SEMINAR PAPER

THE NATURAL LAW AND THE MAGISTERIUM

The June, 1978 issue of *Theological Studies* contained two articles[1] which reflected on theological issues raised by the encyclical *Humanae vitae* and its teaching on contraception. Because the modern teaching of the Roman magisterium and its explanation and defense by Catholic theologians have cited the natural law as the source of the teaching on contraception,[2] the controversy over the status of that teaching is also a controversy about the relationship of the magisterium and the natural law.

But contraception and related questions of sexual ethics are by no means the only moral questions on which the Roman magisterium has based its teaching on the natural law. The corpus of Catholic social teaching elaborated by the popes since Leo XIII and by the Second Vatican Council has also been presented as natural law doctrine.

Such teaching by the magisterium, with its attendant claims to the assent of the faithful, raises important epistemological questions. Since the magisterium in modern Catholic theology has been understood as a function of the pope and the bishops,[3] do they know about the natural law in a way not open to other members of the Church, or for that matter, to men and women generally? How can a *natural* law be taught with special authority by religious leaders? And since many of the social ethical questions to which modern Catholic magisterial teaching has offered answers drawn from the natural law are peculiar to our own historical period, how do authoritative religious teachers find solutions to concrete historical problems from the general principles of a natural law?

This study will approach these questions in four steps. In the first the teaching of the modern magisterium and Catholic theologians about the authority and competence of the magisterium will be reviewed. In the second the study will locate this teaching in its broader historical and theological context. The third step will summarize various elements of a doctrine about the magisterium, and the fourth step will be to offer some critical and constructive reflections on the epistemological questions relating to the magisterium and the natural law.

[1] J. A. Komonchak, "*Humanae Vitae* and its Reception: Ecclesiological Reflections," pp. 221-57, and J. C. Ford, S.J., and G. Grisez, "Contraception and the Infallibility of the Ordinary Magisterium," pp. 258-312.

[2] See *Casti connubii*, nn. 54, 56; *Humanae vitae*, nn. 4, 11; J. C.Ford, S.J., and G. Kelly, S.J., *Contemporary Moral Theology*, Vol. 2 (Westminster: Newman, 1963), pp. 276-78; and G. Grisez, *Contraception and the Natural Law* (Milwaukee: Bruce, 1964). Ford and Grisez, "Contraception and Infallibility," introduce some qualifications in their discussion at pp. 285, 290-91.

[3] See Y. Congar, O. P., "Pour une historie sémantique du terme 'Magisterium,'" *RSPT*, 60 (1976), 85-98.

I

The brief statement at the beginning of *Humanae vitae* asserting the competence of the magisterium to interpret the natural law, and citing for support a series of papal documents from Pius IX to John XXIII, is typical of such statements in documents of the ordinary papal magisterium in the nineteenth and twentieth centuries.

In an earlier study I have traced the first use in a papal document of the term "ordinary magisterium" and I have argued that the term and its meaning can be traced to the work of the German Jesuit scholastic theologian Joseph Kleutgen.[4]

For Kleutgen, the teaching authority of the Church in matters of natural law was not problematic at all. The Church is the authoritative teacher and guardian of revelation, and the natural law is revealed. Kleutgen further argues that the ordinary teaching authority of the pope and bishops in natural law matters could also be established from the holiness of the Church, which is an essential mark and therefore requires that the Church not declare something to be a virtue or a vice when it is not.[5]

Kleutgen's view that the natural law is revealed was shared by other theologians whose views were influential under Pius IX, Leo XIII and Pius X, when the theology of the magisterium that dominated Catholic theology in the first half of this century developed. Their notions of biblical inspiration,[6] revelation,[7] and tradition[8] cohere with their view of the magisterium.[9] To cite only one, John Baptist Franzelin, S.J., states clearly that the natural law is contained in the deposit of faith.[10]

[4]J. P. Boyle, "The Ordinary Magisterium: Toward A History of the Concept," *HeyJ*, Fall 1979, and Winter, 1979.

[5]J. Kleutgen, S.J., *Die Theologie der Vorzeit verteidigt*, Vol. 1 (2nd ed., Innsbruck, 1878), p. 146. The argument strongly resembles that made by Bellarmine, "Controversiarum de Summo Pontifice," lib. 4, cap. V, "de decretis morum." Bellarmine's proposition is: "The Sovereign Pontiff cannot err not only in his decrees in matters of faith, but also faith, but also in moral precepts (*praecepta morum*) which are prescribed for the whole Church and which deal with matters necessary for salvation or with those which are good or evil per se." Bellarmine's arguments are drawn from the divine promises to the Church and from the holiness which is a mark of the Church in the creeds.

Bellarmine's examples are these: "It cannot be that the Pontiff would err by commanding some vice like usury or forbidding a virtue like restitution, because these things are good or evil per se. Nor can it be that he would err by commanding something contrary to salvation like circumcision or the Sabbath (observance), or by forbidding something necessary to salvation like baptism or the eucharist. But that he might command something which is not good or evil ex se, nor contrary to salvation, but which is nonetheless useless, or that he might command it under a penalty which is too severe: it is not absurd to say that that could happen, although it is not for subjects to judge in this matter but simply to obey" (in J. Favre, ed., *Bellarmini Opera*, Vol. 2 [1870; reprint ed., Frankfurt: Minerva, 1965], pp. 87-88).

[6]See J. T. Burchaell, *Catholic Theories of Biblical Inspiration Since 1810* (Cambridge: Cambridge University Press, 1969).

[7]See R. Latourelle, S.J., *Theology of Revelation* (New York: Alba House, 1966).

[8]See W. Kasper, *Die Lehre von der Tradition in der Römische Schule* (Freiburg: Herder, 1962).

[9]See T. H. Sanks, *Authority in the Church: A Study in Changing Paradigms*, American Academy of Religion Dissertation Series, 2 (Missoula: Scholars Press, 1974).

[10]J. B. Franzelin, S.J., *De Divina Traditione et Scriptura* (Rome: Propaganda Fide Press, 1870), p. 110.

Franzelin also devotes some pages to an explanation of why the natural law must be revealed.[11] The first reason is that the truths of natural religion, which includes natural morality and hence the natural law, must be known even if human beings had no supernatural end. Therefore, just as the natural end of human beings has been elevated by God to a supernatural end and natural religion is contained at least implicitly in the revelation of supernatural religion, so natural morality must also be included in that revelation at least implicitly. Secondly, the supernatural end of human beings demands that knowledge of that end be the knowledge of faith, i.e. supernatural knowledge. Likewise, the way in which morality is known must be similarly proportionate to that supernatural end. Therefore the truths of natural religion and morality must be revealed and held by faith. Thirdly, even though human beings have the physical capacity to know the truths of natural religion and morality, they are morally impotent to do so. Therefore, in order that these truths be known by everyone in a timely way, fully, with adequate clarity and full certitude and without admixture of error, their revelation is necessary. There is an allusion to but no citation of Romans 1 in support of this last argument, since Paul there affirms the possibility of knowing God but simultaneously affirms that human beings through their own fault have not known or served him.

In Franzelin's view, Christ's revelation was given to the Apostles and to their successors the bishops. It is through the authoritative teaching of the body of bishops that revelation is known to the rest of the Church.[12]

Kleutgen makes another observation about the teaching authority of the Church that should be noted here. He writes that revelation must not only be accepted with pious faith but must also order our acts and works. But this demands the concrete application of revelation to life. The Church, declares Kleutgen, is structured in virtue of her pastoral office (*Hirtamt*) to do this. Similarly, the Church has the power to prohibit not only those errors which directly clash with revelation, but

[11] *Ibid.*, pp. 547-51. This same line of reasoning also underlies the teaching of the First Vatican Council's constitution *Dei Filius*, of which Franzelin was a major author. His contributions have been conveniently collected by H. J. Pottmeyer, *Der Glaube vor dem Anspruch der Wissenschaft* (Freiburg: Herder, 1968), who includes in an appendix the *votum* prepared by Franzelin for the preparatory commmission of the Council as well as his first schema of the constitution on the Catholic faith.

During the discussion of chap. 2, paragraphs 1 and 2, of the constitution, the Deputation for the Faith rejected efforts to insert explicit reference to the natural law into the chapter which defined the power of human reason to know of God's existence from the things which he has made. The *Relator* for the Deputation, Bishop Vincent Gasser, explained that the amendments were superfluous, since a knowledge of God, "the beginning and end of all things," included knowledge of at least one's principal moral duties toward God, and the phrase *ea, quae in rebus divinis humanae rationi per se impervia non sunt* in paragraph 2 was broader than and thus included the natural law. See *Sacrorum conciliorum nova et amplissima collectio*, ed. by J. Mansi et al. Vol. 53 (1923-27; reprint ed., Graz: Akademische Druck, 1961), cols. 276D, 279C, and *DS* 3004, 3005.

Pottmeyer also indicates the important contributions of Kleutgen to the development of the constitution, pp. 171-89.

[12] *De Divine Traditione*, p. 28.

also those which can be recognized as pernicious in the light of revelation.[13] There can be little doubt in the context of Kleutgen's repeated insistence on the infallibility and indefectibility of the Church that such actions will be without error, but it is significant that Kleutgen describes the application to the concrete as an exercise of the pastoral office (*Hirtamt*) and not the teaching office (*Lehramt*).

II

The dependence of the nineteenth-century Roman Jesuit theologians on the work of the baroque scholastics, in particular, Francesco Suarez, S.J., and Juan de Lugo, S.J., is well known and can be quickly verified from the numerous references to them in writers such as Kleutgen and Franzelin. In this section the study will locate the views of Kleutgen and Franzelin on the magisterium and natural law in the broader context of the more developed theology of the human person and grace found in the earlier writers, especially Suarez.

For our purpose, it will be useful to locate what Suarez teaches about the natural law in the larger context of his theology of grace—as he does himself in discussing the promulgation of the natural law.[14] Much of Suarez's theology of the human person is to be found in the treatise on grace.

The treatise on grace recalls Catholic teaching on the fallen state of the human race and the impact of that fall on the ability of human beings to know and to carry out the precepts of the natural law. It recalls also that the destiny of human beings is not merely a natural one but a supernatural destiny available by God's gracious design. Grace is required both as the result of sin and of this supernatural destiny if human beings are to obey even the natural law.[15]

As a result of the fallen state of the human race, grace is needed to know all practical moral truths and to make moral judgments without error. Indeed, such is the imperfect nature of human beings that God's grace would be needed even in a hypothetical state of pure nature in order to know the whole range of moral principles. In the state of "integral nature" in which Adam and Eve were in fact created, a state graced in various ways and thus superior to "pure nature," humans could know and obey the natural law, but since the fall they cannot.

Thus, even apart from the supernatural destiny of humans, there is both a defect of the practical intellect and an impotence of the will which makes it impossible for human beings afflicted with original sin to know and observe the natural law.

But God's grace has not been wanting. One form of grace is revelation.[16] In fact in his treatise on law[17] Suarez declares that Christ has

[13] *Die Theologie der Vorzeit*, Vol. 1, pp. 62-63.

[14] *Tractatus de legibus*, lib. 1, cap. IX, n. 4 in *Opera Omnia*, Vol. 5 (Paris: Vives, 1856), p. 51.

[15] *Tractatus de gratia*, lib. 1, "De necessitate gratiae ad perficienda opera moraliter bona ordinis naturalis, et ad contraria peccata vitanda," *Opera Omnia*, Vol. 7, pp.355-583.

[16] *Tractatus de gratia*, lib. 2, "De necessitate gratiae ad actus divini ordinis eliciendos,

revealed the whole of the moral law, and then he immediately adds that in the law of grace no positive moral precept has been added by Christ to the natural moral law.[18] But that law, in principle still accessible to the natural light of reason, when revealed can be accepted by faith.[19]

Matters which are revealed must be proposed for acceptance in faith by the Church's infallible teaching authority, which is the living oracle of revealed truth for believers.[20] Suarez is, of course, only repeating what had become a common theme in Catholic controversial writing, especially during and after the Protestant Reformation. Against the Protestant principle of *sola scriptura* and private interpretation, Catholic controversialists insisted on the mediation of revelation through the Church. The Church, of course, meant pope and bishops.[21]

III

If Kleutgen and Franzelin played major roles in the development of a theology of the Church's teaching authority, they were not alone. We turn now to other elements of this theology which pertain to the epistemological questions we raised at the beginning. Clearly, for the nineteenth-century theologians the authority of the pope and bishops to teach about matters of moral practice which included the natural law was not in doubt. The theological explanation of that fact included several elements, which can be summarized as follows: (1) the natural law has been revealed; (2) revelation has been given by Christ to the pope and bishops as successors of the Apostles; (3) therefore the pope and bishops teach about moral questions relating to the natural law with special authority; (4) the pope and bishops teach with an authority rooted in their episcopal ordination and jurisdiction and with the help of special teaching insights given with the grace of Holy Orders.

We turn now briefly to each of these points:

(1) That the natural law is revealed was commonly held by Catholic theologians including Suarez, Kleutgen and Franzelin. In support of this view the theologians cited scriptural passages, including the Decalogue, the Sermon on the Mount and the parenetic passages of St. Paul. These impose moral commands or prohibitions such as those against murder, adultery or theft which were held by Catholic theologians to pertain to

servanda supernaturalia praecepta, et peccata contraria vitanda," *Opera Omnia*, Vol. 7, pp. 585-718, esp. cap. I, n. 10, p. 588.

[17] Lib. 10, cap. II, n. 3, *Opera Omnia*, Vol. 6, p. 554.

[18] Lib. 10, cap. I, n. 5, *Opera Omnia*, Vol. 6, p. 555.

[19] *Tractatus de fide*, disp. II, sec. 2, n. 7, *Opera Omnia*, Vol. 12, p. 20.

[20] *Tractatus de fide*, disp. V, sec. 5, *Opera Omnia*, Vol. 12, pp. 152-54.

[21] Tracing this development would take us beyond the scope of this study. See Y. Congar, O.P., *Tradition and Traditions* (New York: Macmillan, 1967), esp. pp. 86-176; P. de Vooght, O.S.B., *Les Sources de la doctrine chrétienne d'après les théologiens du XIV^e siècle et du début du XV^e avec le text intégral des XII premières questions de la summa inédite de Gerard de Bologne* (Paris: Desclée de Brower, 1954); J. Murphy, *The Notion of Tradition in John Driedo* (Milwaukee: 1959); and H. Schützeichel, *Wesen und Gegenstand der kirchlichen Lehrautorität nach Thomas Stapleton: Ein Beitrag zur Geschichte der Kontroverstheologie im 16. Jahrhundert*, Trierer Theologische Studien, 20 (Trier: Paulinus Verlag, 1966), esp. the useful short history, pp. 8-28.

the natural law. The whole of the Bible was regarded, of course, as revealed.

Suarez's view that Christ has revealed the whole of the moral law should be understood in the context of his view that natural law includes precepts at various levels of generality, not only the primary precept that good is to be done and evil avoided, but secondary and even tertiary precepts of the natural law.[22] Suarez notes that some conclusions from the natural law are known to everyone, but that some others, for example that fornication is an intrinsic evil, are arrived at only by the wiser and more experienced. Suarez does not imply that every specific precept or prohibition of the moral law as it applies to particular moral problems is somehow revealed. There is nothing in his citations of Scripture and nothing in his view of the natural law which would demand that conclusion. However, his argument does seem to imply that all the principles needed to guide moral decisions are revealed. Given the two-source theory of revelation commonly held by theologians of the post-Reformation period and by the Roman school in the nineteenth century, both Scripture and tradition would be sources of revealed moral doctrine.[23]

(2) Franzelin's influential work *De sacra traditione et scriptura*, published in 1870, asserts that the revelation contained in tradition and Scripture has been given by Christ to his Apostles and by them to their successors, the pope and bishops. Revelation has not been given to the whole Church but to the body of bishops, who together with the pope as chief bishop constitute the authoritative teachers in the Church, the *ecclesia docens*, which proposes the divine revelation for belief by the rest of the Church, the *ecclesia discens*.[24]

Nonetheless, it seems clear enough from what Franzelin writes that the pope and bishops are bearers of revelation in a rather juridical sense. The pope and episcopal college receive the revelation in receiving Scripture and tradition from an earlier generation. Franzelin gives special prominence to tradition as this process of handing down from generation to generation the revelation of Christ. Even the pope and bishops are first of all learners, i.e., they do not receive revelation directly from Christ in each generation but rather they hand on what has been handed down to them by a succession of authorized teachers in the Church.[25]

The assistance of the Holy Spirit insures the integrity of this transmission as well as the infallibility of the proclamation and defense of revelation by the pope and the college of bishops. But this charism of the Spirit is to be distinguished from both revelation and inspiration.[26]

[22] *Tractatus de legibus*, lib. 2, cap. VII, n. 5, *Opera Omnia*, Vol. 5, p. 113.

[23] See F. Suarez, *Tractatus de fide*, disp. V, sects. 3 and 4, *Opera Omnia*, Vol. 12, pp. 142-52; J. de Lugo, *Tractatus de virtute fidei divinae*, disp. III, sect. 5, *Disputationes Scholasticae et Morales*, Vol. 1 (Paris: Vives, 1891), p. 258.

[24] *De sacra traditione*, thesis V, p. 28. This doctrine passed into the official teaching of the papal magisterium in Pius XII's encyclical *Humani generis* in 1950. See Max Seckler, "Die Theologie als kirchliche Wissenschaft nach Pius XII und Paul VI," in *TQ* 149 (1969), 212-14.

[25] *De sacra traditione*, p. 31.

[26] *Ibid.*, pp. 33-37. The distinction of the charism of infallibility from revelation or inspiration was noted in the discussions of the First Vatican Council on papal infallibility.

It follows from the revelation of the natural law that it is included in the deposit of faith thus handed on by the pope and the college of bishops.

(3) From the role of the pope and bishops as authentic or authoritative teachers of God's revelation it follows that their teaching role vis-à-vis the natural law invests their pronouncements with special authority. The assent of faith is owed to the teaching of divine revelation by the authoritative teachers of the Church. It is less clear what qualification ought to be given to teaching derived from the natural law which is not presented as revealed. The usual term is "religious assent," which needs further explanation.[27]

The pope and bishops are not only teachers in the Church but also pastors. They are therefore not only authoritative teachers of divine revelation but also authoritative guides in the Christian life for the faithful. In the field of moral decision there is a close and not always very clear relationship between the *potestas docendi* of the bishops as teachers and the *potestas regiminis* or *pastoralis* of the same bishops as

Bishop Gasser mentions the distinction in his presentation of chap. 4 of *Pastor aeternus* and proposed amendments. See Mansi, 52, col. 1213D. That the assistance of the Spirit is therefore *per se negativa* is asserted by many Catholic theologians. See H. Dieckmann, S.J., *De Ecclesia, II: De Ecclesiae Magisterio* (Freiburg: Herder, 1925), pp. 36-37; I. Salaverri, S.J., *De Ecclesia Christi*, in Patres S.J. Facultatum Theologicarum in Hispania Professores, eds., *Sacrae Theologiae Summae*, Vol. 1 (Madrid, BAC, 1952), p. 563; T. Zapelena, S.J., *De Ecclesia Christi*, Pars Altera Apologetico-Dogmatica (Rome: Gregorian University Press, 1954), pp. 133-34. Zapelena notes on p. 134 that while no positive divine influence on the authoritative teachers is required, neither is it excluded.

That point is made more emphatically by Charles Journet, who distinguishes three degrees of divine assistance: an "absolute" assistance which protects the proposition of divine revelation by the Church, a "prudential assistance" which protects the multitude of pastoral decisions taken by the authority of the Church from error in matters essential to the holiness of the Church and protects such decisions as a whole from error—at least collectively and in the majority of cases, and finally a "biological assistance" which protects the Church authorities in making decisions essential to its survival—a field which embraces quite practical political decisions. Journet concludes that the notion of "divine assistance" is extrinsic, analogous and positive—taking a great variety of forms that cannot be satisfactorily enumerated. "It would be a mistake to think that the divine assistance can consist only of a negative help. The better theologians affirm on the contrary that Divine Providence sustains God's Church more by positive graces of light and of power than by negative interventions that would be limited to checking dangerous measures and reducing their authors to impotence" (*L'Eglise du Verbe Incarné*, Vol. 1 [Paris: Desclée de Brouwer, 1962-69], pp. 426-35, citation at pp. 433-34; see also Vol. 2, pp. 634-43).

Clearly this more expansive notion of the divine assistance to the teaching of the Church has important implications for this study.

Nevertheless it seems agreed by Catholic theologians that, whatever the assistance of the Holy Spirit to the Church, it is not of such a kind as to produce new revelations to supplement, much less to correct, the apostolic deposit of faith which is transmitted in the Church.

[27] An explicit demand for internal assent to papal doctrinal definitions has its origins in the Jansenist controversies and in the bull *Vineam Domini Sabaoth* published by Clement XI in 1705, cited in *DS* at n. 2390. The discussion of the assent due to authentic but not infallible propositions of the magisterium is often located in a thesis dealing with the authority of the Roman congregations. See J. Salaverri, thesis 15, pp. 696-705; H. Dieckmann, assertion 29, pp. 112-27; J. B. Franzelin, *De divina traditione*, pp. 117-18. Franzelin argues directly from the papal letter *Tuas libenter*.

pastors. In a passage cited above Kleutgen appealed to the pastoral office (*Hirtamt*) of the pope and bishops for their authority in applying revelation to everyday life. Franzelin discusses at length the relationship between these two powers as subdivisions of the more general power of jurisdiction. For both Kleutgen and Franzelin the indefectibility and infallibility of the Church protect both the teaching and pastoral roles of the pope and bishops from error, at least in those cases in which a definitive judgment or discipline is in question, since the genuineness of the Christian life and doctrine is at stake.[28]

(4) Although not all writers on the subject of the magisterium give the same prominence to the question of the sources of magisterial authority, a number of them root that authority in the episcopal ordination of the pope and bishops. Kleutgen and Franzelin, whose view of the Church is highly juridical, move rather directly from the magisterial or pastoral offices of the Church to the assurance of its infallibility in exercising those offices in virtue of the promises of Christ to be with the Church and to send the Holy Spirit upon it.[29] While this argument for the "Catholic principle" of mediation by the Church which is assured by the Holy Spirit is very much in the line of post-Reformation Catholic thought, the mode in which it takes place is not given much elaboration by these authors, though Franzelin does relate the various *potestates* of those in orders as bishops to the character of the sacrament of Orders.[30] Still, he is not willing to make the reception of Orders even a prerequisite for full jurisdiction in the Church, since under the canon law in force until quite recently, even a layman elected pope was said to receive the fullness of the papal jurisdiction upon his acceptance of election, not from his episcopal ordination.[31]

For a fuller exploration one must look elsewhere, and so we turn to the study of the relationship between the teaching authority and Holy Orders by Joseph Fuchs, S.J.[32]

Fuchs outlines the special relationship of the sacrament of Orders to the teaching authority of bishops. It is through ordination that the bishop becomes a sharer in the continuing offices of Christ as priest, teacher and pastor. The powers he receives over the eucharistic body of Christ are the ground of his related authority over the mystical body of Christ, whose unity the Eucharist both symbolizes and brings about. The bishop acts *in persona Christi* especially in celebrating the sacrifice of the Mass. It is his priestly role of leadership in the Church community that gives rise to the power of jurisdiction.

Although the sacrament of Orders does not confer jurisdiction, it does create a positive disposition in the ordained for the active power of

[28] J. B. Franzelin, *De Ecclesia Christi*, thesis 5, pp. 43-64; for Kleutgen, see n. 12.

[29] See also the *relatio* of Bishop Gasser in Mansi, 52, col. 1213B.

[30] J. B. Franzelin, *Tractatus de sacramentis in genere* (Rome: Propaganda Fide Press, 1878), pp. 170-73; see also W. Van Roo, S.J., *De sacramentis in genere* (Rome: Gregorian University Press, 1957) scholion A: "Ordo, Jurisdictio, Character, Gratia," pp. 260-62.

[31] *De Ecclesia*, p. 51.

[32] "Weihesakramentale Grundlegung kirchlicher Rechtsgewalt," *Scholastik* 16 (1941) 496-520. What follows is derived from the article.

jurisdiction. This positive disposition arises from the character given by the sacrament of Orders.

For our present purposes, however, it is Fuchs' discussion of the relation of Orders to the teaching authority of the ordained that is of greatest interest. In the words of Matthias Scheeben, the question is: Does the sacrament of Orders itself mediate a specific power of witnessing which fits the ordained for an authentic mediation of doctrine?

Fuchs responds with an analysis of the effects of Orders, with special reference to the relationship of these effects to the teaching authority.

It is common doctrine that the sacraments produce an increase in sanctifying grace, including the infused virtues and the gifts of the Holy Spirit. These are significant for the role of teaching:

> On the other hand one cannot lose sight of the fact that a minister of Christ and of the Church is called by orders to the highest and the holiest; the grace is given him to be able to respond to his high calling with personal worthiness. Is there not in the very increase of the virtues and gifts a greater warrant for the authority of the doctrine which the ordained presents? The power of faith is always increased by the sacraments; love grows, which stimulates him to deeper knowledge, to truthfulness and fidelity; and there grows ease in penetrating revealed truths, in a supernatural evaluation of natural and supernatural realities, in the courage and zeal to proclaim them, in the readiness to risk everything in searching out and proclaiming them.[33]

In addition to the increase of sanctifying grace and the virtues, there is the special sacramental grace of Orders. Here, as in his discussion of sanctifying grace and the virtues, Fuchs takes guidance from a dictum of St. Thomas: To whomever a power is divinely given, there are also given those things by which the exercise of that power can be suitably done.[34] Thus the special sacramental grace means an increase in precisely those graces and gifts which are most needed for the worthy exercise of the office of teacher in the Church. The virtues of faith and love, of prudence and the gift of fear of the Lord come to mind.

> All contribute to forming a teacher of truth, who, deeply rooted in faith, draws from that faith, lives out of faith and love, and is thus an instrument of God conjoined to God.[35]

Again these gifts and graces become a powerful warrant for the genuineness of the doctrine taught by the ordained.

There is a further question whether, in addition to the increase of sanctifying grace and the virtues and gifts of the Holy Spirit, there are also *gratiae gratis datae*, genuinely charismatic gifts of the Spirit, which arise from Holy Orders and relate to the teaching office of the ordained. After offering several examples of theologians from the nineteenth century (including Scheeben) to the thirteenth who appear to have held the view that such graces do arise from the sacrament of Orders, Fuchs

[33] *Ibid.*, p. 515.
[34] *Summa theologica*, Supplement, q. 35, art. 1 in corp.
[35] "Weihesakramentale Grundlegung," p. 516.

judges it "not improbable" that such charismatic graces underlie a power of witnessing which is based on Orders.

This sketch of a theology of Orders and its relationship to teaching authority is important for our interests. It provides another ingredient for a coherent reply to the epistemological questions we raised at the beginning drawn from theologians who flourished from the period of the restoration of scholasticism in the nineteenth century to the Second Vatican Council. At many points they in turn drew upon a theological tradition dating back to the post-Reformation period and before.

In summary of this traditional position, the following points seem to be widely accepted:

(1) Members of the hierarchy (pope and bishops) who exercise the teaching authority of the Church know with certitude of the natural law, at least in its fundamental principles, because the natural law is revealed.

(2) The pope and bishops know of revelation not by some special inspiration or new revelatory experience but as members of the community of believers in which the apostolic tradition is transmitted by authorized teachers and preachers and those delegated by them. Before being called to office as bishop or pope a person is first a learner within a community of believers. There is a succession of authorized teachers.

(3) The natural law, or at least its basic principles, does not acquire new material content when taught by the authoritative teachers of the Church. Rather these fundamental principles are known by all easily and accurately with the help of the Church. In addition, since the response to the teaching authority is one grounded in faith (and setting aside here the question of the usefulness of the notion of a *fides ecclesiastica*), assent to the teaching of the Church adds to purely natural knowledge the formality of supernatural faith, thus elevating it to the supernatural destiny of human beings.

(4) The authorized teachers of the Church do possess, in virtue of their ordination to office, special insight into those matters on which they must teach. Some theologians who take an especially juridical view of the Church argue directly from the indefectibility and infallibility of the Church to an infallibility in teaching by the pope and bishops and explain it only in general terms as the work of Christ and the Holy Spirit. The classic *assistentia Spiritus per se negativa* appears rather external but prevents the teaching of erroneous doctrine.

But other theologians relate the teaching authority to a *potestas docendi* given in Holy Orders and rooted in the *character indelibilis* of Orders, especially the episcopacy. In this view the sacramental grace of Orders includes special and charismatic helps of the Spirit for those who teach with authority in the Church, a real modification of the knowing subject.

It should be noted that such theological views would appear applicable to the pastoral office of the pope and bishops as well as to their teaching office, even if there is no direct claim to infallibility in pastoral decisions. There does seem to be a claim that in making pastoral decisions binding on the whole Church the authoritative pastors will be

prevented from leading the Church astray from the authentic Christian life.

(5) The tradition has not been consistent in attributing specific moral applications of the natural law to the teaching authority or to the pastoral authority of the bishops and the pope.[36]

Taken together, these elements offer a coherent and comprehensive account of the authoritative actions of the pope and bishops as teachers of the natural law. They explain the knowledge of the natural law peculiar to authoritative teachers through revelation and offer an account of the special insights into the faith and its application to particular moral questions that could respond to epistemological problems about the teaching of the magisterium on particular moral questions that is said to be derived from the moral law.

IV

We turn now to some critical and constructive reflections on the epistemological questions related to Church teaching authority and the natural law. The issues, however, cannot be separated from basic questions in theological anthropology, ecclesiology and ethics. We will take up each of these and then return to a summary of the epistemological questions which are our basic concern.

Theological Anthropology

Reflecting on the Scriptures, Catholic theology has described the indwelling Holy Spirit as "uncreated grace." Karl Rahner has written of the indwelling Spirit as a quasi-formal cause and the primary meaning of grace in human beings and their world to which God has determined to communicate himself.[37]

We noted above that the decrees of the First Vatican Council held that natural law was accessible to reason without the aid of grace and faith—at least in principle.

However, much contemporary Catholic theology agrees with Rahner's criticism of the traditional conception of the relation of nature and grace. In Rahner's view there is in fact no nature apart from grace. God's decision to communicate himself to human beings constitutes a "supernatural existential," i.e., a component of concrete human existence prior to any human action. Therefore the only world, the only human nature there is, is graced. Suarez's "pure nature" is only an

[36] The allocution of Pius XII, "Magnificate Dominum mecum," of November 2, 1954 (*The Pope Speaks* 1 [1954] 375-85) locates the power of the Church to proclaim the natural law in its *pastoral* authority; the encyclical *Humanae vitae*, of July 25, 1968, n. 4, puts the natural law under the *teaching* authority.

The pastoral office is emphasized by Jacob David, S.J., *Loi naturelle et autorité de l'église* (Paris: Cerf, 1968) [*Das Naturrecht in Krise und Läuterung* (Cologne: Bachem, 1967)]. On David, see J. P. Boyle, *The Sterilization Controversy* (New York: Paulist Press, 1977), pp. 62-64. David holds that only the general principles of the natural law are revealed and pertain to the teaching authority. Other problems of the natural law pertain to the pastoral authority and thus bind only as disciplinary matters do.

[37] K. Rahner, "Some Implications of the Scholastic Doctrine of Uncreated Grace," *Theological Investigations*, Vol. 1 (New York: Seabury, 1961-79), pp. 319-46.

abstraction, a "remainder concept" arrived at by peeling away the effects of grace by careful theological analysis. Whatever may be the possibilities of human nature in principle, the fact is we have no experience of nature apart from grace.[38]

It is the work of the Holy Spirit that produces the effects of grace ("created grace") in those who have accepted the offer of God's self-communication. The question we must address now is whether this grace affects a person's ability to know, and in particular one's ability to know what is morally right and wrong.

In an earlier study[39] we reviewed the work of Rahner and Bernard Lonergan and concluded that in their view Christian faith does indeed affect the believer's moral perception, judgment and action. When Rahner speaks of faith and Lonergan of conversion, both are talking about a transformation of subjectivity by grace which produces an opening out of the subject's world of meaning and the transvaluation of his/her values. Such is the transformation worked by faith that the believer and the unbeliever perceive the world, meanings and values differently. Even if their words are the same at times, their meanings are different nonetheless, since they are defined by different horizons of meaning.

This work of transformation is, of course, most conspicuous in those whose faith is explicit and who have associated themselves with the community of believers. But it should be noted here that both Rahner and Lonergan insist that God's grace is offered to every human being and that some accept that offer of grace, if only implicitly, as they follow their consciences enlightened by God's grace. Whether or not the term "anonymous Christian" is apt, the point to be made here is that the sort of transformed subject described here can surely be found outside the institution of the Church.

Ecclesiology

The action of the Holy Spirit sent by the Father and the Son is fundamental for an understanding of the role of the Church vis-à vis the natural law. We turn now to the work of the Spirit in the community of believers.[40]

It is the Church community which is the Body of Christ animated by the Spirit of Christ. The Church is, in Rahner's phrase, the sacrament of the eschatologically victorious grace of God in Jesus Christ.[41] Therefore the Church, not just those who are bishops, is the indefectible bearer of the revelation of God in Christ. This is the teaching of the Second

[38] See K. Rahner, "Concerning the Relationship between Nature and Grace," in *Theological Investigations* I, pp. 297-317; and "Nature and Grace," in D. Wharton, trans., *Nature and Grace: Dilemmas in the Modern Church* (New York: Sheed & Ward, 1964), pp. 114-49.

[39] J. P. Boyle, "Faith and Christian Ethics in Rahner and Lonergan," *Thought* 50 (1975), 247-65.

[40] For what follows on the work of the Spirit I am indebted to H. Mühlen, *Una Persona Mystica: Eine Person in vielen Personen*, (3rd ed., Munich: Schönigh, 1968).

[41] K. Rahner, *The Church and the Sacraments*, Quaestiones Disputatae, 9, trans. W. J. O'Hara (New York: Herder & Herder, 1963), 18.

Vatican Council, which thus corrected the teaching of Franzelin and of *Humani generis*.[42]

In this community of faith animated by the Spirit there exists a "collective consciousness" of God's revelation of himself in Jesus Christ.[43] In its article on tradition,[44] Vatican II points out that tradition develops in the Church, in part through a growth in understanding of the realities and of the words which have been handed down. The apostolic tradition, however, includes whatever contributes not only to Christian faith but also to Christian life. It follows that there is growth in the understanding of the Christian life too. The discernment of moral norms consonant with the Christian *kerygma* is a collective process.

Moral discernment, like other kinds of human knowing, can usefully be thought of in Bernard Lonergan's terms as a self-correcting process of learning.[45] Such a view seems especially appropriate in the theological context which considers the activity of the Spirit by grace in both the individual and the community but which also considers the realities of human finitude, history and sin.

The limits of the work of the Spirit must also be acknowledged, for in coming among us the Spirit takes on certain human limitations.[46] As humanity and divinity in Jesus are, in the words of the Council of Chalcedon, unconfused and undivided,[47] so by analogy is the Spirit unconfused with, yet undivided from, the limitations of the persons in whom he dwells. Mühlen writes of a *kenosis* of the Spirit among us analogous to the *kenosis* of the Logos in becoming man.

Moreover, the Spirit in coming upon Jesus in his anointing has entered into time and therefore into history.[48] Yet he remains unconfused with history, even if inseparable from it. Therefore the Church cannot dispose of or manipulate the Spirit. The Church is not the "continuation of the Incarnation" as J. A. Möhler held—with the perilous suggestions of a kind of "communication of idioms" that the phrase suggests. Rather the Church shares in the anointing of the Spirit that first came upon Jesus.

There remains therefore an inevitable eschatological expectation in the Church. For her, the perfection of the gifts of the Spirit is "not yet." But the work of the Spirit goes on in the Church in the word, in Church office and in the sacraments.[49]

[42] See *Dei Verbum*, no. 10. See the texts together with their *relationes* in *Acta Synodalia Sacrosancti Concilii Oecumenici Vaticani Secundi*, 3/3 (Vatican Press, 1970-78), 80-81, 87; 4/1; 350-51, 354; and M. Löhrer, "Träger der Vermittlung," in J. Feiner and M. Löhrer, eds., *Mysterium Salutis* (Einsiedeln: Benziger, 1965-76), Vol. 1, pp. 545-87.

[43] The notion of a *sensus fidei* or collective consciousness was exploited by J. A. Möhler, *Einheit in der Kirche*, ed. by. J. R. Geiselman (Darmstadt: Wissenschaftliche Buchgesellschaft, 1957) and after him by Karl Rahner, especially in his treatment of "faith-instinct." See J. P. Boyle, "Faith and Christian Ethics," pp. 252-54. See also *Lumen gentium*, n. 12.

[44] *Dei Verbum*, n. 8.

[45] See *Insight* (3rd ed., New York: Philosophical Library, 1970), p. 286.

[46] See H. Mühlen, *Una Persona Mystica*, pp. 255-56.

[47] *DS* 302.

[48] H. Mühlen, *Una Persona Mystica*, p. 272.

[49] *Ibid.*, p. 278.

For our question of the relationship of the Church and its teaching office to the natural law, these are important assertions. They emphasize the unfinished state of the work of the Spirit in the Church and in the world. They emphasize that we cannot forget that the Church remains a community of sinners, that with the nature of the Church there is always the shadow of what Hans Küng has called its "unnature"[50] of human sinfulness and imperfection. The believer and the community of believers can and does suffer from what Lonergan has termed a scotosis of the intellect and an impotence of the will.[51] To say that is not to deny the traditional doctrines of the indefectibility and infallibility of the Church; it is only to point out that these doctrines stand in tension with others which assert that the eschaton is not yet. The Church's perception and thematization of moral values is therefore in need of correction and reformulation, especially at the level of specific moral directives, as we shall see. Given the multiplicity of the gifts of the Spirit in the Church, the community must be one of ongoing moral discernment as it seeks the implications of its Christian commitment for its life.

It is entirely consonant with this view of the Church as a community of moral discernment with its multiple gifts of the Spirit, that some in the Church should be called to various offices, including the teaching office, to which gifts of the Spirit are given through the reception of the sacrament of Orders. The same transformation of subjectivity which is brought about by the gift of grace and faith can be carried further by the work of the Spirit in this sacrament. Indeed Vatican II emphasized the fundamental role of the sacrament of Orders in its discussion of hierarchical office.[52] There is nothing incongruous in the claim that the college of bishops with the pope at its head possesses in virtue of the sacrament of Orders and the charismatic gifts of the Spirit appropriate to their role in the Church special insight into the moral demands and implications of the Christian life. Such insights can complement or at times correct those of the community. Indeed the explication of the implications of the *kerygma* in a continuing *didaché* has been a feature of life in the Church from the beginning.[53] The view of Orders and the effect of the work of the Spirit in the ordained suggested by Scheeben seems sound.

If that is true, it suggests a view of the Church as a community of moral discernment in which a dialog exists between the authoritative proposition and explication of the Christian faith and its implications by authoritative teachers and the reception of that teaching by the Church

[50] H. Küng, *The Church*, trans. by Ray and Rosaleen Ockenden (London: Burns & Oates, 1967), p. 28.

[51] *Insight*, pp. 191, 627-30.

[52] *Lumen gentium*, chap. 3. See B. Dupuy, "Theologie der kirchlichen Ämter," in *Mysterium Salutis*, 4:2, pp. 488-523, esp. p. 517. Dupuy's discussion of the sacramental character is very brief and is undeveloped with respect to the teaching role of the bishop. The view presented here of the relationship of the community to its authoritative teachers resembles the view of the Church found in the Agreed Statement by the Anglican-Roman Catholic International Commission dated January 17, 1977 and published in *Worship* 51 (1977), 90-102. See esp. Part II which describes the relationship of *episcopē* and *koinonia*.

[53] See D. M. Stanley, S.J., "*Didaché* as a Constitutive Element of the Gospel-Form," *CBQ* 17 (1955), 336-438.

community—which also possesses the gifts of the Spirit. It is the experience and reflection of the community in turn which produces further insights and discernment by the community, which stimulates on the part of the authoritative teachers their own discernment and a new, perhaps modified proposition of the Christian faith and its implications.[54] Indeed the limits of the community of discernment cannot be too narrowly drawn, since grace and the gifts of the Spirit are not confined to the institutional limits of the Church. And it is an obvious fact of Church life in the twentieth century that the Church learns from the culture in which it lives.[55]

There is also a role for the theologian in this community of moral discernment. Scholars bring that variety of competencies to their work that Bernard Lonergan has described as "functional specialties," together with their "scholarly differentiation of consciousness." Both the community as a whole and the authoritative teachers look to scholars to insure not only adequacy to the Christian tradition, but also the scientific and philosophical adequacy to the Church's work of moral discernment.[56]

The relationship of the community of faith and the authoritative teachers has often been conceived in too narrowly juridical terms. The college of bishops was thought of in post-Reformation apologetics in ways that separated it from the community of the faithful—an excess that the Second Vatican Council has corrected with its teaching in *Lumen gentium* about the People of God and the role of hierarchical office. Officeholders are first of all believers, who have themselves learned the Christian faith from the community. They do not receive it by special inspiration or some new revelation.

The result is a far more dialogic model of the relationship between officeholders and the community which does not at all exclude the possibility of authoritative teaching so fully assisted by the Spirit as to be infallible and thus demanding of the assent of faith. The Council has pointed out that this protection of the Spirit extends also the the community, which is infallible in believing, so that its assent to infallible teaching will never be lacking.[57]

Here we can note that if the Church is a community of moral discernment in which there is an ongoing, self-correcting process of moral learning under the influence of the Spirit and under the conditions

[54]The reality of historical development even in the field of defined dogma has been explicitly acknowledged in the "Declaration in Defense of the Catholic Doctrine on the Church Against Certain Errors of the Present Day (*Mysterium Ecclesiae*)" issued by the Congregation for the Doctrine of the Faith, June 24, 1973, n. 5. Such a view of the Church community accords with Vatican II's teaching on the development of doctrine in *Dei Verbum*, n. 8.

[55]This is acknowledged by Vatican II, *Gaudium et spes*, n. 44.

[56]See B. Lonergan, *Method in Theology* (London: Darton, Longman and Todd, 1972) and J. Gustafson, *Protestant and Roman Catholic Ethics* (Chicago: University of Chicago Press, 1978).

[57]*Lumen gentium*, n. 25. The same point is made in chap. 2 on the transmission of revelation in *Dei Verbum*.

and limitations discussed above, then it is no simple matter to develop purely formal criteria for infallible moral teaching, as Grisez and Ford have attempted to do.

Ethics

Our discussion thus far has centered on the knowing subject, the community of moral discernment, and the action of the Holy Spirit upon them in their moral perceptions and judgments. Now we must touch on several ethical issues pertinent to our question.

We turn first to the natural law. We have reviewed elsewhere a range of views among contemporary Catholic theologians about the natural law and the appropriate method to be followed in knowing it.[58] It is neither possible nor necessary to adjudicate here disputes between those who argue for a transcendental method in defining human nature and those who follow the more traditional view that human beings can know the good to which human nature inclines and by reflecting on those inclinations can come to know moral obligation based on the dictates of reason.

Other contemporary Catholic thinkers ground moral obligation on human relationships or on objective values, especially the value of the person. The influence of Max Scheler and Dietrich von Hildebrand on these latter writers is often explicit.[59]

Any of these approaches seems consonant with the definition of Vatican I that *in principle* the natural law is accessible to human reason without the aid of grace or faith. The Council's definition was aimed at Traditionalism; it did not address itself to the question of fact.

Contemporary theology is marked by a consciousness that nature is not simply a "given" which has come just as it now is from the hand of the Creator. The historicity of the world and everything in it, human beings included, is more apparent to us than to generations past. This explains in part why the contemporary discussion of natural law has taken a transcendental turn. It seeks to locate a constant or at least a reference point in the flux of history.[60]

In any event, many contemporary theologians insist that the natural law and the law of Christ ought not to be envisioned as two juxtaposed fields, but as two points of a continuum on which faith is the ultimate and all-encompassing degree.[61] Other theologians see the relationship as one

[58] See J. P. Boyle, *The Sterilization Controversy*, pp. 30-50. See also B. Schüller, "La théologie moral peut-elle se passer du droit naturel?" *NRT* 88 (1966), 449-75, and "Zur theologischen Diskussion über die lex naturalis," *TP* 41 (1966), 481-503.

[59] On human relationships see H. Rotter, "Zum Erkenntnisproblem in der Moraltheologie," in J. Lotz, ed., *Neue Erkenntnisprobleme in Philosophie und Theologie* (Freiburg: Herder, 1968), pp. 226-47. Value theory appears in both Rahner and Lonergan; see J. P. Boyle, "Faith and Christian Ethics." On Lonergan see also F. E. Crowe, "An Exploration of Lonergan's New Notion of Value," *ScEs* 29 (1977), 123-43, and W. E. Conn, "Bernard Lonergan on Value," *The Thomist* 40 (1976), 243-57.

[60] See A. Auer, "Die Erfahrung der Geschichtlichkeit und die Krise der Moral," *TQ* 149 (1969), 4-22.

[61] See K. Demmer, "Kirchliches Lehramt und Naturrecht," *TGI* 59 (1969), 191-213.

of sublation, with nature being taken up into the order of grace as a condition is taken up by the conditioned.[62]

As a logical construct a "natural law" is still a possibility, but in the real order there is no "natural" morality, there is only an order of grace in which the law of Christ is the law—at least for believers.

Contemporary theologians in large part agree with Suarez and the older tradition that the "law of Christ" adds no new material norms to the natural law. What is specific to Christian ethics must therefore lie at another level.[63]

Two points can be made at once. The first is that it is a mistake to conceive of the natural law as something which the Church knows by reason alone. "Natural law" is the product of extended theological reflection. The second is that the authority of those who hold the teaching office must admit of degrees, ranging from those utterances for which infallibility might be claimed, with its attendant obligation to the assent of faith, to those dealing with the natural law which can claim only a lesser certitude and therefore a lesser assent.[64]

Both of these points cohere with a view of the Church as a community of moral discernment and with the view of the work of the Holy Spirit in the Church which transforms the knowing subject, and with the eschatological "not yet" outlined above. They cohere too with the role we have suggested for authorized teachers in the Church in dialog with the community of faith. Their authority is grounded in the Spirit's work: jurisdiction flows from ordination; it is not the result of mere organizational arrangements.

There is one further point. Moral decisions must be made about specific concrete matters. In making such decisions a moral agent must consider all the relevant factors, including conflicting values and principles. For a member of the Church community, the moral insights and convictions of that community, its view of the world, of human beings and their relationship with God, will be important factors. Yet it is essential to the notion of moral agency that the agent ultimately assume the burden and responsibility of moral decision.

If that is true, it suggests a limit to the knowledge of the Church and its authorized teachers in the field of morals, for whatever the competence of the Church with respect to the natural law, the nature of moral decision would seem to exclude a notion of official teaching which can claim authority to descend to such particulars as to effectively substitute itself for the moral agency of the believer.[65]

[62] See the articles by Bruno Schüller cited in n. 57 above. We cannot pursue here the critique of Schüller by Demmer.

[63] See, for example, J. Fuchs, S.J., "Gibt es eine spezifische christliche Moral?" *SZ* 185 (1970), 99-112.

[64] This view of the teaching authority is in contrast to an older one which drew a very hard distinction between infallible teaching and that which is only authentic. See J. Beumer, S.J., "Das authentische Lehramt der Kirche," *TGI* 38 (1948), 273-89. Demmer argues strongly for a distinction of degree and not of kind. See n. 60.

[65] See E. Anscombe, "Authority in Morals," in J. M. Todd, ed., *Problems of Authority* (Baltimore: Helicon, 1962), pp. 179-88.

There are other limits. Karl Rahner has written of an existential ethic, of moral commands given by God to the individual person precisely as such. Such commands are not in conflict with general moral principles, but neither are they derivable from them. Existential ethical obligations have a personal and individual character which puts them outside the limits of Church authority without putting them in conflict with general moral law. Each person's conscience has the function of discerning these personal moral obligations. For our purposes the point is that there exists a field of moral obligation in harmony with general moral principles but not derived directly from them and which cannot be discerned, much less imposed, by Church authority.

An ethics which looks to an adequate anthropology must also take note of what Rahner, Lonergan and others have said about the horizon of our knowledge which is transformed by grace and about the relationship between our global unthematic knowledge of moral values and the rational arguments we offer in defense of our moral choices. Rahner has explicated this latter aspect of our moral knowledge in his writings on moral instinct and its implications for a method of moral argument.

Rahner is interested not only in his contention that moral argument often seems to assume what it is attempting to prove, but also in the fact that moral arguments so often seem unpersuasive. These issues are akin to those treated by Bernard Lonergan in his chapter on "dialectic" in *Method in Theology*, in which he offers an account of similar problems and proposes to deal with them in terms of differing horizons grounded in the presence or absence of his multiple conversions and also in terms of what Lonergan calls "differentiations of consciousness."[66]

We cannot pursue these matters here. We draw attention to them only to indicate the multiplicity of factors which affect the ability of the knowing moral agent to perceive moral values and make judgments and decisions about them. Since believers and officeholders in the Church are such agents, these facets of moral knowledge affect them too.

Summary: Epistemological Issues

We began by asking epistemological questions raised by the teaching of the hierarchical magisterium based on the natural law. *Humanae vitae* is the most discussed example, but the corpus of modern Catholic social teaching would serve as well. We conclude by addressing a series of epistemological issues.

1. What is it that authoritative teachers know when they know the "natural law"?

[66] See J. P. Boyle, "Faith and Christian Ethics." See also K. Rahner, "Über die schlechte Argumentation in der Moraltheologie," *Schriften zur Theologie*, Vol. 13 (Einsiedeln: Benziger, 1954-78), pp. 93-107. In this recent article Rahner has further explored the role of unthematized, global moral knowledge in making moral arguments convincing or not. He again points out that the Church may know moral right and wrong better than it can formulate arguments for its point of view, but he now argues that the reverse can also be true: the Church may be offering arguments convincing only to those whose prethematic knowledge disposes them to accept the arguments. If that knowledge is incomplete, the arguments may in fact be bad ones. Rahner concludes to a critical—and thankless—role for moral theology vis-à-vis the moral pronouncements of the magisterium.

Bruno Schüller[67] has suggested that "natural law" be understood as the whole of those moral norms which human beings can know in a way at least logically independent of divine revelation. Moreover, the Catholic tradition asserts that moral obligation for human beings is grounded in human existence, although that is not essential to Schüller's definition of natural law.

We have pointed out that Catholic theologians today understand the natural law and roots of moral obligation in a variety of ways. For our present interests, it is enough to hold that authoritative teachers in the Church can know the moral obligations of the Christian life which are not derivable, certainly not directly, from divine revelation.

We can point to the corpus of Catholic social teaching in the nineteenth and twentieth centuries as an example, together with much Catholic sexual ethical teaching. For the most part the warrant for this teaching is explicitly the natural law, not revelation as transmitted by Scripture or tradition.

It is not necessary to hold exclusively to one of several possible theories of the origin and nature of natural law obligations, the ontological status of moral values and the like, to hold at least this much. What is basic is the objective, given character of moral value.

We would hold further that this knowledge includes insight into the implications of the Christian life as this is defined by the Christian proclamation (*kerygma*). Whether or not such insights are logically independent of revelation is a question not germane to our present interest, and we do not pursue it here.

2. Who can know about the natural law?

First, it is basic to the Catholic position on the natural law that it is accessible, at least in its general principles, to every human person. We have suggested above the problem of accounting for the influence of grace in the lives of those who are not explicitly Christians, but it is enough to define our problem by noting that even unbelievers can and do know of the natural law.[68]

Second, every believer who has received the gift of grace and faith and therefore has experienced the horizon shift effected by faith and discussed above also can know the natural law—but within a quite different horizon of meanings and values. The moral perceptions of the believing Christian are informed moreover by his faith in Jesus Christ and acceptance of his commandments, by his experience of the demands of the Kingdom of God announced by Jesus, and by the presence and power of the Holy Spirit.[69]

These are the believers whose global perception of moral values may or may not be in harmony with their enunciation of reasons for their moral judgments, as Rahner has pointed out. It is the community of these believers, with their experience of the Christian life and its de-

[67] See n. 57 above.

[68] *Ibid.*

[69] See R. Collins, "Scriptures and the Christian Ethic," *CTSA Proceedings* 29 (1974), 215-41.

mands in a changing world, which provides one side of the dialog with church officeholders.

Third, it seems possible to speak of a kind of "collective consciousness," a sedimentation of moral experience within the community of belief which is something larger than the experience of numerous individuals.[70] This collective or corporate consciousness extends, we would argue, not only to matters of belief and matters of practice clearly related to belief, but also to moral knowledge which is logically independent of revelation but often presupposed by it.

Rahner has pointed to the role of theologians in criticizing the adequacy of the thematizations of this collective moral consciousness both by believers generally and also by the Church's authoritative teachers. Theologians bring their various scholarly competencies to this critical task.

Fourth, the natural law is known by those who are authoritative teachers in the Church. We pointed out above that these officeholders are first of all believers and members of the Church community. Their knowledge is not therefore the result of personal revelation, and it is distinguished from the inspiration of the writers of Scripture. Like other believers, officeholders have experienced the transformation of consciousness we have described for all believers.

But, in addition, the officeholders who are bishops have experienced the further action of the Spirit rooted in Holy Orders which further transforms their consciousness. In virtue of this action of the Spirit, and in dialog with the community of believers they serve, officeholders do have insight into the moral demands of the Christian life correlative to the historical situation of the world in which the community finds itself.[71]

These insights are related to their office of apostolic preaching (*kerygma*) but extend, as the example of the New Testament itself shows, to a continuation of the apostolic instruction (*didaché*) as well. There is an element of mystagogy in this instruction which clearly relates to the priestly office of bishops as stewards and celebrants of the Christian mysteries. We observe, however, that a purely kerygmatic notion of the authoritative teaching office of bishops does not seem adequate either to a notion of the teaching office (as distinct from a preaching office) precisely as authoritative, nor to the practice of the Church, which certainly has not limited the authoritative teaching of bishops to the apostolic kerygma.[72]

Two observations are in order. One is that the traditional distinction of the three offices of the Church, the prophetic, priestly and pastoral,

[70] H. Mühlen, *Una Persona Mystica*, pp. 74-88, discusses the problems of the notion of "collective personality." Mühlen prefers his own *Gross-Ich* to H. Wheeler Robinson's "corporate personality." Notions of the Church as the Body of Christ and the People of God suggest that some such notion is widely accepted in Catholic theology.

[71] *Ibid.*, pp. 342-58; on sacramental character, *Dei Verbum*, chap. 2, and *Lumen gentium*, esp. chapters 1, 2 and 3.

[72] See Cardinal William W. Baum, "Magisterium and the Life of Faith," *Origins* 8 (1979), 76-80. The address was given to the Fellowship of Christian Scholars, April 28, 1978.

cannot be pressed; clearly the roles of preaching/teaching, liturgical and other priestly acting, and pastoral direction are closely linked.[73] The second is that both the sources and the authority of the practical pastoral directives of teachers and pastors in the Church has not been adequately clarified. Karl Rahner has suggested in his essays on the pastoral constitution of Vatican II that such directives are a kind of existential ethic for the Church community, recognized as representing the binding will of God by the charismatic action of the Spirit in the Church. Especially those directives in the fields of politics, economics and the like, in which the Church possesses no special competence, are the Church's response to the binding will of God in a particular time and place but are not conclusions drawn from general principles. Because they are God's will and are known as such, they are indeed obligatory, yet they are known only through the charismatic action of the Spirit—and therefore are not general principles binding on everyone. Thus they do not meet the definition of "natural law" despite the fact that such modern Church social teaching has offered the natural as its warrant.[74]

The role of authoritative teachers in this process of formulating pastoral directives is clearly one of discernment and articulation, a function fully in harmony with the gifts of the Spirit given to bishops by their ordination.

We cannot pursue this matter further. It suffices to illustrate the complexity of the epistemological questions which arise in an examination of the role of the Church's authoritative teachers in the teaching of the natural law.

Conclusion

The very complexity of the issues of theological anthropology, ecclesiology and ethics which arise in a study of epistemological problems assures us that no simple solution to these problems is available.

Nonetheless it does seem to us that the inadequacy of a purely juridical approach to the magisterium and its exercise in the area of the natural law is apparent. The multiple actions and gifts of the Spirit in the Church (and outside it) suggest rather that a dialogic model of magisterium is needed. In such a model the bishops' proposition of Christian belief and practice guided and protected by the Spirit is received by a community which has also received the gifts of the Spirit. It is scarcely an accident that Vatican II could teach with such confidence that, because of the work of the Holy Spirit, the consent of the Church will never be lacking to infallible teaching.

But the function of the community is not purely receptive. The community is the bearer of revelation and it is through the experience of the community that the implications of this revelation develop in the Church. Therefore the moral experience of the community is of pro-

[73] See M. Löhrer, *Mysterium Salutis*, Vol. 1, pp. 555-57.

[74] We have dealt with this theology of pastoral directives in *Faith and Community in the Ethical Theory of Karl Rahner and Bernard Lonergan* (Ann Arbor: University Microfilms, 1972), pp. 97-103.

[75] K. Rahner, "Church and World," *Sacramentum Mundi*, Vol. 1, pp. 346-57.

found religious significance, precisely because it is the experience of a community gifted by the Spirit.

This experience includes that of the natural law, however it may be precisely defined, at least as the presupposition of grace. Since this knowledge is available to the community of believers, and indeed to human beings generally, it is impossible to claim for the church community or for its authoritative teachers exclusive knowledge of natural law.

But because its knowledge is not exclusive, the Church can and must appeal to the moral perceptions both of its own community and of humanity generally. What our study suggests is not exclusive knowledge, but gifts of the Spirit that can enable believing individuals, the community of belief and its authoritative teachers to have an insight into the demands of the moral life at a given time and place that may be absent in the larger community. Thus the role of the Church will often be a prophetic one, calling attention to dimensions of the moral life that are neglected. Since the notion of a natural law affirms a commonality of moral experience and moral judgment among human beings, that prophetic role of the Church can hope to elicit a response in the larger human community.

Karl Rahner has written of the "liberating modesty" of an attitude of the Church to the world which respects its legitimate autonomy.[75] It is our judgment that a teaching authority which recognizes both its own function and limits in the field of natural law morality will find itself both liberated from pretensions to omniscience false to the historical experience of the Church and at the same time freed for a perhaps more modest but indispensable prophetic role in modern society.

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