

## ***Humanae Vitae*: Fifty Years Later**

Theological Studies  
2018, Vol. 79(3) 520–542  
© Theological Studies, Inc. 2018  
Reprints and permissions:  
sagepub.co.uk/journalsPermissions.nav  
DOI: 10.1177/0040563918784769  
journals.sagepub.com/home/tsj



**Charles Curran**

Southern Methodist University, Dallas, TX, USA

### **Abstract**

This article considers what has transpired in the Catholic Church on the issue of contraception in the fifty years since the encyclical *Humanae Vitae* in 1968. The author argues that today there are sufficient reasons to support a consideration of change in the teaching. Without such a consideration that works toward development or change in this teaching, the church risks continuing loss of credibility and will not be able to address honestly other important contemporary issues.

### **Keywords**

Contraception, doctrinal change, doctrinal development, dissent, *Humanae Vitae*, natural law, John Paul II, magisterium, Paul VI, personalism

**H***umanae Vitae*,<sup>1</sup> Pope Paul VI's 1968 encyclical condemning artificial contraception for married couples, is by far the most controversial papal document in contemporary times. The encyclical and its aftermath have occasioned strong differences and divisions within the Roman Catholic Church.<sup>2</sup> Apart from some

1. Paul VI, *Humanae Vitae* (July 25, 1968), 6, [https://w2.vatican.va/content/paul-vi/en/encyclicals/documents/hf\\_p-vi\\_enc\\_25071968\\_humanae-vitae.html](https://w2.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae.html) (hereafter cited as *HV*).
2. In the interest of fairness and to describe the lens that I use in this article, I will briefly relate my position concerning *Humanae Vitae*. The encyclical was made public on Monday, July 29, 1968. Thanks to a friend who worked at the US bishops' conference, I obtained a copy. A group of about ten met that evening at Catholic University of America to study the

### **Corresponding author:**

Charles Curran, Southern Methodist University, Dallas, TX, USA.  
Email: [ccurran@mail.smu.edu](mailto:ccurran@mail.smu.edu)

issues arising from healthcare reform, which I will address later, artificial contraception for spouses no longer generates the attention it did in 1968. The generally received wisdom today is that the people of God as a whole have not received or accepted this teaching. The huge gap between the teaching and the practice substantially harms the credibility of the hierarchical magisterium and the church.

There is no need here to repeat the many reasons defending the use of artificial contraception for spouses that have been developed especially in the years immediately after *Humanae Vitae*. Yet my thesis in this article is that the issue of contraception is even more important today than in 1968. *Humanae Vitae* remains with us as a symbolic bearer of differing views on the possibility of development and change in doctrine. As long as the teaching on contraception for spouses is in place, the church cannot honestly and truthfully address contemporary burning issues such as homosexuality, divorce, and remarriage, and the role of women in the church. The church will lose more credibility and many members if it does not honestly address these issues. *Humanae Vitae* today is the dike holding back the waters of change. On the other hand, this is all the more reason for some in the church to strongly oppose any change in the teaching on artificial contraception.

With this thesis in mind, I will first consider the broad developments that have occurred in the fifty years since the publication of *Humanae Vitae*. I will then reflect on where things stand at the present time.

## Developments in the Last Fifty Years

In this section I will briefly discuss the developments that have occurred in the fifty years after *Humanae Vitae* with attention to the roles of popes, bishops, theologians, and the married people of God.

### Popes

The process that led Pope Paul VI to reject the recommendations of his own commission and issue the encyclical lies beyond the scope of this article. For the more limited purposes of this investigation, the important question concerns why the pope did not accept the call to change the teaching. In the encyclical itself, Paul VI gives his reason: “The conclusions arrived at by the commission could not be considered by Us as definitive . . . especially because certain approaches and criteria for a solution to this question had emerged which were at variance with the moral doctrine on marriage constantly taught by the magisterium of the Church” (*HV* 6). Thus for Paul, the primary reason for the encyclical’s teaching on contraception is to avoid any semblance of change in the teaching the church.

The encyclical itself also called for moral theologians to expound the church’s teaching on marriage without ambiguity. They should be the first to give the example of loyal internal and external obedience to the teaching authority of the church. In the field of morals, all should use the same language and teaching for the sake of the peace of consciences and the unity of the Christian people (*HV* 28). After the publication of

the encyclical, however, there was widespread international dissent from the teaching of *Humanae Vitae* by many theologians. There is no record of Paul VI ever condemning such dissent or the theologians who expressed it. In fact, in late August 1968, he referred to “the lively debate” with regard to the encyclical. He hoped that the debate aroused by the encyclical would lead to a better understanding of God’s will.<sup>3</sup> It is also notable that in the ten years after *Humanae Vitae* before his death in 1978, Paul VI never wrote another encyclical.

In February 1966, Pope Paul reorganized what was officially called the Pontifical Study Commission on Family, Population, and Birth Problems, which Pope John XXIII had originally established in 1963. In the reorganization before the fifth meeting of the commission, Pope Paul named sixteen bishops, including seven cardinals,

---

document. I was the primary organizer, drafter, and spokesperson for the statement coming from this group, which has often been called by others “The Washington Statement.” This statement was made public at a news conference on Tuesday morning, July 30. Eighty-seven theologians, as a result of phone calls throughout the night, agreed to sign the statement. Ultimately over 600 signed the statement.

This ten-paragraph statement acknowledged some positive aspects of the encyclical and recognized the teaching role of the hierarchical magisterium in the church. The statement disagreed with the natural law theory used in the encyclical and the conclusion that every sexual marital act had to be open to procreation. The encyclical involves noninfallible teaching, and it is common teaching that Catholics may dissent from noninfallible teachings when there are sufficient reasons. The statement concludes on the basis of the reasons given that spouses may responsibly decide according to their conscience that artificial contraception in some circumstances is permissible and even necessary to preserve and foster the values and sacredness of marriage. The core group involved in the statement consisted primarily of Catholic University professors. Trustees of the university, composed mostly of cardinals, archbishops, and bishops, directed the acting-rector of the university to institute through due academic process an immediate inquiry as to whether the teachers at Catholic University who signed the statement of dissent violated, by their declarations or their actions, their responsibilities to the university. Twenty professors from Catholic University who had signed the statement were the subjects of the inquiry. The report of the faculty board of inquiry concluded that the statement of the professors represented a responsible theological dissent, and that this dissent was reasonably supported as a tenable scholarly position.

On July 13, 1979, a letter from Cardinal Franjo Seper, prefect of the Congregation for the Doctrine of the Faith (CDF), informed me that I was under investigation. Sixteen pages of observations indicated that the primary issues were dissent, contraception, and other issues mostly regarding sexuality. After a number of written letters back and forth and a meeting with Cardinal Joseph Ratzinger, then prefect of the CDF, a July 25, 1986 letter from Ratzinger concluded that I was neither suitable nor eligible to teach Catholic theology. The decision of the CDF was approved by Pope John Paul II on July 10, 1986. For a more complete account, see Charles E. Curran, *Loyal Dissent: Memoir of a Catholic Theologian* (Washington, DC: Georgetown University Press, 2006).

3. Paul VI, “Homily at the Inauguration of the 2nd General Assembly of Bishops of Latin America” (Medellín, August 24, 1968), <https://w2.vatican.va/content/paul-vi/en/homilies/1968.index.html>.

to act as an executive committee. As a result, the former members of the commission which had been growing in the course of the four previous sessions were no longer directly responsible to the pope but became advisors (*periti*) to the committee of bishops who were to report to the pope. Archbishop Wojtyla of Krakow was one of the 16 bishops on the commission, but he was unable to attend because the Polish government denied him a visa.<sup>4</sup>

In 1960 Wojtyla published his book *Love and Responsibility*, in Polish, which was first translated into English only in 1981. This book was originally a series of lectures given at the Catholic University of Lublin in 1958–1959.<sup>5</sup> The book treats the topic of responsible love. In keeping with Wojtyla's personalist philosophical approach, he argues that the person, through one's own actions toward another, becomes both the subject and object of responsible love—as does the other person. Responsible love is reciprocal. In this context, Wojtyla discusses sexuality and the virtue of chastity. A comparatively small part of the book deals explicitly with birth control, arguing that artificial birth control is immoral, but that periodic continence is acceptable.<sup>6</sup> The argument brings together both psychological and ethical analyses of love.

Although Wojtyla was unable to attend the 1966 meeting of the commission in Rome, he apparently strongly influenced Pope Paul in writing *Humanae Vitae*.<sup>7</sup> After the pope's commission finished the final session in Rome in 1966, Cardinal Wojtyla organized his own commission in Krakow to study the issue. The findings of the commission, which closely followed Wojtyla's earlier writings, were sent as a memorandum to Pope Paul before he issued the encyclical. The memorandum strongly argues in favor of the teaching prohibiting artificial contraception for spouses but develops especially Wojtyla's more personalist approach and the role of love. Wojtyla's personalist approach strongly insisted on the inseparability of the unitive and procreative aspect of sexual intercourse within marriage.<sup>8</sup>

In 1978, on the occasion of the tenth anniversary of *Humanae Vitae*, Cardinal Wojtyla wrote an article, "The Anthropology of *Humanae Vitae*."<sup>9</sup> Ronald Modras

- 
4. William H. Shannon, *The Lively Debate: Response to Humanae Vitae* (New York: Sheed & Ward, 1970), 87–88, 102n15.
  5. Karol Wojtyla (Pope John Paul II), *Love and Responsibility*, trans. H. T. Willetts (New York: Farrar, Straus, Giroux, 1981), 9.
  6. Wojtyla, *Love and Responsibility*, 232–44.
  7. Avery Cardinal Dulles, *The Splendor of Faith: The Theological Vision of Pope John Paul II* (New York: Crossroad, 2003), 10; George Weigel, *Witness to Hope: The Biography of Pope John Paul II* (New York: Cliff Street, 1999), 206–10.
  8. Michael J. Barbieri and Joseph A. Selling, "The Origins of *Humanae Vitae* and the Impasse in Fundamental Theological Ethics," *Louvain Studies* 37 (2013): 364–89, <https://doi.org/10.2143/LS.37.4.3047125>; Janet E. Smith, "The Kraków Document," *Nova et Vetera*, English edition, 10 (2012): 361–81; Karol Cardinal Wojtyla et al., "The Foundations of the Church's Doctrine concerning the Principles of Conjugal Life: A Memorandum Prepared by a Group of Moral Theologians from Kraków," *Nova et Vetera*, English edition, 10 (2012): 321–59.
  9. Karol Wojtyla, "Antropologia encykliki 'Humanae vitae,'" *Analecta Cracoviensia* 10 (1978): 9–28.

later wrote an article in English describing Wojtyła's article.<sup>10</sup> According to Modras, opponents of *Humanae Vitae* often appeal to personalism to disagree with *Humanae Vitae* with its emphasis on natural law and natural biological processes that cannot be impeded. Modras argues that Wojtyła again fills out the approach of *Humanae Vitae* by developing his personalist approach to defend the conclusion of the encyclical. A personalist approach is holistic and cannot be reduced to just one aspect such as the biological or the technical or the economic domain. Such an approach also opposes a dualistic understanding of the body and the soul. Wojtyła admits that *Humanae Vitae* rarely uses the word "person" but in his article he develops the personalist humanism that is definitely implicit in the document itself.

Modras sees in Wojtyła's article why the issue of artificial contraception was so important for the future pope and was not just a particular moral issue with no further ramifications. It involves not only the meaning of sexuality but also the church's doctrine on anthropology. It is for this reason that Wojtyła describes artificial contraception as involving "a struggle concerning the dignity and meaning of humanity itself."<sup>11</sup> Thus even before becoming pope, Wojtyła saw the issue of artificial contraception as much more significant and important than just a single moral issue.

Karol Wojtyła became Pope John Paul II on October 16, 1978. In light of this background it is no surprise that from the very beginning of his papacy he insisted on the importance of the teaching on artificial contraception in the light of his personalist anthropology. The 1980 Synod of Bishops focused on the family. Based on the synod and its discussions, the pope then wrote the apostolic exhortation *Familiaris Consortio* which discussed the family, marriage, and sexuality. A large section develops the "prophetic" proclamation of *Humanae Vitae*. The exhortation calls for theologians to collaborate with the magisterium in making clearer the biblical foundations, the ethical grounds, and the personalist reasons behind the teaching of *Humanae Vitae*. The objective standards proposed by the magisterium are based on the nature of the human person and his or her acts preserving the full sense of mutual self-giving and procreation in the context of true love.<sup>12</sup>

In his weekly public audiences beginning in September 1979 and lasting until November 1984, the pope addressed the meaning of marriage and sexuality. These talks were later published. The people at the individual audiences would have had a very difficult time following these talks, for the genre of such talks is usually more general, taking the form of an exhortation and not continuing a theme over such a long period of time. It is safe to say that the pope had already composed these lectures even before he was elected. Sixteen of these talks deal with *Humanae Vitae* in light of the theology of the body showing forth human love in the divine plan.<sup>13</sup>

10. Ronald Modras, "Birth Control, Personalism, and the Pope," *Currents in Theology and Mission* 8 (1981): 283–90.

11. Modras, "Birth Control," 288.

12. John Paul II, *Familiaris Consortio* (November 22, 1981), 28–35, [https://w2.vatican.va/content/john-paul-ii/en/apost\\_exhortations/documents/hf\\_jp-ii\\_exh\\_19811122\\_familiaris-consortio.html](https://w2.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_19811122_familiaris-consortio.html) (hereafter cited as *FC*).

13. John Paul II, *The Theology of the Body: Human Love in the Divine Plan* (Boston: Pauline, 1997), 386–423.

As is well known and I will briefly mention later, the “lively debate” set off by *Humanae Vitae* developed into a broad theological discussion of the issues raised by and connected with *Humanae Vitae*. A very large group of theologians supported the legitimacy of dissent from noninfallible teachings when there are sufficient reasons for so doing and disagreed with aspects of the accepted Catholic teachings in the area of sexuality as well as on natural law, absolute moral norms, intrinsic evil, and conscience.<sup>14</sup> John Paul II’s 1993 encyclical *Veritatis Splendor* responded to these numerous writings, which he believed created a genuine crisis involving an overall and systematic calling into question of traditional moral doctrine regarding the natural law and the universality and permanent validity of its precepts.<sup>15</sup> This encyclical differs from all the other encyclicals of John Paul II in that it deals with the theory and principles of the discipline of moral theology. Unlike the other encyclicals it is not addressed to the broader church and all people of good will but only to his venerable brothers in the episcopate. The encyclical had the effect of intensifying the continuing disagreements in moral theology.

Under John Paul II, the Congregation for the Doctrine of the Faith (CDF) began a concerted effort to investigate theologians and issue various forms of condemnations. One of the primary concerns here, especially in the earlier period, involved issues of dissent, especially in the area of moral theology. According to Bradford Hinze, the Vatican website lists the investigation of the following moral theologians during the papacy of John Paul II: Anthony Kosnik, the editor of the study commissioned by the Catholic Theological Society of America and published as *Human Sexuality* (1979); Charles E. Curran (1986); André Guindon, author of *The Sexual Creators: An Ethical Proposal for Concerned Christians* (1992); and Marciano Vidal, CSsR, over numerous writings in moral theology (2001). In addition to those found on the Vatican website, Hinze mentions other well-known moral theologians who were investigated by the CDF—Bernard Häring, Benjamin Furcano, Sean Fagan, and John McNeill.<sup>16</sup>

On April 19, 2005, Joseph Ratzinger was elected pope, assuming the name Benedict XVI. As the prefect of the CDF under John Paul II, he was involved in the investigations of many of the moral theologians mentioned above. In a 1994 interview in the Italian magazine *Jesus*, Ratzinger discussed the crisis of faith throughout the world. He maintained there that in the North American ethos, wealth is the measure of all things and, as such, is opposed to the Catholic style of life and values. In this context it is difficult to present authentic Christian ethics as reasonable. Consequently, many moral theologians in North America dissent from the teaching of the magisterium.<sup>17</sup>

14. Charles E. Curran and Richard A. McCormick, eds., *Dissent in the Church*, Readings in Moral Theology 6 (New York: Paulist, 1988).

15. John Paul II, *Veritatis Splendor* (August 6, 1993), 583–661, [https://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_06081993\\_veritatis-splendor.html](https://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor.html).

16. Bradford Hinze, “A Decade of Disciplining Theologians,” *Horizons* 37 (2010): 101–4, <https://10.1017/s0360966900006861>.

17. Vittorio Messori, “A Colloquio con Cardinale Josef Ratzinger,” *Jesus*, November 1984, 77; for an English translation, see “Cardinal Joseph Ratzinger,” *Fellowship of Catholic Scholars Newsletter* 8 no. 2 (March 1985): 5–6.

Benedict XVI, as to be expected, continued to strongly support the teaching on contraception. His two encyclicals did not deal primarily with sexuality and moral theology. Yet his 2008 allocution on the fortieth anniversary of *Humanae Vitae* praised Pope Paul for issuing this document which, he argued, had become a sign of contradiction. The encyclical, he argued, courageously confirmed the continuity in the traditional teaching of the church on marriage and sexuality.<sup>18</sup> Nevertheless, in 2016, Pope Emeritus Benedict revealed that while in his judgment the reasoning in *Humanae Vitae* was not satisfactory, he agreed with its conclusions. He was looking for a comprehensive anthropological viewpoint. But, as we have seen, John Paul II supplied one such viewpoint by complementing the natural law approach with a personalist perspective.<sup>19</sup>

The contraception issue that garnered great attention in Benedict's papacy was the use of condoms to prevent the spread of HIV. Catholic theologians had been debating this issue since the late 1980s with many, but by no means all, theologians defending the use of condoms in this case to prevent infection. But those defending the use of condoms did not directly challenge the teaching that contraception for married couples is wrong.<sup>20</sup> When interviewed on a couple of occasions during his foreign trips, Benedict pointed out that the HIV/AIDS epidemic could not be overcome by the distribution of condoms, and that in fact condoms increased the problem.<sup>21</sup> However, in a 2010 book based on interviews with Benedict, he is quoted as saying that while condoms are not the real or moral solution, in certain cases, when motivated by the intention of reducing the chances of infection, the use of condoms can be a first step in a movement toward a more humane sexuality.<sup>22</sup>

In his short papacy Pope Francis has not directly dealt in any detail with *Humanae Vitae* or the hierarchical magisterial teaching on artificial contraception. On occasion he has briefly supported the teaching. For example, in his trip to Asia in 2015 Francis praised *Humanae Vitae* as "courageous" and referred to Paul VI as a "prophet" and "a good pastor" who had the strength to defend openness to life.<sup>23</sup> In dealing with other

- 
18. Benedict XVI, "Address to Participants of the International Congress Promoted by the Pontifical Lateran University on the 40th Anniversary of the Encyclical 'Humanae Vitae'" (Rome, May 10, 2008), [https://w2.vatican.va/content/benedict-xvi/en/speeches/2008/may/documents/hf\\_ben-xvi\\_spe\\_20080510\\_humanae-vitae.html](https://w2.vatican.va/content/benedict-xvi/en/speeches/2008/may/documents/hf_ben-xvi_spe_20080510_humanae-vitae.html).
  19. Joshua J. McElwee, "Benedict Reveals Dissatisfaction with Paul VI's *Humanae Vitae*," *National Catholic Reporter*, September 12, 2016, <https://www.ncronline.org/news/vatican/benedict-reveals-dissatisfaction-paul-vis-humanae-vitae>.
  20. James F. Keenan, ed., *Catholic Ethicists on HIV/AIDS Prevention* (New York: Continuum, 2000).
  21. Aline H. Kalbian, *Sex, Violence, and Justice: Contraception and the Catholic Church* (Washington, DC: Georgetown University Press, 2014), 74–75.
  22. Benedict XVI, *Light of the World: The Pope, the Church, and the Signs of the Times, A Conversation with Peter Seewald*, trans. Michael J. Miller and Adrian J. Walker (San Francisco: Ignatius, 2010), 119.
  23. "Editorials: Get Beyond *Humanae Vitae* Impasse," *National Catholic Reporter*, January 30–February 12, 2015, <https://www.ncronline.org/news/theology/editorial-we-must-get-beyond-humanae-vitae-impasse>.

moral issues such as divorce and remarriage as well as homosexuality he has recognized the need to deal with people in the reality of their lives.<sup>24</sup> Such an approach amounts to what has been called a pastoral solution based on the law of growth that does not change the objective teaching of the church but recognizes the difference between the pastoral realm and the realm of moral theology.<sup>25</sup> In none of his writings, however, has he given any indication of directly changing any existing teaching of the hierarchical magisterium with regard to morality.<sup>26</sup>

In conclusion, Popes John Paul II and Benedict XVI continued to teach and even strongly emphasize the teaching of *Humanae Vitae*, condemning artificial contraception for spouses. There was no equivocation of any type. Pope Francis has not directly dealt with *Humanae Vitae* but he has on occasion reaffirmed it. There has been much opposition to this teaching, but the popes have been adamant. Even when recognizing the legitimacy of condoms to prevent serious infection, the popes have continued to insist strongly on the teaching of *Humanae Vitae* for spouses.

Pope Paul's description of the lively debate that followed the publication of *Humanae Vitae* tends to be a great understatement. No single church document has caused as much reaction throughout the Catholic world as *Humanae Vitae*. In what follows, I will give a brief overview of the reactions of bishops, theologians, and lay married Catholics in the United States with the aim of discerning where the matter stands today.

## Bishops

A great number of bishops' conferences throughout the world addressed the encyclical and its reception. No episcopal document disagreed with the teaching of the encyclical.

- 
24. Francis with Antonio Spadaro, *My Door is Always Open: A Conversation on Faith, Hope, and the Church in a Time of Change* (New York: Bloomsbury, 2014), 54–57; Francis, *Evangelii Gaudium* (November 24, 2013), 44–45, [https://w2.vatican.va/content/francesco/en/apost\\_exhortations/documents/papa-francesco\\_esortazione-ap\\_20131124\\_evangelii-gaudium.html](https://w2.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium.html).
  25. Bernard Häring, “A Theological Evaluation,” in *The Morality of Abortion: Legal and Historical Perspectives*, ed. John T. Noonan, Jr. (Cambridge, MA: Harvard University Press, 1970), 123–45 at 140–42.
  26. Some very conservative Catholics, however, have raised the question: Where does Pope Francis really stand on contraception? Their basis for this question comes from his remarks open to using condoms to prevent infection, the need to deal with people in their lived reality, and the call for confessors to be merciful in particular cases. See “Where Does Pope Francis Really Stand on Contraception?” *Voice of the Family*, February 1, 2017, <https://voiceofthefamily.com/where-does-pope-francis-really-stand-on-contraception>. Some conservatives have also expressed fear over speculation that Pope Francis is considering establishing a commission to examine *Humanae Vitae*. See Russell Shaw, “A New Vatican Birth Control Commission?” *The Catholic World Report*, May 24, 2017, <https://www.catholicworldreport.com/2017/05/24/a-new-vatican-birth-control-commission>.



In the Catholic ethos of the time, no conference or group of bishops would publicly challenge papal teaching. Commentators describe three general positions taken by the various conferences of bishops. One group, probably the largest, asserted with little or no qualification that it is seriously wrong for Catholics to use contraception and that conscience must be formed in accord with papal teaching. A second group, represented especially by many European conferences of bishops as well as the Canadian, insisted that Catholics must give serious attention to *Humanae Vitae* but that after study and prayerful reflection in conscience a Catholic could dissent from the teaching on artificial contraception. There was also a middle group that gave some consideration to conscience, did not endorse dissent, but recognized that because of the pressures facing many married couples, failure to follow the encyclical did not necessarily involve grave guilt.<sup>27</sup>

I will consider here only the role of US bishops. Their November 15, 1968 pastoral letter *Human Life in Our Day* fits into the third position described above.<sup>28</sup> According to the US bishops, *Humanae Vitae* “presents without ambiguity, doubt, or hesitation the authentic teaching of the Church concerning the objective evil” of contraception (*HL* 12). “The encyclical does not undertake to judge the consciences of individuals, but to set forth the authentic teaching of the Church which Catholics believe interprets the divine law to which conscience should be conformed” (*HL* 15). The document recognizes the difficult situation in which some Catholic spouses find themselves and these circumstances may reduce moral guilt. However, “no one following the teaching of the Church can deny the objective evil of artificial contraception itself” (*HL* 16).

What is unique about the US bishops’ document is their acceptance of norms for legitimate theological dissent. “The expression of theological dissent from the magisterium is in order only if the reasons are serious and well-founded, if the manner of the dissent does not question or impugn the teaching authority of the Church, and is such as not to give scandal” (*HL* 18). What explains the fact that the US bishops accepted the legitimacy of theological dissent? Such a position is obviously in some tension with not admitting that the conscience of married couples can legitimately dissent. Two reasons help to explain this acceptance of theological dissent. First, the US bishops were faced with a large number of dissenting theologians, including the six hundred scholars in the sacred sciences who ultimately signed the Washington Statement. Second, the core leadership of the original signers from Catholic University had given detailed defenses of such dissent in the writings of nineteenth- and

---

27. Shannon, *Lively Debate*, 117–46; Joseph A. Selling, “The Reaction to *Humanae Vitae*: A Study in Special and Fundamental Theology” (STD diss., Catholic University of Louvain, 1977), 139, <http://www.catholicsandcontraception.com/reaction-to-humanae-vitae-joseph-selling-1977>.

28. United States Catholic Conference of Bishops, *Human Life in Our Day* (November 15, 1968) (hereafter cited as *HL*).

twentieth-century Catholic manualists to Cardinal O'Boyle, the chancellor of Catholic University, and to a group of bishops.<sup>29</sup> Thus the bishops recognized that the teaching about dissent from noninfallible teaching was proposed and defended even in the pre-Vatican II manuals of moral theology. However, as time went on, especially under the papacy of John Paul II with its condemnation of dissenting theologians, the US bishops no longer supported the right to theological dissent.

Another illustration of the hardening of episcopal positions on *Humanae Vitae* came with the intervention of Archbishop John R. Quinn, then the president of the conference of US bishops, at the international Synod on the Family in Rome in 1980. Quinn pointed out that 80 percent of American Catholic women were using artificial contraception in their marriage, and that many theologians and priests disagreed with the teaching that every use of contraception is intrinsically evil. These theologians and priests, he argued, were people dedicated to the church. Quinn called for an "honest investigation" of this question. He proposed three ideas: (1) consideration of the new context for the teaching that already existed in 1980; (2) a worldwide dialogue between the Holy See and theologians on dissent; and (3) careful attention to the way in which magisterial documents are written and communicated.<sup>30</sup> A few other bishops made somewhat similar interventions at the synod.<sup>31</sup> But in his apostolic exhortation based on the synod, Pope John Paul II strongly reaffirmed the teaching of *Humanae Vitae* (FC 50–53). In the light of John Paul II's strong and continuing affirmation of *Humanae Vitae*, no subsequent presidents of the conference of US bishops ever spoke in the same way again about contraception. In fact, as is well known, the acceptance of *Humanae Vitae* became a litmus test in the appointment of bishops in the church.<sup>32</sup>

From 2011 to 2017, the US bishops staged a strong and prolonged public challenge to the contraceptive mandate of the Affordable Care Act. The law required insurance coverage for "procreative health services" which for women included reproductive care. The Department of Health and Human Services (HHS) had the responsibility for spelling out the details. The first regulations from HHS in August 2011 made an exception for purely religious employers but not for nonprofit church groups such as hospitals, colleges, universities, and Catholic Charities. The US bishops became the primary, but by no means the only, group fighting against the contraceptive mandate.<sup>33</sup>

---

29. Charles E. Curran, Robert E. Hunt, et al., *Dissent in and for the Church: Theologians and Humanae Vitae* (New York: Sheed & Ward, 1969), 9–16.

30. John R. Quinn, "'New Context' for Contraceptive Teaching," *Origins* 10 (1980): 263–67.

31. Richard A. McCormick, *Notes on Moral Theology, 1981–1984* (Lanham, MD: University Press of America, 1984), 239–42.

32. Raymond G. Helmick, *The Crisis of Confidence in the Catholic Church* (New York: Bloomsbury, 2014), 222.

33. United States Conference of Catholic Bishops, *March 14 Statement on Religious Freedom and HHS Mandate* (March 14, 2012), <https://www.usccb.org/issues-and-action/religious-liberty/march-14-statement-on-religious-freedom-and-hhs-mandate.cfm>.

In 2011 the bishops established an ad hoc committee on religious freedom for a three-year term. It authorized a second three-year term in 2014. In 2017 in a somewhat contested vote, the committee was made permanent. One of the primary issues for this committee was the contraceptive mandate.<sup>34</sup> It is beyond the scope of this article to describe the details of this disagreement.<sup>35</sup> The final settlement, after involvement of local courts and even the Supreme Court,<sup>36</sup> was an agreement with the Department of Justice announced in October 2017 that accommodates the free exercise of religion by the Catholic institutions, and not just the church itself, while ensuring that women employees receive contraceptive coverage at no additional cost.<sup>37</sup>

This prolonged struggle, which the bishops won, was based on the right to religious freedom of Catholic institutions to act in accord with the church's teaching on contraception.<sup>38</sup> This public dispute thus also reinforced the public recognition of the Catholic teaching condemning artificial contraception for spouses. It is safe to say that the majority of people in the United States know that the Catholic Church is opposed to artificial contraception for spouses, but very few know that the United States Catholic bishops have strongly supported the right to healthcare.

As time went on after *Humanae Vitae*, the bishops in the United States at times publicly supported the papal teaching and none of them called for any reconsideration. However, in almost all the dioceses in the United States a very different reality existed. As I will discuss later, many lay Catholics disagreed with the conclusion of *Humanae Vitae*, and the great majority of married Catholics used contraception. Parish priests obviously experienced a tension. In one sense they represented the church and its magisterium, but they were also pastors with regard to their parishioners. What should they do in practice?

If priests publicly dissented from the encyclical, this could readily cause a negative response from the local bishop. The primary and practically only example of such a negative response occurred in the archdiocese of Washington where a bitter dispute broke out between Cardinal O'Boyle and the priests who publicly dissented by supporting the statement of the theologians. O'Boyle suspended thirty-nine priests for their public dissent. The dispute lasted for two years, but the Vatican finally reconciled

34. Matt Hadro, "US Bishops Vote to Make Religious Freedom Committee Permanent," *Catholic News Agency*, June 15, 2017, <https://www.catholicnewsagency.com/news/us-bishops-vote-to-make-religious-freedom-committee-permanent-90290>.

35. For the history of this dispute, see Leslie C. Griffin, "The Catholic Bishops vs. the Contraceptive Mandate," *Religions* 6 (2015): 1419–432, <http://scholars.law.unlv.edu/facpub/946/>.

36. *Zubik v. Burwell*, 578 US (2016).

37. Adelaide Mena, "Department of Justice Announces Settlement in HHS Mandate Suits," *Catholic News Agency*, October 16, 2017, <https://www.catholicnewsagency.com/news/departement-of-justice-announces-settlement-in-hhs-mandate-suits-41813>.

38. For negative evaluations of the bishops' strategy, see Griffin, "The Catholic Bishops"; Margaret O'Brien Steinfelds, "A Losing Strategy: The US Bishops' Campaign against the Contraceptive Mandate," *Commonweal*, May 4, 2012, 7.

the parties without publicly blaming either side. Many of the dissenting priests left the ministry and, in the end, only nineteen were reconciled.<sup>39</sup>

But as pastors, priests deal with people in counseling and in the confessional. Here the majority of priests have accepted and even supported the conscientious decisions of married Catholics. A 1969 survey, just a year after *Humanae Vitae*, found that only 13 percent of priests refused absolution to a penitent practicing contraception. Even individual bishops who publicly supported the encyclical did not interfere with what the great majority of their priests were doing privately. As time went on contraception faded as a divisive pastoral issue.<sup>40</sup> Thus a *modus vivendi* was worked out soon after the encyclical, and this has continued to the present time.

### Theologians

The dissenting theologians were the first ones heard from after the issuance of the encyclical.<sup>41</sup> The encyclical maintained that the teaching is based on the natural law and the very nature of the marital act. The particular natural law theory employed in the encyclical is an example of physicalism or biologism. It identifies the human moral act with the physical structure of the act itself. (A subsequent development of this position distinguishes between physical evil and moral evil, where physical evil is not always morally wrong). The emphasis on physicalism owes much to the theory of natural law proposed by the Roman jurist Ulpian that the natural law is that which is common to humans and all animals. Ulpian distinguishes the natural law from the *ius gentium*, the law proper to human beings because of human reason. Ulpian gives as an illustration of natural law the procreation and education of children.

A more personalist approach recognizes the moral legitimacy of contraception in certain circumstances. The manuals of moral theology condemn contraception primarily on the basis of the “perverted faculty” argument. According to this line of reasoning, the faculty or power of sexuality has a procreative purpose. Consequently, every sexual act must be open to procreation. However, even before the encyclical some moral theologians recognized that the sexual power or faculty also has a unitive or love-union purpose that must also be present in every sexual act.<sup>42</sup> The encyclical indeed recognizes both the unitive and procreative purposes but the emphasis is on the procreative—every marital act must remain open to the transmission of life. However,

39. Joseph Byron, “Case of the Washington Nineteen: A Search for Justice,” in *Judgment in the Church*, ed. William W. Bassett and Peter Huzing (New York: Seabury, 1977), 104–12.

40. Leslie Woodcock Tentler, *Catholics and Contraception: An American History* (Ithaca, NY: Cornell University Press, 2004), 272–78.

41. The following paragraphs are based on the defense of the “Washington Statement” by the Catholic University theologians in Curran and Hunt, *Dissent in and for the Church*, 155–95; Richard A. McCormick, *Notes on Moral Theology, 1965–1980* (Washington, DC: University Press of America, 1981), 215–31, 628–31, 770–75.

42. H. Noldin, *Summa Theologiae Moralis: De Castitate*, 36th ed., ed. Godefridus Heinzel (Innsbruck, Austria: Rauch, 1958), 64–67.

the personalist approach sees the sexual act and power or faculty as part of the human person. A relational anthropology, which is congruent with a personalist approach, sees the faculty and the power of sexuality in relationship to the person and the person's multiple relationships with others. Thus, one could interfere with the physical sexual act for the good of the person or the good of the marital relationship.<sup>43</sup> Such approaches thus argue against the encyclical's conclusion that every marital act must remain open to the transmission of life. As time went on, dissenting theologians realized that a personalist and relational anthropology calls for a different approach to many other aspects of sexuality.<sup>44</sup>

A considerably smaller group of American moral theologians defended the practical conclusion of *Humanae Vitae*. Some such as Janet Smith strongly supported the reasoning and conclusion of the encyclical.<sup>45</sup> The most creative and innovative approach defending the immorality of contraception for spouses came from Germain Grisez, who was trained and originally wrote as a philosopher. Grisez rejected the traditional natural law theory used to show the immorality of artificial contraception and developed his own approach, often called the new natural law or the basic goods theory. He rejected the approach that it is morally wrong to prevent an act from achieving its natural end, that the "ought" follows from the "is," and also rejected the perverted faculty argument. His 1965 book first proposed his theory which he later embellished and developed.<sup>46</sup> Practical reason requires that one must do good if one is to act intelligently. He then develops eight basic goods that the human person should pursue. Note that his theory is not predominantly minimalistic and legalistic as in the traditional natural law approach, but calls for the human person to strive to achieve these basic goods. However, one cannot go against a basic human good even in order to pursue another good. His early book maintained that contraception went against the basic good of procreation. Later he tried to show that contraception goes against the basic good of life itself.

Others developed the personalist and love-based approach of John Paul II. John Grabowski, of Catholic University, discusses sexuality and artificial contraception in the context of virtue theory, personalism, and a scriptural approach. In this context, he develops "the language of the body" and "the gift of self" which were emphasized by John Paul II. In distinguishing the immorality of artificial contraception from the virtuous use of natural family planning, he uses Alasdair MacIntyre's understanding of a practice conducive to growth in virtue.<sup>47</sup>

43. Daniel Callahan, ed., *The Catholic Case for Contraception* (New York: Macmillan, 1968).

44. See, e.g., Charles E. Curran and Richard A. McCormick, eds., *Dialogue about Catholic Sexual Teaching*, Readings in Moral Theology 8 (New York: Paulist, 1993).

45. Janet Smith, *Humanae Vitae, A Generation Later* (Washington, DC: Catholic University of America Press, 1991).

46. Germain G. Grisez, *Contraception and the Natural Law* (Milwaukee, WI: Bruce, 1964); Grisez, *The Way of the Lord Jesus*, vol. 1, *Christian Moral Principles* (Chicago: Franciscan Herald, 1983), 173–274; John C. Ford, Germain Grisez, Joseph Boyle, John Finnis, and William E. May, *The Teaching of Humanae Vitae: A Defense* (San Francisco: Ignatius, 1988).

47. John S. Grabowski, *Sex and Virtue: An Introduction to Sexual Ethics* (Washington, DC: Catholic University Press, 2003).

William Murphy builds his defense of *Humanae Vitae* following the approach of John Paul II and the Swiss theologian Martin Rhonheimer.<sup>48</sup> Murphy appeals to the Thomistic theory of human action, the centrality of the *finis proximus*, the important role of virtue, especially at integrating the Christian life, and the call of married couples to holiness through their vocation to live out self-sacrificing love. He also appeals to the body–soul unity for the foundation of the inseparability of the unitive and the procreative dimensions of conjugal acts.<sup>49</sup> Although the immorality of artificial contraceptive acts is intrinsically intelligible, it is most readily grasped in the light of faith and the theological, christological, and ecclesial aspects mentioned above.<sup>50</sup> In the earlier article, he was somewhat stronger—rational arguments “will not amount to a compelling demonstration.”<sup>51</sup>

All these somewhat different or developed rationales for the immorality of artificial conjugal contraceptive acts agree with the basic conclusion that one cannot interfere with the marital sexual act. For this reason, few theologians have been convinced by these approaches.

But the issue broadens. For *Humanae Vitae* itself involves not only the moral question of artificial contraception, but also the ecclesial issue of the teaching authority of the hierarchical magisterium. The ecclesial aspect has moved the matter beyond a debate among moral theologians and has solidified the divisions between those who uphold the teaching and those who question it, sometimes called “revisionist” theologians. Disciplinary actions taken against prominent dissenters created a chilling effect on the work of revisionist theologians.<sup>52</sup> Since *Humanae Vitae*, these differences among Catholic theologians have hardened. Some have spoken of a “moral schism” between revisionist and more tradition-minded thinkers.<sup>53</sup> In this regard it is apt to recall that Pope John Paul II referred to a genuine crisis in the church.

A few defenders of *Humanae Vitae* (e.g., John Ford and Germain Grisez) maintained that the conclusion of the condemnation of artificial contraception is an infallible teaching based on the ordinary magisterium since it has been taught by all the bishops in union with the pope.<sup>54</sup> The vast majority of Catholic theologians reject this

---

48. Martin Rhonheimer, *Ethics of Procreation and the Defense of Human Life: Contraception, Artificial Fertilization, and Abortion* (Washington, DC: Catholic University of America Press, 2010).

49. William F. Murphy, Jr., “Revisiting Contraception: An Integrated Approach in light of the Renewal of Thomistic Virtue Ethics,” *Theological Studies* 72 (2001): 812–47, <https://doi.org/10.1177/004056391107200406>; Murphy, “Forty Years Later: Arguments in Support of *Humanae Vitae* in Light of *Veritatis Splendor*,” *Josephinum Journal of Theology* 14 (2007): 122–67.

50. Murphy, “Revisiting Contraception,” 845.

51. Murphy, “Forty Years Later,” 165.

52. Richard A. McCormick, “The Chill Factor, Recent Roman Interventions,” *America*, June 23–30, 1984, 475–81.

53. Murphy, “Revisiting Contraception,” 813.

54. John C. Ford and Germain Grisez, “Contraception and the Infallibility of the Ordinary Magisterium,” *Theological Studies* 39 (1978): 258–312, <https://doi.org/10.1177/>

position, because to fulfill the requirement for infallibility one must show that the bishops proposed the teaching as something to be held infallibly. Also, many maintain that an issue of natural law is so removed from the core of revealed faith that it cannot be taught infallibly. Even many who oppose dissent have not followed the position that the teaching is infallible.<sup>55</sup>

A brief summary of the reasons justifying dissent from noninfallible teaching includes the following.

First, the very word “noninfallible” is virtually equivalent to “fallible.” History shows that the church has changed such noninfallible teachings in the past. Pre-Vatican II manuals of dogmatic theology recognized that such papal teachings could be in error. The hierarchical magisterium is only one part of the teaching function of the total church. Thomistic tradition has recognized that the secondary principles of the natural law generally oblige, but in a few cases they do not oblige; thus the teaching on contraception cannot claim absolute certitude.<sup>56</sup>

Second, *Donum Veritatis*, the 1990 document of the CDF on the ecclesial vocation of the theologian, provides some room for internal dissent. The willingness to submit loyally to the teaching of the magisterium on matters per se not irreformable must be the rule. If, after serious study a theologian cannot give internal assent, the theologian is obliged to remain open to a deeper consideration of the issue. In such a situation the theologian has the duty to make known his or her problem to teaching authorities. The theologian can suffer in prayer and silence with a sure hope that the truth will ultimately prevail. But dissent understood as public opposition to the magisterium of the church can never be justified.<sup>57</sup>

---

004056397803900202; for a different perspective, see Joseph A. Komonchak, “*Humanae Vitae* and its Reception: Ecclesiological Reflections,” *Theological Studies* 39 (1978): 221–57, <https://doi.org/10.1177/004056397803900201>.

55. For an overview of the discussion about infallibility and natural law teachings, see Todd Salzman, *What Are They Saying about Catholic Ethical Method?* (Mahwah, NJ: Paulist, 2003), 124–39.

56. This paragraph depends on three articles by Richard A. McCormick, “L’Affaire Curran,” “The Search for Truth in the Catholic Context,” “Dissent in Moral Theology and its Implications: Some Notes on the Literature,” in Curran and McCormick, *Dissent in the Church*, 408–20, 421–34, 517–39.

57. Congregation for the Doctrine of the Faith, *Donum Veritatis: On the Ecclesial Vocation of the Theologian* (May 24, 1990), 30–32, [https://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19900524\\_theologian-vocation\\_en.html](https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19900524_theologian-vocation_en.html). In the United States there is comparatively little or no dialogue between the so-called liberal and conservative Catholic moral theologians, and great divisions exist. One illustration of this division is the fact that the groups generally belong to different academic societies. The so-called liberals belong to the Catholic Theological Society of America, which came into existence in 1946. To its credit this society has made some efforts toward dialogue, but it has been hard to sustain. The more conservative theologians belong to one or both of two other societies. The Fellowship of Catholic Scholars came into existence in 1977 after the negative reactions to *Humanae Vitae*, the Land O’Lakes Statement calling for academic freedom for Catholic higher education, and the publication of a book on human sexuality

Whether the dissent is public or internal, a large majority of Catholic moral theologians disagree with the teaching of *Humanae Vitae* and recognize the legitimacy of some form of dissent from such teaching. But there also exists a minority strongly objecting to such approaches. Unfortunately, there is little real dialogue between these two groups of moral theologians.

### Married and Lay Catholics

*Humanae Vitae* changed the attitudes of married and lay Catholics with regard to artificial contraception—but not in accord with the teaching of the encyclical. Even before the encyclical a great number of married Catholics used artificial means of contraception, but the subject was not widely discussed publicly. The unprecedented protest that greeted the encyclical occasioned a sharp increase in Catholic disagreement about the teaching on artificial contraception. According to the National Opinion Research Center, 45 percent of American Catholics approved of artificial contraception for married couples in 1963, whereas by 1973, 83 percent of American Catholics approved of artificial contraception.<sup>58</sup> Andrew Greeley and his associates, who led the study for the National Opinion Research Center, concluded that the encyclical “seems to have been the occasion for massive apostasy and for a notable decline in religious devotion and belief.”<sup>59</sup>

Catholic sociologists working under William D’Antonio carried out a survey of American Catholics, starting in 1987. Subsequent surveys were taken at six-year intervals, and the authors tried to ask many of the same questions so as to ascertain whatever developments might have occurred.<sup>60</sup> In 1987, 62 percent said the final moral authority for discussions about the use of birth control rests with the individuals themselves. In 1993, the figure was 57 percent; in 1999, 62 percent; in 2005, 61 percent. In

---

commissioned by the Catholic Theological Society of America. The purpose of this group is to redirect Catholic scholars “toward a more friendly approach to the teaching authority of the Church.” See “Fellowship of Catholic Scholars,” [www.catholicsscholars.org/indexFCS-Documents\\_response.php?ID=134](http://www.catholicsscholars.org/indexFCS-Documents_response.php?ID=134). The Academy of Catholic Theology, which had its first annual conference in 2008, has the principal purpose of fostering theology faithful to God’s revelation “authoritatively interpreted by the Magisterium.” See “Academy of Catholic Theology,” <https://www.academyofcatholictheology.org>. Some efforts have been made to overcome the divisions and open up a dialogue among the groups, but they have not been that successful. A promising development has been made by younger Catholic moral theologians at the beginning of the twenty-first century. They have tried to create a respectful atmosphere in which theologians can discuss and even disagree about such diverse issues. See William C. Mattison, III, ed., *New Wine, New Wineskins: A Next Generation Reflects on Key Issues in Catholic Moral Theology* (Lanham, MD: Rowman & Littlefield, 2005); Julie Hanlon Rubio, *Hope for Common Ground: Mediating the Personal and the Political in a Divided Church* (Washington, DC: Georgetown University Press, 2016).

- 58. Andrew M. Greeley, William C. McCready, Kathleen McCourt, *Catholic Schools in a Declining Church* (Kansas City, MO: Sheed & Ward, 1976), 35.
- 59. Greeley et al., *Catholic Schools*, 153.
- 60. William V. D’Antonio, Michelle Dillon, and Mary L. Gautier, *American Catholics in Transition* (Lanham, MD: Rowman & Littlefield, 2013), xiii.



2011, 66 percent said the final decision about contraception rests with individuals; 22 percent said both church leaders and individuals; 10 percent said church leaders.<sup>61</sup>

Leslie Tentler, in the epilogue to her *Catholics and Contraception: An American History*, reports that only 28 percent of Catholics agreed with Pope Paul's encyclical. Fully 78 percent of Catholic women age 20–24 were limiting their family by means other than abstinence or rhythm. Since earlier fertility surveys had shown that Catholic women's nonconformity tended to increase with age, it seems that this youngest cohort of Catholic wives would eventually behave with regard to contraception like other American women of their generation. Tentler concludes, "one could hardly offer more definitive evidence of *Humanae Vitae's* nonreception on the part of most laity."<sup>62</sup>

With regard to Catholic laity there also exists a comparatively small but very vocal conservative Catholic movement that defends the encyclical and opposes dissent in the church. As time went on this movement in general embraced other issues such as defense of the family, pro-life, and opposition to feminism.<sup>63</sup> The organization "Catholics United for the Faith" came into existence in 1968 precisely to counteract the dissent from *Humanae Vitae*.<sup>64</sup> A group of Catholic intellectual scholars originally spearheaded by George Weigel and the late Richard John Neuhaus and Michael Novak developed a neoconservative philosophy within Catholicism, one which includes strong opposition to dissent in the church.<sup>65</sup> There have been a good number of publications that have supported such approaches.<sup>66</sup> Additionally, lay groups such as the Couple to Couple League promote the use of natural family planning,<sup>67</sup> the US bishops strongly support natural family planning,<sup>68</sup> and marriage preparation in many dioceses throughout the United States teach it to engaged couples.<sup>69</sup>

61. D'Antonio et al., *American Catholics*, 73–78.

62. Tentler, *Catholics and Contraception*, 266–67.

63. Mary Jo Weaver and R. Scott Appleby, eds., *Being Right: Conservative Catholics in America* (Bloomington, IN: University of Indiana Press, 1995). On the very first page of the respectful and objective study of the Catholic right in the United States, the coeditor Mary Jo Weaver points out that *Humanae Vitae* is mentioned in almost every chapter of the book. See Mary Jo Weaver, "Introduction: Who Are the Conservative Catholics?" in Weaver and Appleby, *Being Right*, 1–14 at 1.

64. James A. Sullivan, "Catholics United for the Faith: Dissent and the Laity," in Weaver and Appleby, *Being Right*, 107–37 at 107.

65. George Weigel, "The Neoconservative Difference: A Proposal for the Renewal of Church and Society," in Weaver and Appleby, *Being Right*, 138–62.

66. John H. Haas, "Appendix: Conservative Catholic Periodicals," in Weaver and Appleby, *Being Right*, 337–44.

67. "The Couple to Couple League," <https://ccli.org>.

68. United States Conference of Catholic Bishops, "Natural Family Planning," <https://www.usccb.org/issues-and-action/marriage-and-family/natural-family-planning>.

69. United States Conference of Catholic Bishops, *Requiring a Full Course of Natural Family Planning Instruction in Marriage Preparation: A Report* (September 2008), <https://www.usccb.org/issues-and-action/marriage-and-family/natural-family-planning/diocesan-ministry/upload/report-marriage-prep.pdf>.

## Humanae Vitae Today

Without doubt the present situation with regard to *Humanae Vitae* has resulted in a *modus vivendi* in which there is less friction in the various parts of the church, and, with some exceptions, it is no longer even a source of major discussion. The pope and the bishops continue to strongly support the teaching of *Humanae Vitae*, but they now generally accept a very different reality on the pastoral level where the vast majority of married Catholics and priests no longer advert to the teaching of the encyclical. As mentioned before, there is evidence that in the years following the promulgation of *Humanae Vitae* a great number of people left the church because of this teaching, but fifty years later it is clear that people long ago settled their conscience about this issue.

### Problems with the Present Situation

Problems, however, exist with the present *modus vivendi*. The huge gap between the teaching of the hierarchical magisterium and the practice of the faithful is problematic. Indeed, one could argue that the church as a whole has already tacitly changed its teaching, at least on the pastoral level. But the problem becomes more complex when bishops try to shape public policy in light of the teaching on contraception.

Although most Catholics in the US have settled this issue by deciding to follow their consciences and by not following the church's teaching, the issue is perhaps even more important and significant than it was fifty years ago. Why? Artificial contraception is a linchpin both with regard to issues of sexuality and issues of authoritative magisterial teaching. With regard to sexual issues, the reasoning behind the condemnation of contraception gives strong support to questioning teaching regarding other issues. For example, if every sexual act must be open to the procreation of offspring, and if the model of natural law employed by *Humanae Vitae* is invoked, then there is no possibility of ever accepting the validity of homosexual relationships. If the hierarchical magisterium cannot allow for development, i.e., change in its teaching on contraception when the vast majority of its people no longer follow such a teaching, how could it ever consider that other teachings might be subject to change? There will most likely never be any development in other teachings while the teaching condemning artificial contraception is considered impervious to development or change. For this very same reason those who oppose any other development in the church teachings being discussed today logically recognize the fundamental importance of not changing the teaching against contraception. If that teaching is changed, the door opens to changing teaching about other issues as well.

Yet the most important rationale for a consideration of change in the teaching on artificial contraception is that compelling theological arguments, and the experience of huge numbers of Catholics whose discerning consciences have led them not to observe the teaching, continue to raise grave doubts about its truth. The truth, albeit approached from varying grounds of experience and criteriology, is the ultimate guide for both the hierarchical magisterium and for the formation of the conscience of the believer. As

has been pointed out, the hierarchical magisterium's teaching on these moral issues is not infallible. But those who see an argument for change in the teaching must also recognize their own fallibility. We are all searching for the truth, and we have to recognize our need to be open to what is the truth.

That said, the fact that the truthfulness of this teaching is at all in doubt by some of the faithful raises a serious concern. For if there exists a great gap between the teaching of the hierarchical magisterium and the practice of many people in the church today, then this incongruity will in the long term necessarily have negative consequences for the credibility, mission, and role of the church in the lives of the faithful, and in wider society. Already, the Catholic church in the United States has lost many members in the last few decades, and a significant portion of these departures are the result of disagreement with the church's moral teachings.<sup>70</sup> One should not conclude from this that church teaching should be based on what the majority of Catholic people think or do about a particular moral issue, but the practice of the people could reflect a way in which the Holy Spirit may be teaching the whole church. Certainly, this possibility needs to be seriously considered in the process of formulating the teaching of the church.<sup>71</sup>

Some of the tension between practice and teaching in the church can be eased by invoking the distinction between the pastoral realm and moral teaching. As noted earlier, Pope Francis has already recognized such a distinction even in the area of homosexual relationships. In addition, there is another approach that goes even further. Many Catholics can and do decide that in practice, and as a result of a discerning conscience, they may find themselves unable to observe the church's teaching on contraception, yet still consider themselves to be good Roman Catholics. However, for all the help that such an approach might offer and the good it might accomplish, the conscience solution itself still does not address the gap between theory and practice as well as the primary issue of what is the moral truth in these areas.

---

70. According to the Pew Research Center, nearly one-third of American adults (31.7 percent) say they were raised Catholic, but 41 percent of these say they are no longer Catholic. Thus 12.9 percent of American adults are former Catholics while just 2 percent of US adults have converted to Catholicism. No other religious group in the survey has such a lopsided ratio of losses to gains. See Pew Research Center, *America's Changing Religious Landscape* (May 12, 2005), <http://www.pewforum.org/2015/05/12/Americas-changing-religious-landscape/>. A 2009 study showed that over 50 percent of those who left the church said they did so because they stopped believing in the church's teachings. See Pew Forum on Religion and Public Life, *Faith in Flux: Changes in Religious Affiliation in the US* (April 2009), <http://www.pewforum.org/newassets/images/reports/flux/fullreport.pdf>.

71. All must admit, however, that the teaching on moral issues is not the only reason why people in the United States, especially young people, are leaving the Catholic Church today. Over the last few decades, mainline Protestant churches have also sustained a loss of membership, and they do not all face the same problems regarding moral teachings that the Catholic Church has been facing. See Michael Lipka, "Mainline Protestants Make up Shrinking Number of US Adults," *Pew Research Center*, May 18, 2015, <https://www.pewresearch.org/fact-tank/2015/05/18/mainline-protestants-make-up-shrinking-number-of-u-s-adults/>.

## Difficulties in Changing Moral Teachings

Those who would argue for a change in the Catholic moral teaching on contraception and other issues must recognize it will not be easy for the hierarchical magisterium to change existing teachings, not least because there is sincere and thoughtful opposition to such change. Here I offer four reasons why the church can and should consider the possibility of change in current teaching on artificial birth control.

First, Catholic self-understanding recognizes that through the gift of the Holy Spirit the church is called to teach how the followers of Jesus should believe and live in this world. As the teaching of *Humanae Vitae* is not infallible, we might ask whether the Holy Spirit could allow the hierarchical magisterium to fall into error on issues that Catholics face in their daily lives and that in the popular mind involve mortal sin. The presumption of Paul VI seems to have been that the Holy Spirit could not allow for such an eventuality, leading to the pope's insistence that he would not and could not change previous teaching.

The factual situation, however, shows that the church has changed its teaching on a number of specific moral issues—democracy, human rights, the taking of interest on loans, the right of the defendant to be silent, and capital punishment. In the realm of teaching on marriage, change is reflected in the distinction between the primary and the secondary ends of marriage and sexuality, that spouses could even intend not to have children and thus use the infertile period, and in the move from a more patriarchal to a more equal understanding of the family.<sup>72</sup> All of this suggests that further change in church teaching is at least theoretically possible.

Second, today we are much more conscious of the pilgrim nature of the church. A pre-Vatican II understanding tended to see the church as a perfect society, but the pilgrim church will always fall short of what it is called to be. In fact, the pilgrim church in a true sense is a sinful church.<sup>73</sup> It is not enough to say as John Paul II did that the

---

Further, it seems that virtually all religious groups in the United States are dealing with the reality of a growing secularization, one consequence of which is that people do not feel the need for the transcendent. There is also the growing number (27 percent) of those who claim to be spiritual but not religious in the sense of belonging to a church. See Michael Lipka and Claire Gecewicz, "More Americans Now Say They're Spiritual but Not Religious," *Pew Research Center*, September 6, 2017, <https://www.pewresearch.org/fact-tank/2017/09/06/more-americans-now-say-theyre-spiritual-but-not-religious/>. Statistics show the growing number of "nones" with regard to church affiliation. See Gregory A. Smith and Alan Cooperman, "The Factors Driving the Growth of Religious 'Nones' in the US," *Pew Research Center*, September 14, 2016, <https://www.pewresearch.org/fact-tank/2016/09/14/the-factors-driving-the-growth-of-religious-nones-in-the-u-s/>.

72. John T. Noonan, Jr., *A Church That Can and Cannot Change: The Development of Moral Theology* (Notre Dame, IN: University of Notre Dame Press, 2005); Charles E. Curran, ed., *Change in Official Catholic Moral Teachings*, Readings in Moral Theology 13 (Mahwah, NJ: Paulist, 2003); Maureen Fiedler and Linda Rabben, eds., *Rome Has Spoken...: A Guide to Forgotten Papal Statements and How They Have Changed Through the Centuries* (New York: Crossroad, 1998).

73. Jeanmarie Gribaudo, *A Holy Yet Sinful Church: Three Twentieth-Century Moments in a Developing Theology* (Collegeville, MN: Liturgical, 2015).

members of the church are sinful. The pilgrim church itself will always be both holy and sinful (*simul justus et peccator*).<sup>74</sup>

A pilgrim church that recognizes its own errors and missteps and tries to develop a teaching and learning process that is committed to searching for the truth in light of the many ways the Holy Spirit guides the church today will, in the long run, be even more credible than it is in the present situation. It is held by some that if the teaching authority of the church were to recognize that it has been in error, the teaching authority will lose its credibility. But as already noted, sociological studies with regard to sexual teaching have shown that the vast majority of American Catholics have already lost confidence in the church's competence in this area of life.

Third, the theory of the development of doctrine has shown that teachings can and have changed. The best example here is the change in the teaching on religious freedom at Vatican II. From the very beginning of that discussion, it was evident that even more important than the issue itself was the question of how the church could change a teaching that in the previous century had been strongly taught in a number of papal encyclicals. By the mid-twentieth century, however, it was clear that historical circumstances had changed; the notion of religious liberty that had been condemned in the nineteenth century was not the same notion of religious liberty that had grown to be accepted in the twentieth century.<sup>75</sup> Yet historically the church has

74. John Paul II, *Tertio Millennio Adveniente* (November 10, 1994), 33–36, [https://w2.vatican.va/content/john-paul-ii/en/apost\\_letters/1994/documents/hf\\_jp-ii\\_apl\\_19941110\\_tertio-millennio-adveniente.html](https://w2.vatican.va/content/john-paul-ii/en/apost_letters/1994/documents/hf_jp-ii_apl_19941110_tertio-millennio-adveniente.html); John Paul II, *Incarnationis Mysterium* (November 29, 1998), 11, [https://www.vatican.va/jubilee\\_2000/docs/documents/hf\\_jp-ii\\_doc\\_30111998\\_bolla-jubilee\\_en.html](https://www.vatican.va/jubilee_2000/docs/documents/hf_jp-ii_doc_30111998_bolla-jubilee_en.html). The horrible problem of child sex abuse and the cover up well illustrate the sinfulness of the church. History shows that the pilgrim church has grown, developed, changed, and even made mistakes over time. For example, all Christians must be ashamed that the Christian churches, including the Catholic Church, took so long to condemn slavery.

75. Émile-Joseph de Smedt, "Religious Freedom," in *Council Speeches of Vatican II*, ed. Yves Congar, Hans Küng, and Daniel O'Hanlon (New York: Sheed & Ward, 1964), 157–68. As John Courtney Murray pointed out so well, the Catholic Church had to reject the understanding of church and state and religious liberty which was proposed on the continent, especially in France, in the nineteenth century. Such an understanding reduced the role of the church simply to the private realm. The church could have no role in working for a better human society. See the important five articles published by John Courtney Murray in *Theological Studies* dealing with Pope Leo's approach to religious freedom: "The Church and Totalitarian Democracy," *Theological Studies* 13 (1952): 525–63, <https://doi.org/10.1177/004056395201300402>; "Leo XIII on Church and State: The General Structure of the Controversy," *Theological Studies* 14 (1953): 1–30, <https://doi.org/10.1177/004056395301400101>; "Leo XIII Separation of Church and State," *Theological Studies* 14 (1953): 145–214, <https://doi.org/10.1177/004056395301400201>; "Leo XIII: Two Concepts of Government," *Theological Studies* 14 (1953): 551–67, <https://doi.org/10.1177/004056395301400402>; "Leo XIII: Two Concepts of Government, II: Government and the Order of Culture,"

found it very difficult if not impossible to admit that even those teachings not directly connected with the core of faith have been erroneous. As Vatican II demonstrated, this need not be the case.

Fourth, as I noted earlier, should the church come to recognize a development of doctrine in the teaching on artificial contraception, this would be, in effect, to bring about change in the teaching. Yet, as I noted above, doctrinal development and change have indeed happened in the history of the church. In the face of this real possibility for change in noninfallible teaching, all of us in the church, especially in these days, are called to live out the well-known axiom—*in necessariis unitas, in dubiis libertas, in omnibus caritas*—in necessary things unity, in doubtful things freedom, in all things charity.<sup>76</sup>

Perhaps the biggest challenge on this issue comes from the position of the comparatively small minority of theologians and married couples who are staunch defenders of the current teaching. Although contraception does not lie at the core of church teaching and is itself noninfallible teaching, for this small, committed minority, the contraceptive issue looms quite large, not only for its own sake, but because it has come to symbolize an understanding of the church and of its teaching as unchanging and incapable of ever being changed. In the eventuality of any such change, a broad pastoral outreach to this committed minority would be necessary for the sake of unity, freedom, and charity.<sup>77</sup>

---

*Theological Studies* 15 (1954): 1–33, <https://doi.org/10.1177/0004056395401500101>. A sixth article that existed in galley proofs, forbidden publication by church authority, was published after Murray's death: "Leo XIII and Pius XII: Government and the Order of Religion," in John Courtney Murray, *Religious Liberty: Catholic Struggles with Pluralism*, ed. J. Leon Hooper (Louisville, KY: Westminster John Knox, 1993), 49–125. It should be noted that there was some error in the nineteenth-century condemnation of religious freedom, for another understanding of religious liberty existed, primarily in the United States. This understanding of religious liberty did not in any way reduce the church simply to the private realm but gave the church freedom to work for a more just social order in the secular realm. The failure of the church teaching authority in the nineteenth century to recognize the existence of this other type of religious freedom certainly involves the reality of error. Vatican II rightly should have admitted some error in its previous teaching on this important matter.

76. Before the twenty-first century, the academic consensus was that the source of the quotation was probably the seventeenth-century Lutheran theologian Peter Meiderlin (Rupertus Meldenus). Now it seems it was first used in 1617 by Marco Antonio de Dominis who was both a Catholic archbishop and also called a heretic. See James J. O'Donnell, "A Common Quotation from 'Augustine'?" at <https://web.archive.org/web/20140912032329/http://faculty.georgetown.edu/jod/augustine/quote.html>.
77. We might learn from the hard lessons of the Anglican Communion on the importance of such pastoral outreach, which was lacking in many respects over more contentious issues. See Harriet Sherwood, "Anglican Church Risks Global Schism Over Homosexuality," *The Guardian*, January 12, 2016, <https://www.theguardian.com/world/2016/jan/12/anglican-church-england-global-schism-homosexuality-gay-rights>.

## Conclusion

The vocation of the church to search for moral truth, the huge gap between the pastoral teaching on contraception and the practice of married Catholics, the numbers who have left the church because of this teaching, and the loss of confidence by Catholics in the church's teaching, especially on sexuality—all argue for the need to consider the possibility for change in this teaching. Thus, fifty years later, *Humanae Vitae* is still with us—and more intensely than in 1968—not so much as a matter of doctrinal assent or dissent, but as the symbolic bearer of deeply differing views on the possibility of doctrinal development and change.

## Author Biography

Charles E. Curran is the Elizabeth Scurlock University Professor of Human Values at Southern Methodist University. He has served as president of the Catholic Theological Society of America, the Society for Christian Ethics, and the American Theological Society. He was the first recipient of the John Courtney Murray Award of the Catholic Theological Society of America and recently received the Lifetime Achievement Award from the Society of Christian Ethics. In the fall, Georgetown University Press will publish his *Diverse Voices in Modern US Moral Theology*.