to be saying that the "traditional practice" repeated by the Pope is not a hard and fast rule but must take into account "special conditions."

Similar conclusions are drawn by Bernard Häring.¹³⁵ Häring explicitly excludes discussion of the theoretical arguments pro or con the "traditional practice" or even of a modification of it. There is a proper and necessary place for these. He wants to show that even the strict norm asserted by John Paul II at the Synod's end needs prudential interpretation.

Häring begins by reminding readers of several overarching general principles. First, we mislead the faithful if we make an unqualifiable dogma of what is an application in need of ongoing refinement. Next, history teaches us that the consciences of the faithful often discover solutions that the Church comes to recognize as correct only at a later date. Finally, the pastoral guide must always be aware of the law of growth.

Häring next insists that it is clear from the synodal interventions as well as the reports of the smaller discussion groups (with the sole exception of the "Latin group") that the basic concern of the Synod was a pastoral of healing. The whole Church and especially its pastoral leaders must be for the divorced a sacrament of God's healing and merciful love. Concrete rules such as that excluding the divorced from the sacraments are subordinate to this basic concern, because concrete rules are precisely vehicles for this basic concern. Furthermore, a sudden change in this

¹³⁴ Krätzl, "Thesen" 152.

¹³⁵ Bernard Häring, "Pastorale Erwägungen zur Bischofssynode über Familie und Ehe," *Theologie der Gegenwart* 24 (1981) 71-80.

the bond of marriage as still in existence even though any semblance of a human relationship is irretrievably dead and gone. It is that notion of permanence that generates the rule excluding the remarried from the sacraments. Hence any well-founded and lasting modification of the rule will have to grapple systematically and theoretically with the underlying notion of permanence or indissolubility.

That is done in a tentative but fruitful way by William Cosgrave.¹³⁷ His notion of permanence as a serious moral obligation is virtually identical with suggestions made earlier in these "Notes."¹³⁸ And on that not disinterested but cheerful note this version of the "Notes" were well advised to grind to a halt.

¹³⁷ William Cosgrave, "Rethinking the Indissolubility of Marriage," *Catholic Mind* 79, no. 1352 (April 1981) 11-25.

¹³⁸ *TS* 36 (1975) 112-17.

practical norm without previous change to a more healing attitude would only make things worse.

Häring also insists that the requirement to live as brother-sister should not be made if foreseeably it will lead to disastrous results: decisive alienation from the authority of the Church, disturbance of family harmony, dangerous conscience conflicts, harm to the education of the children, etc. A medicinal measure (*poena medicinalis*) is not to be used when it causes more harm than good in the overall life of the Church.

Häring then turns to the notion of *oikonomia*. As noted, the synodal participants had asked John Paul II if the Western Church could not learn something from the Eastern practice. Häring describes beautifully the meaning of this *oikonomia*. It is founded in a therapeutic view of redemption. Christ came to heal the sick. Christ, who celebrated the messianic meal with sinners and tax collectors, is the basic symbol of *oikonomia*. Thus healing is a kind of "household principle" in the Church ("Heilshaushaltsprinzip"). The Church must organize her policies and practices as a reflection of this symbol, and for Häring this clearly means that the divorced-remarried should not, under appropriate conditions, be excluded from the sacraments. But before this can happen, the faithful must be deeply imbued with the spirit of *oikonomia*, with the spirit of healing love which is its theological foundation.¹³⁶ Häring obviously thinks that this is the future of pastoral practice in the Western Church. Indeed, he mentions a letter of the late Patriarch Athenagoras to a trusted friend in which Athenagoras insists that reconciliation of the Eastern and Western Churches could not occur unless Rome gives assurances that it understands and acknowledges *oikonomia*.

Häring concludes with the hope that his reflections can pave the way for future doctrinal development.

Häring's article is pastorally insightful, as his writings always are. His distinction between a basic concern ("Grundanliegen") and a concrete directive, and their relationship, provides him with the opening to give a rather broad interpretation (as he says, "less rigorous") to the rule itself.

However, there is a limit to what merely pastoral considerations can achieve, as Häring himself would admit. By treating the matter pastorally, Häring is implicitly accepting the present rule excluding the remarried from the sacraments, though I think it is clear that this is not his own conviction. By doing so, he implicitly accepts the notion of indissolubility that stands behind it. That notion is a profoundly juridical one. It regards

¹³⁶ Interestingly in this respect, Johann B. Metz observes that if the Church were more radical in the gospel sense, it would not have to be so rigorous in the legal sense. "The Church could then, to take just one example, admit to the sacraments those whose marriages had failed and who were seeking forgiveness for this without having to fear that the floodgates would be opened" (*The Emergent Church* [New York: Crossroad, 1981] 8).