

## CURRENT THEOLOGY

### NOTES ON MORAL THEOLOGY: 1986

The "Moral Notes" for 1986 deal with four areas of importance and concern: (1) dissent in moral theology; (2) sanctity of life, quality of life, and social justice; (3) virtue and American culture; (4) the U.S. bishops' pastoral letter on the economy.

#### DISSENT IN MORAL THEOLOGY AND ITS IMPLICATIONS

The May issue of *Catholicism in Crisis* referred to the case of Charles E. Curran as "the most crucial intellectual issue now facing the Catholic Church in America."<sup>1</sup> It was no secret then how that journal wanted the issue resolved. Be that as it may, the matter was concluded by the July 25 letter (delivered to Curran August 18) of Joseph Cardinal Ratzinger informing Curran that he is no longer "suitable nor eligible to exercise the function of a professor of Catholic theology."<sup>2</sup>

I say "the matter was concluded." That the "most crucial intellectual issue now facing the Catholic Church in America" was not truly *resolved* seems clear from the remarkable journalistic response to be briefly chronicled here. The chronicle begins with the statement of Archbishop James Hickey: "I fully support this judgment of the Holy See."<sup>3</sup> Archbishop Theodore E. McCarrick (Newark) also praised the decision. "We who are teachers in the Church," he said, "have an obligation to teach what the Church teaches." "It is a case of truth in packaging. If the box is labeled salt and contains pepper, it can't be left on the shelf to confuse the shoppers."<sup>4</sup> Spelled out, McCarrick's truth-in-packaging metaphor would read: "If a person is labeled a 'Catholic theologian,' and presents anything but the official line, that person cannot be left in place to confuse the faithful." In other and starker words, the task of the theologian is to repeat uncritically what the magisterium has said.

But the pundits have far outworded the prelates. Norman Podhoretz, of all people, saw in the decision a sign that "the Vatican has demonstrated that it still has a definable identity whose integrity it will defend."<sup>5</sup> In this way it "puts to shame all other institutions of our day, most

<sup>1</sup> "Curran, Dissent and Rome," *Catholicism in Crisis* 4, no. 5 (May 1986) 6.

<sup>2</sup> *Origins* 16 (1986) 203.

<sup>3</sup> *Origins* 16 (1986) 204.

<sup>4</sup> *Star-Ledger*, Aug. 20, 1986.

<sup>5</sup> *Washington Post*, Aug. 29, 1986.

notably the universities." Podhoretz is not unhappy about this, because he wants "barriers in contemporary society against the spread of sexual permissiveness." Yet he wants someone else to build those barriers and take the flak. One is tempted to pursue the barrier metaphor with some questions. Is it not possible, for instance, to construct barriers from the wrong material or to place them in the wrong spot? Is it possible for barriers to rust?

Joseph Sobran, a senior editor of the *National Review*, argued that a "priest in the employ of a pontifical institution . . . may just have to take orders from Rome now and then."<sup>6</sup> Of course. Ergo? Msgr. Charles O. Rice insists that "Catholic truth . . . is determined not by counting noses or consulting opinion polls but by the magisterium."<sup>7</sup> Once again a question: Is this an exhaustive listing of the alternatives? Michael Novak believes that "the judgment of the Church is correct in this instance."<sup>8</sup> He urges Curran to follow the example of John Courtney Murray, S.J., by keeping silent and allowing history to decide—an interesting and soothing counsel of passivity from one who dissented from *Humanae vitae* and organized the dissent against the pastoral on the economy.

John Catoir is not hesitant. Curran should be fired because he is "not merely a theologian; he is a teacher of theological opinions which undermine church teachings. Some things are right and some things are wrong. Nothing is both right and wrong at the same time."<sup>9</sup> Foreign to Catoir's conceptual categories are notions such as "inadequately formulated," "in need of improvement," "doctrinal development," etc. Michael McManus concludes that Curran used his "theological breathing room with reckless abandon."<sup>10</sup> William F. Buckley Jr. notes that the Vatican's decision "has brought on a goodly amount of loose lip."<sup>11</sup> Regretfully, Buckley adds to this lip-load by denying that the Church "has persecuted its prophets whose teachings it has gone on, in later years, to incorporate as its own." Murray, Congar, de Lubac, et al. would choke on that one.

By far the majority of commentary has been critical of the Vatican decision. William J. Gould Jr. asserts: "Rome is threatening to do grave damage to the richest and most powerful Catholic church in the world just at the time it is about to make a major and distinctive imprint on

<sup>6</sup> *Washington Times*, Aug. 28, 1986.

<sup>7</sup> *Pittsburgh Catholic*, Sept. 5, 1986. Whether the printers revolted or Rice dozed is not clear in the following entry in Rice's text: "Following what I believe to be the lead of Paul V in *Humani generis*. . ."

<sup>8</sup> *Washington Post*, Aug. 28, 1986.

<sup>9</sup> *Catholic New York*, Aug. 28, 1986.

<sup>10</sup> *Miami News*, Aug. 30, 1986.

<sup>11</sup> *Washington Post*, Aug. 23, 1986.

American life."<sup>12</sup> Jonathan Yardley sees the decision as the source of big trouble for Catholic higher education, trouble "that the old men in Rome have cooked up for it."<sup>13</sup> William Newell argues that Curran was condemned "for being modern in thought and American in the way he does things."<sup>14</sup> The *Syracuse Post Standard* editorialized that just when Catholics have the impression that they are beginning to be listened to, "they get slapped down again for raising questions."<sup>15</sup> Kenneth Vaux attributes the whole sad happening to "Curran's latitude and openness to new convictions."<sup>16</sup> Warren Hinckle predicts that "the Curran case is fated to become the Church's new Galileo case, with the same unfortunate consequences for all involved."<sup>17</sup> Leonard Swidler observes that by removing Curran "the Vatican wants to send the message that no dissent—no matter how reasonable, responsible and moderate—from the dictated position will be tolerated: 'Obey!' " His conclusion: "In face of this scandalous Vatican suppression of dialogue and dissent, all good Catholics should dissent."<sup>18</sup>

William V. Shannon is no less straightforward. He sees Curran's predicament as "an occasion for immense sadness."<sup>19</sup> The Pope, he says, is unwise in "attacking the wrong man on the wrong issues." Curran is only doing his critical job as a theologian. "What is alienating is his [the Pope's] determination to crush disagreement and impose his own version of orthodoxy on all topics." Similarly, George Armstrong, an American correspondent in Rome, concludes that "Curran and the other inquisitive theologians have been told that they should consider themselves to be enthroned catechism teachers, or mere repeaters, not researchers seeking new truths in old scriptures."<sup>20</sup>

Jim Fain believes the decision represents "backward-looking orthodoxy" and is a tragedy "for a church that is digging itself into irrelevancy. If it continues, the gulf between U.S. Catholics and Rome will be unbridgeable."<sup>21</sup> Daniel Maguire interprets the Vatican intervention as symbolic of a power grab.<sup>22</sup> After Vatican II, laypersons entered theology

<sup>12</sup> *Washington Post*, Oct. 19, 1986.

<sup>13</sup> *New Haven Register*, Aug. 27, 1986.

<sup>14</sup> *Hartford Courant*, Sept. 7, 1986.

<sup>15</sup> *Syracuse Post Standard*, Aug. 25, 1986.

<sup>16</sup> *Chicago Tribune*, Sept. 8, 1986.

<sup>17</sup> *Newsday*, Sept. 8, 1986.

<sup>18</sup> *Miami Herald*, Aug. 24, 1986.

<sup>19</sup> *Boston Globe*, Aug. 27, 1986.

<sup>20</sup> *Los Angeles Times*, Aug. 25, 1986.

<sup>21</sup> *Atlanta Journal Constitution*, Aug. 24, 1986.

<sup>22</sup> *Los Angeles Times*, Aug. 24, 1986.

on college campuses, where academic freedom is sacred. "The Vatican has taken poorly to this loss of power and is struggling to regain it." Rodger Van Allen refers to Rome's "clumsiness in dealing with Catholic universities" and attributes it to lack of experience (Italy has but one Catholic university, and that without a theology faculty).<sup>23</sup> He concludes: "The posting of 'no dissent' signs may suit the Kremlin. It does not suit the Catholic University of America." The *Journal-Gazette* is convinced that officials in Rome "have only ensured that Father Curran's views will be more widely disseminated."<sup>24</sup> In a similar vein, the *Louisville Courier Journal* concluded its editorial: "An institution so large and so deeply rooted in Western Civilization need not fear either dissent or gradual change and, in fact, like any organization, will be healthier if it accepts some of both. That is the message Pope John Paul II can expect to hear back from his American flock."<sup>25</sup>

Both *America* and *Commonweal* carried splendid editorials. The latter highlighted the *sotto voce* style of theologizing that the Vatican intervention invites. It just will not work and will be damaging.<sup>26</sup> *America* laments the passivity of the American hierarchy and the pastoral confusion the disciplining of Curran will introduce.<sup>27</sup> Finally, Roy Meachum argues that the cost of this Vatican victory "will be higher than understood by anyone behind Vatican walls, which still shut out the changing world."<sup>28</sup>

This is literally but a small sample. I record it for two not unrelated reasons. First, much of it shows the depth of anger at what was perceived to be a foolish and tyrannical intervention. Second, it throws a quite unforgiving glare on a major source of demoralization in the American Church: the conviction that authority is being used ideologically to neutralize or abrogate important dimensions of Vatican II. During 30 years in the field of moral theology I have never seen so many priests—and many laypersons—so deeply angry and utterly alienated. The overview of much of the public response to the Curran affair is but a testament to that.

The heart of the immediate issue is public dissent, a point this compositor attempted to highlight in an earlier essay.<sup>29</sup> Is public dissent permissible within the "Catholic idea"? Under what conditions? How much? With what cautions or reservations? With what purpose? Since

<sup>23</sup> *Philadelphia Inquirer*, Aug. 27, 1986.

<sup>24</sup> *Journal-Gazette*, Aug. 24, 1986.

<sup>25</sup> *Louisville Courier Journal*, Aug. 25, 1986.

<sup>26</sup> "The Curran Effect," *Commonweal* 113 (1986) 451-54.

<sup>27</sup> "Charles Curran: 'Silencio,'" *America* 155 (1986) 81-82.

<sup>28</sup> *New York Times*, Aug. 29, 1986.

<sup>29</sup> Richard A. McCormick, S.J., "L'Affaire Curran," *America* 154 (1986) 261-67.

the answers to questions like these are at the heart of the theological enterprise, I want to review several recent contributions—both by bishops and by theologians—that discuss this issue.

### *Bishops*

Archbishop Rembert Weakland, O.S.B., authored two columns that are the equivalent of a pastoral letter to his people.<sup>30</sup> He first recalls that the Catholic Church has been willing, even if hesitantly at times, to accept truth wherever it comes from and to integrate it with revelation. But often enough that has involved struggle. These struggles brought with them two characteristics: excessive cruelty to human beings and fear. “In such an atmosphere, amateurs—turned theologians—easily became headhunters and leaders were picked, not by their ability to work toward a synthesis of the new knowledge and the tradition, but by the rigidity of their orthodoxy.” Weakland uses the first decade of this century as an example. The suppressions associated with the Modernist crisis “resulted in a total lack of theological creativity in the U.S.A. for half a century.” The struggle for purity of doctrine, Weakland urges, “must avoid the fanaticism and small-mindedness” of past years of church history. He concludes by citing Pope John XXIII: “Nowadays, however, the spouse of Christ prefers to make use of the medicine of mercy rather than that of severity. She considers that she meets the needs of the present day by demonstrating the validity of her teaching rather than by condemnations.”

There can be no doubt that Weakland was referring to the Curran and Hunthausen cases, for he explicitly states that the integrative challenges of today come from psychology and the human sciences and “thus the troubled territory today is sexuality.”

Weakland’s message is pellucidly clear: we should have learned from history that suppression—the type that the Vatican is now pursuing—is no way to deal with the pursuit of truth. Needless to say, this author not only agrees with Weakland’s analysis<sup>31</sup> but also applauds his courage.

The second statement on dissent is a speech delivered April 2, 1986, at a meeting of the National Catholic Educational Association by Arch-

<sup>30</sup> Rembert Weakland, O.S.B., “The Price of Orthodoxy,” *Catholic Herald*, Sept. 11 and 18, 1986.

<sup>31</sup> Not everyone did. Archbishop Philip M. Hannan (New Orleans) accused Weakland of “wildly exaggerating” and of treating the Pope “unfairly” (*National Catholic Register*, Nov. 16, 1986). He asked: “Is the good archbishop himself not wildly exaggerating in comparing the decisions of the Holy See toward Father Curran and Archbishop Hunthausen with the Inquisition and witch hunts?” He went on to say that the Vatican decisions “were needed.”

bishop William Levada.<sup>32</sup> Noting that the distinction between infallible and noninfallible teaching “is at the heart of current discussions about dissent from church teaching,” Levada proposes his understanding of both. Dissent from teaching that is infallibly proposed, he correctly notes, “excludes one from the communion of the faith.” Refusal to accept a noninfallibly proposed teaching “also implies a separation from full communion with the Church teaching, believing and practicing its faith, although such separation does not necessarily exclude one from the Church.”

Why such a separation? Levada says that the reason lies in the type of guarantee that stands behind the noninfallible teaching. While the guarantee is not absolute, still “we are given the assurance that the Holy Spirit is guiding the authorized teachers in the Church to enable them to propose what we must know and do for the sake of our salvation as Christians. What would allow us to separate ourselves from this church teaching given with the promised assistance of the Holy Spirit? Nothing trivial, to be sure. For we can rightly presume that such teaching is correct.”<sup>33</sup>

Here a question or two is in order. First, with regard to the “separation from full communion *with the Church*”<sup>34</sup> that Levada sees in dissent from noninfallible teaching, what is the source and evidence for this idea? What if great numbers in the Church share the dissent? Who is separating from whom and what does “separation” mean? Was John Courtney Murray, S.J., in “separation from full communion with the Church” because he disagreed with the Syllabus of Errors? Is it not rather that the Syllabus was separated away from the “Church teaching, believing and practicing its faith”? I am afraid that Levada’s notion of separation reveals a far too static concept of the Church’s magisterial process.

And that raises the second point. If we are given, with noninfallible teaching, “assurance that the Holy Spirit is guiding the authorized teachers,” then *nothing* (not simply Levada’s “nothing trivial”) would “allow us to separate ourselves from this Church teaching.” Missing in Levada’s presentation is the analogous notion of the assistance of the Holy Spirit. That assistance is necessarily different when it guarantees a teaching and when it does not. Failure to take this into account leads to the “almost infallible syndrome.”

Levada next discusses the case of a person who is “truly expert” in the

<sup>32</sup> William Levada, “Dissent and the Catholic Religion Teacher,” *Origins* 16 (1986) 195–200.

<sup>33</sup> *Ibid.* 198.

<sup>34</sup> Emphasis added.

area treated in noninfallible teaching. Dissent would be justifiable if the person had “truly convincing reasons,” although how this is conceivable I fail to see if the assistance of the Spirit is “assured.” Levada continues:

Such withholding of assent or “personal dissent” is by its very definition an exceptional and rare event in regard to the authoritative, noninfallible magisterium, which enjoys the presumption of truth—all the more so because it not only involves a personal judgment about some teaching which is connected intimately to the deposit of faith, but it also implicitly contains a judgment that such teaching has not enjoyed the presumed assistance of the Holy Spirit.<sup>35</sup>

Once again several points. Much of the Church’s noninfallible teaching in the moral sphere is not “connected intimately with the deposit of faith.” If an intimate connection with the deposit of faith is Levada’s chief reason for holding that dissent is “an exceptional and rare event,” then that reason does not lead to his conclusions. Certainly it is difficult to understand how “by its very definition” withholding of assent is “exceptional and rare.” Here we see the “almost infallible syndrome” at work.

My second point returns to the “presumed assistance of the Holy Spirit.” This is Levada’s second reason for saying that dissent must be rare. However, when the analogous notion of that assistance is admitted and analyzed more carefully, it may not support the conclusions he draws.<sup>36</sup>

Finally, Levada treats public dissent. He notes that personal or private dissent “remains open to achieving a fuller understanding of the issue in such a way that will allow one to remain in harmony with the Church’s teaching authority.” Public dissent is different. Here is Levada’s analysis:

Public dissent, in which one proposes a personal opinion or conclusion which directly contradicts some teaching of the Church’s noninfallible magisterium, is no longer a step on the path of dialogue toward a growth in understanding of church teaching. Rather it contains a decision to place one’s own judgment on a par with that of the magisterium and implicitly suggests that the question or doubt which has led one to withhold assent or dissent has now become an answer which one offers to others to accept and imitate as a legitimate position for a Catholic believer.<sup>37</sup>

With all due respect, I believe that paragraph is simply false, and for several reasons. First, Archbishop Levada, earlier in his essay, had

<sup>35</sup> *Ibid.* 198.

<sup>36</sup> Cf. my “Bishops As Teachers and Jesuits As Listeners,” *Studies in the Spirituality of Jesuits* 18, no. 3 (May 1986).

<sup>37</sup> Levada, “Dissent” 199.

referred to the need of "submitting them [dissenting opinions] to the judgment of my peers." How is one to do this except publicly in scholarly journals? Why is this "no longer a step on the path of dialogue"? Furthermore, if the questions at issue touch the lives of people in very concrete ways, they presumably will want to know about these discussions, indeed to contribute to them.

Second, and most crucially, public dissent need not at all involve one in placing "one's own judgment on a par with that of the magisterium" and in implying that "the question . . . has now become an answer." All one need imply or say through public dissent is that one is offering an opinion to the judgment of one's peers and other interested and competent persons. To present public dissent as necessarily involving a competitive magisterium, as Levada has done ("equivalently an alternative, personal magisterium"), is to negate the public and critical character of theology, and to caricature the free flow of ideas in the Church against the express wishes of Vatican II.<sup>38</sup>

On June 6, 1986, Archbishop Daniel Pilarczyk (Cincinnati) issued a pastoral letter on dissent.<sup>39</sup> Pilarczyk first distinguishes three levels of church teaching: formally and specifically defined, infallibly taught though not defined, true though not infallibly taught and not necessarily unchangeable. At whatever level the Church teaches, it is saying two distinct things: (1) "This is true and is in accord with divine revelation." (2) To teachers (whether catechists, preachers, writers, theologians) the Church says: "We want you who teach under the auspices of the Church to present this teaching to your public as true and as binding in accord with the level of authority with which it is presented." This is what Pilarczyk calls the "public church order" aspect of church teaching.

He next focuses on dissent by one who has a teaching responsibility in the Church. If such a person cannot accept a particular teaching, that person can (1) submerge his/her doubts; (2) keep quiet about one's doubts but also about church teaching; (3) openly oppose the teaching. Those who choose either of the latter two courses "are not in compliance with the Church's 'public order decision.'" As Pilarczyk words it, "Public dissent always involves deliberate refusal, even if for conscientious reasons, to carry out an order from church teaching authority."

What should church authorities do when confronted with public dissent? Pilarczyk lists several possibilities: keep quiet and wait to see what happens; invite the dissenter to change his/her mind; demand public

<sup>38</sup> The Church in the Modern World, no. 62, in *Documents of Vatican II*, ed. Walter M. Abbott, S.J. (New York: America, 1966) 270.

<sup>39</sup> Daniel Pilarczyk, "Dissent in the Church," *Origins* 16 (1986) 175-78.



retraction; deny the person the right to be called a Catholic theologian.

Finally, the pastoral letter treats the specific critical role of theologians ("to investigate, to refine it [church teaching], to probe it, to push back its horizons"). He acknowledges the theologian's responsibility to address conscientiously those teachings thought to be inaccurate. But rather than a "right to dissent," Pilarczyk states that "we might better ask how much dissent church authorities should tolerate, how much is permissible?" He notes that "what is at stake here is a refusal . . . to accept the directives of church leadership about what is to be taught in the name of the Church." So, finally, theologians may dissent, "but when they do so they do so at their own risk."

What is unavoidable in the Pilarczyk letter is the dominance of the juridical, as if the major concern is public order, not precisely truth. The question of church teaching is elaborated within an intense, almost nervous concern for superior-subject relationships. Thus church teaching always includes a command to present it as true and binding. Dissent is a refusal to carry out this order—really disobedience. It is only to be tolerated etc. Church authority resembles a policeman keeping order rather than a participant in the search for truth. Nowhere is there the notion that perhaps the dissenter should be listened to, his/her reasons carefully discussed and weighed, his/her person supported. The presumptions are all against any dissent. The dissenter is marginalized before the issue is faced. Almost regardless of its inherent value, dissent involves the "refusal . . . to accept the directives of church leadership about what is to be taught in the name of the Church."

But a closer scrutiny of Pilarczyk's idea of the command that accompanies church teaching is called for. His understanding of this command—directed to preachers, catechists, writers, theologians—is that they are to present church teaching "as true and binding." But Pilarczyk seems to sense the indiscriminate character of this lumping of preachers, catechists, writers, and theologians; for at another point he refers to the "demand that the teaching be presented in the Church as church teaching." There is a remarkable difference between presenting something "as true and binding" and "as church teaching."<sup>40</sup> This latter category allows

<sup>40</sup> This point was raised in an interesting little sideshow that played itself out in London. John Mahoney, S.J., published in 1984 his *Bioethics and Belief*. It contained an imprimatur. In a joint statement, Mahoney and Rt. Rev. Ralph Brown, vicar general of the Archdiocese of Westminster, explained why the imprimatur was withdrawn. At one point they state that the imprimatur is no more than a "declaration that a book or a pamphlet is considered to be free from doctrinal or moral error." They then state very interestingly: "However, the question can arise, particularly in light of the passages of the Second Vatican Council quoted above, as to whether a work which contains passages which are at variance with the

amply for critical evaluation and even dissent. If Pilarczyk understands the implied church directive accompanying noninfallible teaching to mean always "present this teaching as true and binding" without any critical evaluation, he has, I believe, gone too far. Specifically, he has confused the roles of preacher, catechist, and theologian. I know of no theological sources that would validate such an understanding. Indeed, it would, besides flying in the face of history, cripple theological education, trivialize the role of the theologian, and paralyze doctrinal development. But unless I am mistaken, this is the understanding in Pilarczyk's pastoral letter.

In summary, then, while the letter acknowledges the different ecclesial roles of preachers, catechists, and theologians, eventually the dominance of the juridical perspective smothers these differences (cf. below, sub McBrien).

A remarkably different presentation is that of Bishop Michael Pfeifer, O.M.I. (San Angelo, Texas).<sup>41</sup> Pfeifer uses the disciplining of Charles Curran to reflect on some basic Christian and Catholic moral themes. After noting that it is God who has created us free and called us to faithfulness, Pfeifer turns to the formation of conscience, "that place where we finally choose to activate the implications of our Christian call."

The formation of conscience involves us in a "constant dialogue" with God's scriptural revelation, with tradition and official teaching, as well as "with our experience and understanding of the daily demands which face us as individuals and as a community." Pfeifer then has a brief but realistic word about the place of bishops, the pope, and theologians in this dialogue. For instance, he acknowledges that "theologians are also teachers in the Church." As he puts it, "Their writings and teaching also form a part of the teaching of the Church, and they participate in the assistance that is given to all in the formation of our Christian conscience."<sup>42</sup> This is a far cry from the attitude of those who view theological reflection in the Church as "merely speculative" and "nonofficial."

Pfeifer then turns explicitly to official teaching. He deserves full citation here.

Church's current official teaching on a particular moral matter is to be considered by that fact as containing moral error." The question can arise, indeed. If history is our guide, the answer to that question is a clear "no." Being "at variance with the Church's current official teaching" is not tantamount to being wrong. That is why Ratzinger's rejection of any public dissent is devoid of historical and theological warrants. Cf. "Bioethics and Belief: A Joint Statement," *Briefing* 86 16 (July 1986) 186-87.

<sup>41</sup> Michael Pfeifer, O.M.I., "Thoughts on Freedom, Conscience and Obedience," *Origins* 16 (1986) 391-92.

<sup>42</sup> *Ibid.* 392.

Official teaching cannot replace the responsibility of Catholics to seek the truth in those teachings and to give their assent to that truth. And no one of us can simply sit back and wait for church authorities or theologians to figure things out or to make up our minds for us. This responsibility and freedom is nowhere more evident than in the areas where no final assurance can be given that God's own truth has been found.<sup>43</sup>

In cases like this, the Church offers guidance "according to the best available resources at its disposal." Of this guidance Pfeifer states that we can "rely on this official teaching *at least* not to lead us astray."<sup>44</sup> It is this assurance that leads us to be open to what is taught, ready to give assent. But we cannot, Pfeifer notes, stop there. Because the teaching is not final, "both church authorities and Catholics in general must be open to ongoing exploration and even revision when greater clarity emerges. This ongoing exploration is carried out especially by theologians."

In the process of this exploration, church teaching may achieve greater refinement. At other times it may be impossible to reconcile official teaching with emerging qualifications, and church authorities may ask a theologian to cease to publish his/her views on a certain point. But "in no way is this a final judgment on the *question* at issue, but only a warning that a certain point of view seems irreconcilable with what has been taught thus far."

Pfeifer concludes by noting that since official teaching must be addressed to the whole Catholic world, it "cannot take into account the specific circumstances of each person who seeks sincerely to hear the Church's guiding word." Prayer, study, reflection, and consultation are required "before one would make an exception for oneself." Pfeifer insists that moral questions be approached not as "simple legal demands" but in the far broader context of our faithfulness and generosity.

In these important matters tone is crucial, and I believe that Pfeifer, in contrast to Levada and Pilarczyk, has hit exactly the right tone. For example, he views official church teaching as an ongoing process often capable of improvement and revision, an assertion of modesty not often found in official statements. Our openness to such teaching must include openness to its growth. Our assimilation of that teaching is a personal responsibility rooted in our freedom and fidelity. It is an assimilation that must deal prayerfully but realistically with the provisional character of some teaching, as well as with the fact that it cannot exhaustively state individual circumstances in its articulation. These are themes that theologians have been urging for some years, and it is refreshing to see

<sup>43</sup> Ibid.

<sup>44</sup> Emphasis his.

them appear in an episcopal pastoral letter. What Pfeifer has achieved is a relative rarity in our time. He has managed to make the notion of "official teaching" look inviting and attractive. That is an enormous achievement at a time when powerful forces are acting, unwittingly I am sure, to reduce the teaching of the magisterium to an imposed ideology.

### *Theologians*

Charles Curran, in discussing his own case before the College Theology Society, identifies five key issues in his dispute with the Vatican: the role of the theologian; the possibility of public theological dissent from some noninfallible teachings; the possibility and right of dissent by the Christian faithful; the justice and fairness of the process; academic freedom for theology and Catholic institutions of higher learning.<sup>45</sup>

As for the theologian, Curran sees their role as "somewhat independent and cooperative with the hierarchical role." By this wording he is contesting the view that theologians derive their office from delegation by the hierarchy, a view found in canon 812 of the new Code of Canon Law, as well as in Cardinal Ratzinger's correspondence with Curran. Curran argues, successfully I believe, that the ecclesiological perspectives of Vatican II will not support recent legislative attempts to make of the theological role an entirely derivative one.

Curran next turns to public dissent by the theologian. He acknowledges that *obsequium religiosum* is due to noninfallible teaching but argues that this does not exclude dissent. Cardinal Ratzinger denied this in his September 15 letter to Curran. "It must be recognized that the authorities of the Church cannot allow the present situation to continue in which the inherent contradiction is prolonged that one who is to teach in the name of the Church in fact denies her teaching."<sup>46</sup>

Curran then states in exact detail his bases for claiming that dissent is appropriate at times. Within the realm of noninfallible teaching, *some* (Curran himself insists on this qualifier) teachings are at a distance from the core and central realities of the faith. "This distance . . . grounds the possibility of legitimate dissent." Furthermore, the moral issues in question involve a level of specificity and complexity that makes certitude more elusive. As Curran summarizes it:

The central issue involved in the controversy between the CDF and myself is the possibility of public theological dissent from some noninfallible teaching which

<sup>45</sup> Charles Curran, "Public Dissent in the Church," *Origins* 16 (1986) 178-84. Cf. also *Commonweal* 113 (1986) 461-72, as well as *Faithful Dissent* (Kansas City: Sheed and Ward, 1986). This latter includes all the documents in Curran's dealing with the Holy See.

<sup>46</sup> *Origins* 15 (1986) 668.

is quite remote from the core of faith, heavily dependent on support from human reason, and involved in such complexity and specificity that logically one cannot claim absolute certitude.<sup>47</sup>

Ratzinger denies this by deflating the distinction between infallible and noninfallible teaching. "The Church," he says, "does not build its life upon its infallible magisterium alone but on the teaching of its authentic, ordinary magisterium as well."<sup>48</sup> The implication of this statement is, as I have noted elsewhere,<sup>49</sup> that whatever the Church builds its life upon is not a proper matter for public dissent. That contention is, I believe, unsupportable. Briefly, Ratzinger disallows public dissent in principle, a sweeping negation that led ecclesiologist Francis Sullivan, S.J., to remark: "The idea that Catholic theologians, at any level of education, can only teach the official church position and present only those positions in their writings, is new and disturbing."<sup>50</sup>

Curran next treats the possibility and legitimacy of dissent on the part of members of the Church. This possibility was recognized by some episcopal conferences in the wake of *Humanae vitae*. And since that is the case, this "greatly affects how the theologian functions." Theologians present their analyses and views publicly, not simply to exchange views with their peers but also because the people of God have a stake in these discussions. To approach such public discussions dominantly in terms of

<sup>47</sup> *Origins* 16 (1986) 181–82.

<sup>48</sup> *Origins* 16 (1986) 203. Archbishop Roger Mahony (Los Angeles) dissents from Ratzinger on this point (*Origins* 16 [1986] 372–75). He grants the legitimacy of theological dissent on certain issues but rejects the idea that theologians may present their opinions as the basis for pastoral practice. Mahony's paper is, on the whole, a very balanced presentation. Thus he distinguishes carefully between catechists and theologians. He also acknowledges theology's "critical and creative role" and admits that it may be difficult to distinguish a development of doctrine from a deviation. The essay suggests two closely-related questions that have received only incomplete treatment. First, what characteristics determine whether an analysis is presented as a personal opinion only or as the basis of pastoral practice? Second, when and through what mechanisms does authentic teaching cease to be authentic, that is, give way to a new formulation in the Church? And then more specifically, what is the position of the individual Catholic conscience during this transitional period? For instance, John Courtney Murray was right about religious liberty before Vatican II authenticated his view. Indeed, only because he was seen as right could the Council adopt his view. If Catholics realize this rightness in advance of official recognition (before it is "authenticated")—for instance, because it is supported by many trustworthy theologians—could they not form their consciences accordingly even before the teaching is publicly authenticated? Mahony's remarks do not answer these questions. I believe that they are at the core of some contemporary disputes.

<sup>49</sup> Richard A. McCormick, S.J., "The Search for Truth in the Catholic Context," *America* 155 (1986) 276–81.

<sup>50</sup> NC news release.

scandal (in the nontechnical sense of wonderment and confusion) is to perpetuate Leo XIII's description "the ignorant multitude"—as well as the now obsolete sociological assumptions behind that phrase.

Curran's essay ends with some edifying things to say about justice and fairness<sup>51</sup> as well as academic freedom. I cannot detail them here.

Richard McBrien argues that the primary issue at stake in the Curran affair is the nature of theology and the role of the theologian in the Church.<sup>52</sup> Unlike catechesis, preaching, and pastoral instruction, theology is not charged primarily with "echoing" the faith. Obviously, the theologian must present the Church's teaching clearly. But theology is, above all, "faith seeking understanding." Cardinal Ratzinger's statements disallow *any* disagreement with noninfallibly proposed teachings. McBrien rightly rejects this. It denies theology's critical role and reduces the theologian to a high-level catechist. Church teachings do change, and they change primarily through the critical probings of theologians and other scholars. He cites Francis Sullivan on the Curran case:

I don't know of any previous case that has raised the issue of dissent in a way that tends to threaten the critical function of theologians, with regard to the non-definitive teaching of the magisterium. I find this quite extraordinary, if what is meant is that infallible and noninfallible church teachings are equally beyond criticism. This is new.

McBrien argues that in forfeiting theology's critical role, Ratzinger allows for no diversity of audience. Everyone is to be regarded as part of the "simple faithful." That is just unreal in our time.

The third study of dissent in the Church is that of Avery Dulles, S.J.<sup>53</sup> Dulles first notes several differences between political and educational institutions and the Church. The Church has a deposit of faith and cannot accommodate the same kind of ideological pluralism acceptable in the secular state or university. Second, the Church was established by

<sup>51</sup> The notion of fairness raises a chilly little side issue. One is embarrassed to report that a center devoted to ethics (Pope John XXIII Center, Braintree, Mass.) would publish an anonymous four-page attack (*Ethics and Medics* 11 [June 1986] i-iv) on a modest little effort entitled *Health and Medicine in the Catholic Tradition* (New York: Crossroad, 1984) by the composer of this section of the "Notes." One's embarrassment is compounded when he learns that the anonymous attack was submitted as a paid-for-review to a national monthly, *Health Progress*, but was flatly rejected. Embarrassment turns to mystification when this anonymous review is reported by Thomas O'Donnell, S.J. (*Medical-Moral Newsletter* [Sept. 1986] 27-28) as being authored by Albert S. Moraczewski, O.P. O'Donnell kindly describes the book as "a deceptive tangle of truths sometimes inadequately expressed and errors half concealed."

<sup>52</sup> Richard McBrien, "Theologians under Fire," *Tablet* 240 (1986) 675-77.

<sup>53</sup> Avery Dulles, S.J., "Authority and Conscience," *Church* (fall 1986) 8-15.

the action of God in Jesus Christ, and its members are not free to alter its beliefs and structures in a substantive way. Third, the Church uses different means than secular societies and has special aids at its disposal ("Behold, I am with you all days, even to the close of the age" [Mt 28:20]). Dulles then lists the various authorities in the Church (Scripture, tradition, popes, bishops, consensus of the faithful, theologians) and notes that sometimes conflict of opinions can arise. In the face of such conflicts two mistakes are possible: excessive permissiveness and excessive rigidity.

At this point Dulles treats the matter of dissent. The difficulty arises in the sphere of noninfallible teaching. Where such teaching is concerned, the Church asks for *obsequium animi religiosum*. Of this term Dulles, following the excellent study of Ladislav Orsy, S.J.,<sup>54</sup> notes:

This term actually includes a whole range of responses that vary according to the context of the teaching, its relationship to the gospel, the kind of biblical and traditional support behind it, the degree of assent to it in the Church at large, the person or office from which the teaching comes, the kind of document in which it appears, the constancy of the teaching, and the emphasis given to the teaching in the text or texts.<sup>55</sup>

This is of capital importance. There are still very many, even theologians, who refer to *Lumen gentium* (no. 25, *obsequium religiosum*) as if it were a simple, univocal concept. Dulles puts this to rest. "Because the matter is so complex, one cannot make any general statement about what precisely amounts to 'religious submission of mind.'"

While Vatican II did not teach the legitimacy of dissent by its words, Dulles argues, "it did so implicitly by its actions." The German bishops did so explicitly in their pastoral letter of 1967 (Sept. 22). A year later (Nov. 15, 1968) the American bishops in *Human Life in Our Day* agreed with the German letter but went beyond it in treating the *expression* of dissent. Such public dissent, the Americans said, is acceptable under three conditions: (1) The reasons must be serious and well founded. (2) The manner of dissent must not impugn the teaching authority of the Church. (3) The dissent must not be such as to give scandal. Dulles mischievously notes that "anyone who wants to reject the teaching of these documents on dissent is thereby dissenting from the noninfallible magisterium, and thus confirming that very teaching."

Dulles concludes his balanced and respectful study by noting the harm that comes from the effort to stamp out dissent. "It inhibits good theology

<sup>54</sup> Ladislav Orsy, S.J., "Reflections on the Text of a Canon," *America* 154 (1986) 396-99.

<sup>55</sup> Dulles, "Authority and Conscience" 12.

from performing its critical task, and it is detrimental to the atmosphere of freedom in the Church.”

This represents but a brief overview of some recent literature on church teaching, especially in the moral sphere, and dissent from it. I want to conclude this first section with an attempt at a synthetic theological reflection. The Curran affair, and with it the case of Archbishop Raymond Hunthausen, was cover-storied by *U.S. News and World Report* as follows: “The Pope Cracks Down: Taking on American Catholics.”<sup>56</sup> That may appear to be a bit epochal and tumultuous, but it underlines a key ingredient with profound theological implications: coercion. Dulles has noted that this “inhibits good theology” and harms “the atmosphere of freedom in the Church.” This inhibition and harming can easily have the following impacts.

1. *The weakening of the episcopal magisterium.* Here we should recall the theological force of episcopal agreement described in *Lumen gentium*, no. 25. If the bishops around the world are united with the pope in their teaching, then that teaching can achieve a greater level of stability and certainty, and indeed achieve infallible status if the teaching is a proper object of infallibility and is presented as something to be held definitively. But the unity must be genuine and clear.

In a coercive atmosphere both the genuinity and clarity are put in serious doubt. First, the genuinity. Here we should recall one of the arguments made during the deliberations of the so-called Birth Control Commission. It was contended that the Church could not modify its teaching on birth regulation because that teaching had been proposed unanimously as certain by the bishops around the world with the pope over a long period of time. To this point Cardinal Suenens replied: “We have heard arguments based on ‘what the bishops all taught for decades.’ Well, the bishops did defend the classical position. But it was one imposed on them by authority. The bishops didn’t study the pros and cons. They received directives, they bowed to them, and they tried to explain them to their congregations.”<sup>57</sup> In a coercive atmosphere people will repeat things because they are told to and threatened with punishment if they say anything else. Episcopal unity is revealed as enforced, not genuine.

As for clarity, the more likely scenario in a coercive atmosphere is that the bishops (some at least) will say nothing if they disagree. In such circumstances, to read episcopal silence as unanimity is self-deceptive. That is the importance of the Terrance Sweeney incident. It gave us a peek at genuine episcopal disagreement in matters where official insis-

<sup>56</sup> *U.S. News and World Report*, Nov. 17, 1986.

<sup>57</sup> Robert Blair Kaiser, *The Politics of Sex and Religion* (Kansas City: Leaven, 1985) 170.



tence would lead us to believe that there was unanimity. Many of us have known this, of course. Some years ago I authored with Corrine Bayley, C.S.J., an article<sup>58</sup> proposing that certain sterilizations could be justified. A bishop friend remarked to me: "I can name a hundred bishops who agree with you, but not one who will say so publicly." What seemed clear unanimity (if only in silence) clearly was not.

When the genuinity and clarity of episcopal agreement have been cast into grave doubt by a coercive atmosphere, the episcopal magisterium itself has been undermined. The meaning of consensus has been eviscerated. The bishops should be the first ones to protest this diminishment of their magisterium, and the atmosphere that grounds it.

2. *The weakening of the papal magisterium.* This follows from the first point. If bishops are not speaking their true sentiments, then clearly the pope is not able to draw on the wisdom and reflection of the bishops in the exercise of his ordinary magisterium. When this happens, the presumption of truth in papal teaching is weakened, because such a presumption assumes that the ordinary sources of human understanding have been consulted, as the late Karl Rahner so repeatedly argued. That is why what is called the "enforcement of doctrine" is literally counterproductive. It weakens the very vehicle (papal magisterium) that proposes to be the agent of strength and certainty.

3. *The marginalization of theologians.* Coercive measures will almost certainly have the effect of quieting theologians, at least on certain issues. This further erodes both the episcopal and papal magisterium by silencing yet another source of understanding and growth. Archbishop Weakland, as noted above, underlined this. Many bishops, most recently James Malone, have noted the absolute necessity of theology for their work. In Malone's words, "As a bishop in an episcopal conference which had devoted substantial time and energy to the place of the Church in the world, I can testify to the irreplaceable role of the theological enterprise."<sup>59</sup> If reputable theologians are marginalized, the magisterium is proportionately weakened. And it is no response to exclude from the "reputable" category those with whom one disagrees. That begs the (or any) question.

4. *The demoralization of priests.* When juridical coercion (which is not altogether out of place) too easily dominates the Church's teaching-learning process, priests (and other ministers) become demoralized because they are expected to be the official spokespersons for positions

<sup>58</sup> Corrine Bayley, C.S.J., and Richard A. McCormick, S.J., "Sterilization: The Dilemma of Catholic Hospitals," *America* 143 (1980) 222-25.

<sup>59</sup> James Malone, "How Bishops and Theologians Relate," *Origins* 16 (1986) 169-74.

they cannot always and in every detail support. Thus they become torn by their official loyalties and their better judgment and compassion. *Commonweal*, in the editorial cited above, referred to this as "occupational schizophrenia." Archbishop John Quinn adverted to this in the Synod of 1980.<sup>60</sup>

5. *The reduction of the laity.* Coercive insistence on official formulations tells the laity in no uncertain terms that their experience and reflection make little difference—this in spite of Vatican II's contrary assertion: "Let it be recognized that all of the faithful—clerical and lay—possess a lawful freedom of enquiry and of thought, and the freedom to express their minds humbly and courageously about those matters in which they enjoy competence."<sup>61</sup> If such humble and courageous expression counts for nothing, we experience yet another wound to the authority of the ordinary magisterium. The search for truth falls victim to ideology.

6. *The compromise of future ministry.* When a rigid orthodoxy is imposed on seminarians in the name of unity and order, the very ability of these future priests to minister to post-Vatican II Catholics is seriously jeopardized. I have seen this happen. Many thousands of Catholics have studied and struggled to assimilate the Council's perspectives. They do not understand and will not accept a new paternalism in moral pedagogy. This means frustration and crisis for the minister trained to practice such a pedagogy.

7. *The loss of the Catholic leaven.* Coercive insistence that the term "official teaching" is simply synonymous with right, certain, sound, and unchangeable (an identification powerfully supported by the suppression of any public dissent) will lead to the public perception that the role of Catholic scholars is an "intellectual form of 'public relations,'" to borrow from Clifford Longley.<sup>62</sup> That means the serious loss of theological credibility in precisely those areas of modern development (e.g., science and technology) where the Church should desire to exercise a formative influence. The present pontiff wants both to unite the Church and to shape the world, both utterly laudable apostolic objectives. The means to the former could doom the latter.

In conclusion, then, I cannot but agree with *Commonweal's* excellent editorial conclusion: "In the end, the move to exclude the possibility of responsible, public theological questioning of established but noninfallible church teaching will provoke the very fragmentation and loss of

<sup>60</sup> John R. Quinn, " 'New Context' for Contraception Teaching," *Origins* 10 (1980) 263-67.

<sup>61</sup> Cf. note 38 above.

<sup>62</sup> Clifford Longley, "Cynicism and Sexual Morality," *Times* (London), Aug. 4, 1986.

authority it is meant to prevent."<sup>63</sup> It will also deprive the People of God of the fruits of open and honest reflection on the behavioral implications of their faith. They have a right to this. Therefore, I exhort my theological colleagues to stay the course and to embrace, with both humility and courage, their public critical function.

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#### SANCTITY OF LIFE, QUALITY OF LIFE, AND SOCIAL JUSTICE

In two areas of moral theology, the Catholic tradition has had an asset in its flexibility: the responsibility to sustain individual human lives, and the just distribution of the material and social resources which contribute to the "common good." Moral analysis in the former area is newly tested by medical technology which prolongs life in four related instances: seriously abnormal newborns; adults who are critically ill, comatose, or dying; the withdrawal of artificial nutrition and hydration; and the special case of a competent adult, Elizabeth Bouvia, who demands medical cooperation in refusing artificial sustenance. In all cases an important consideration is whether "quality of life" is a morally defensible criterion for withdrawing, withholding, or providing treatment, and if so, what that criterion means and how it is to be applied.<sup>64</sup> These issues of health care are seen increasingly to involve the just distribution of scarce resources, and to manifest the inevitable interdependence of the "indi-

<sup>63</sup> As in note 26 above. As these "Notes" were being finalized, the first section of a two-part essay on dissent by Germain Grisez appeared in the *Homiletic and Pastoral Review* ("How to Deal with Dissent," 87 [Nov. 1986] 19-29). It is an astonishing account, for all practical purposes tracing every malaise in the Church to dissenting theologians. Hundreds of theologians would have to spend thousands of hours doing nothing but dissenting all over the place to wreak the monumental havoc ("cancer in the vital organs of the Church") Grisez finds permeating the Church.

<sup>64</sup> Space constraints force limitation to the literature of 1984-86 (esp. 1985-86) on ethics of withholding treatment. For earlier materials see Richard A. McCormick, "Notes on Moral Theology: 1983," *TS* 45 (1984) 115-19, and a survey article by Kenneth Kipnis and Gailynn M. Williamson, "Nontreatment Decisions for Severely Compromised Newborns," *Ethics* 95 (1984) 90-111. Debates of direct killing (suicide and euthanasia) include Jacques Pohier and Dietmar Mieth, eds., *Suicide and the Right to Die* (Edinburgh: T&T Clark, 1985); Concilium vol. 179, no. 3 (1985) on moral theology; E. Drewerman, "Von Problem des Selbstmords oder: Von einer letzten Gnade der Natur," Part 1, *Studia moralia* 21 (1983) 315-50; and Part 2, *ibid.* 22 (1984) 17-62 (both with English summaries); Theo Beemer, "Je leven: In de waagschaal of op de weegschaal?" ("A Catholic View of Suicide"), *Tijdschrift voor theologie* 24 (1984) 36-54 (English summary); Johan Van Snick, "Het levenseinde: Eigen keuze in relatie tot de anderen" ("Euthanasia and the Tension between Self-Determination and Interpersonal Relationships"), *ibid.* 25 (1985) 385-401 (English summary); and Pope John Paul II, address at the Catholic University of the Sacred Heart, Sept. 6, 1984, *The Pope Speaks* 29 (1984) 352-55.