

A RESPONSE (I) TO J. BRYAN HEHIR

Fr. Hehir's challenging paper provides an excellent opportunity to investigate further three concrete examples of the dynamic relationship between the Church and the world which has emerged since Vatican II. First, the concept of marginalization used in the pastoral letter on the economy illustrates both the ability of the bishops to speak persuasively about human experience and the challenging link between social teachings and the internal practices of the Church. Second, the bishops are responsible, not just for their behavior as participants in public discourse, but also for their exercise of political power which derives from their perceived influence over a substantial bloc of voters. Third, the open-minded, listening stance which the bishops have adopted in creating the peace and economic pastorals should generate structures which give a more effective voice to the moral wisdom of the laity.

First, I would like to draw together several of Hehir's points with an illustration from the pastoral letter on the economy. He reminds us that the episcopal conference of the United States seeks increasingly to engage the wider civil community in public discussion about the moral dimensions of social issues. The bishops draw upon the strengths of the natural law tradition to formulate their moral arguments in an accessible, enlightening and persuasive fashion for citizens of different faiths or no faith.

The bishops' discussion of marginalization found in the economic pastoral is calculated to appeal to shared human experience. Marginalization is a sign of the breakdown of social solidarity; it is the experience of a person or group possessing little or no power in crucial areas of human life. The bishops describe marginal persons as those who are without a voice in shaping the life of the community.

Confronted by forms of economic marginalization which corrode both human dignity and community, the bishops insist that "basic justice demands the establishment of minimum levels of participation in the life of the human community for all persons." In an exceptionally compelling sentence, they declare: "The ultimate injustice is for a person or group to be actively treated or passively abandoned as a non-member of the human race."¹ In light of this insistence on the principle of active participation, the bishops declare that the most urgent priority for U.S. domestic economic policy is the creation of new jobs with adequate pay and decent working conditions.²

¹"Economic Justice for All: Catholic Social Teaching and the U.S. Economy," *Origins* 16 (June 5, 1986) 41 (#76).

²*Ibid.*, 47 (#133).

The principle of active participation is an excellent example of a principle used by the bishops in the secular arena which could "feedback" into the internal life of the United States Church in challenging ways. Modes of participation in the life of the Church legitimately vary. Nonetheless, there are Catholics in the United States who feel they are denied those minimum levels of participation in the life of the Church which are their due. Among those who experience themselves as unjustly relegated to the margins of church life are some members of the following groups: women; gay men and lesbians; black, Hispanic or native American people; single people, divorced persons, and disabled Catholics.³

As Hehir states, in some cases, claims for greater participation will raise troubling theological questions about tradition, magisterial authority, ecclesiology and even questions about the justice of God.⁴ I join with him in urging that theologians and ethicists work together to probe these interconnected, urgent questions. Here I sense a difference in tone between Hehir and me. I would state somewhat more emphatically than he has that the USCC will not be able to provide a credible witness for justice in social, political and cultural life—to non-Catholics and to many Catholics—unless it addresses courageously issues of justice-as-participation within the Church itself.

Second, I want to comment on some of Hehir's remarks on the mode of the bishops participation in public decision making. Hehir emphasizes the role the bishops have in highlighting the moral dimension of questions being debated in the public sphere. He speaks about the bishops' responsibility to participate in the formation of public opinion—a public opinion which then indirectly influences specific pieces of legislation or specific actions of governmental agencies.

The image of public policy formation underlying this paper is one of individuals and groups exchanging ideas in a public debate with policy determined in response to the appeal of those ideas which prove most compelling in the public forum. Hehir only hints once that the Catholic bishops might exercise power in the public arena on some other grounds in addition to the persuasive power of their public discourse. He does note that the Catholic bishops speak for the "largest single religious denomination in the country."⁵

One out of every five persons in the United States is a Roman Catholic. Catholic polity sometimes presents the image of a church body firmly united under the leadership of its bishops. Moreover, a stereotypical view of Catholicism too often exaggerates the docility of the laity and, thus, amplifies the voice of the Catholic bishops in the minds of some politicians.

³This is not an exhaustive list. An individual can be a member of more than one marginal group and therefore have an "interstructured" experience of marginalization.

⁴If we argue, for example, that standards of sexual equality that hold in every area of secular life are not relevant in the Church, because roles in the Church are determined by the will of God, then we imply that standards of justice relevant to human conduct are not appropriate to God. We assert that the justice of God is categorically different from human justice.

⁵J. Bryan Hehir, "Church-State and Church-World: The Ecclesiological Implications," p. 61.

The Catholic bishops have political power based on their perceived influence over the votes of a large constituency *as well as* power based on the eloquence of their moral appeals.⁶ I agree with Hehir that the Catholic bishops do not have the strength to dictate specific government policies or even to control the votes of the faithful, but I suggest that in certain cases they do have enough political clout to stalemate political action.

Let me give an example of the use of this power to block legislation. There is a bill currently before Congress called the Civil Rights Restoration Act. This act is designed to strengthen federal civil rights monitoring and enforcement efforts by reversing a Supreme Court decision which held that the federal government can intervene in cases of discrimination *only* when federal funds are used to support *the specific program or activity* in which the discrimination occurred. The Civil Rights Restoration Act protects victims of discrimination on the basis of sex, race, national origin, disability, or age.⁷

The USCC insists that both the tradition of constitutional justice in the United States and religious traditions of respect for the dignity of persons as creatures of God require effective government action to eradicate discrimination based on race, sex, age or handicap. However, the bishops are also concerned that the proposed legislation might expand the number of secular institutions which are required—as a condition of sex equity—to treat “pregnancy, childbirth or termination of pregnancy” in the same manner as temporary disabilities in student or employee benefits programs. Despite the fact that religious institutions are already exempted from compliance if abortion coverage violates their religious beliefs, the USCC has broken with all the other members of Leadership Conference on Civil Rights in order to press for an anti-abortion amendment to the proposed legislation.⁸

Thus the bishops have decided to insist upon a very controversial amendment to the Civil Rights Restoration Act in order to avoid even the most remote complicity with abortion.⁹ As a result of their choice, alliances with other religious and

⁶I am highlighting another dimension of the bishops' public authority, not to suggest that their exercising “political clout” is somehow dishonorable or morally distasteful, but rather to assert that the bishops are morally accountable for their choices when exercising that “clout.”

⁷For a review of the Civil Rights Restoration Act and the Supreme Court case which evoked it, see American Civil Liberties Union and NAACP Legal Defense and Educational Fund, “Justice Denied: the Loss of Civil Rights After the *Grove City College* Decision,” March 1986. NAACP Legal Defense and Educational Fund, 806 15th St., NW, Washington, DC 20005.

⁸The USCC is also concerned that the effect of the Civil Rights Restoration Act might be to require some non-educational institutions affiliated with the Catholic Church to provide coverage for abortions in their benefits packages. Therefore the bishops requested another amendment which would expand the religious tenet provision to expressly cover these religiously affiliated institutions. Such an amendment would probably be viewed as a relatively noncontroversial protection of religious liberty and would not imperil the bill.

⁹I have modified my oral remarks here in light of comments made by Hehir during the question and answer session.

secular groups dedicated to civil rights are strained—in some cases almost to the breaking point. Moreover, this major civil rights bill is virtually “dead” for this session of Congress.¹⁰

As Hehir has reminded us, *Dignitatis humanae* represents a major shift in the understanding of the church-state relationship. “It affirms that the one thing the Church seeks from the secular state is not favoritism but the freedom to function.”¹¹ *Dignitatis humanae* also says something about how the Church ought to exercise this freedom. Religious persons in a free state “ought at all times to refrain from any manner of action which might seem to carry a hint of coercion or of a kind of persuasion that would be dishonorable or unworthy.”¹²

I ask: Is it unworthy of the USCC to kill a major piece of civil rights legislation, even for so noble a purpose as maintaining a firm moral stance on the evil of abortion?

Third, a further ecclesiological question is raised by the social activism of the United States bishops. That question is the role of the laity in the social mission of the Church. Vatican II repudiates rigid dichotomies which associate Church with hierarchical ministry and world with laity. Nevertheless, Vatican II declares that “the laity must take up the renewal of the temporal order as their own special obligation.”¹³

I raise this question not to challenge the right and responsibility of bishops to speak about the moral dimensions of “worldly” life. Nor am I suggesting what Rembert Weakland disparagingly calls “a separate [lay] teaching authority . . . for ‘secular’ matters.”¹⁴ In particular, I would not want to limit the laity in the exercise of their prophetic office¹⁵ within the Church only to the consideration of secular, but not sacred, matters. What I am suggesting is that theologians, ordained ministers, and lay people need to find new concepts and practices to describe and to support appropriate roles for the laity today.

The consultation process used by the United States bishops to create pastoral letters on peace and the economy—a process which included holding symposia and hearings as well as inviting public response to draft documents—represents a significant shift toward an open-minded, listening posture for hierarchical teachers.¹⁶ Yet it must be said that, inevitably—given limits of time, energy, and skills—

¹⁰Other analyses of the bishops’ position on the Civil Rights Restoration Act can be found in Madonna Kolbenschlag, “The Bishops and Women: On the Right Hand, On the Left Hand,” *Woodstock Report* no. 7 (May 1985) 2-4 and David Earle Anderson, “Is Abortion a Civil Right?” *Christianity and Crisis* 46 (1986) 103-105.

¹¹Hehir, “Church-State,” p. 57.

¹²*Dignitatis humanae* 4.

¹³*Apostolicam actuositatem* 7.

¹⁴Rembert Weakland, “Where Does the Economic Pastoral Stand?” *Origins* 13 (1984) 758.

¹⁵See *Lumen gentium* 12.

¹⁶The United States bishops have been criticized by some other bishops and some Vatican officials for using this “open” process. They have been accused of operating in a manner which casts doubt on the authority of the hierarchical magisterium. I obviously do not share that opinion.

the participating lay persons have been overwhelmingly "experts" and "spokespersons" for national organizations. We need to develop expanded consultation processes which give a greater number of the laity regular opportunities to share their moral insights with the bishops.

Obviously, moral discernment cannot be reduced to the sociological tabulation of opinions. Nor would I wish to obscure the reality that the attitudes and practices of the faithful are sometimes corrupted by sin. (As are those of clergy and bishops.) Moreover, at a time of increased rigidity in some powerful church quarters, it may seem all we can do to defend whatever openness we have now and unrealistic to press for *more* collaboration.

Nevertheless, in a pluralistic, democratic culture—one in which the human longing for equality and participation flourishes¹⁷—we need still wider and more enduring collaborative structures to tap the "sense of the faithful" as is known in the lives of a large and diverse Catholic population.

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¹⁷Paul VI speaks of the human longing for equality and participation in *Octogesima adveniens* 22.