

Moral Doctrine: Stability and Development

The overall theme of this convention is doctrinal development. With reference to *Dignitatis Humanae*, John Courtney Murray, S.J., stated: "it was, of course, the most controversial document of the whole Council, largely because it raised with sharp emphasis the issue that lay continually below the surface of all the conciliar debates—the issue of the development of doctrine."¹ Murray went on to note—with tongue partially in cheek, I am sure—that it is up to theologians to explain the continuity between the *Syllabus of Errors* and *Dignitatis Humanae*. Whatever the case, the Council "formally sanctioned the validity of the development itself." He concludes by observing that "this [sanctioning] was a doctrinal event of high importance for theological thought in many other areas."

Lest the implication of Murray's last statement fly by unnoticed, let me press it into boldface. **Just as the Council sanctioned the developmental process where religious liberty is concerned, so it would also in consistency do so in other areas where circumstances call for it.**

For those conciliar fathers who opposed *Dignitatis Humanae*, the notion of development was "the real sticking point." I presume that Murray means by this that they could not understand how the church could at one point authoritatively deny religious freedom and at another affirm it. Would this not mean that the church's official teaching, her doctrine, is capable of error? And if this is possible, in what sense does she enjoy the special guidance of the Spirit in her doctrinal teachings? I think it is safe to say that concerns like these made doctrinal development "the real sticking point."

I think it is concerns like these that still divide people in the church and suggest the need for and the wisdom of the Common Ground Initiative. If any confirmation of this were needed, we need only turn to the document "We Remember: A Reflection on the *Shoah*."² The document, issued by the Vatican's Commission for Religious Relations with the Jews, was met with great disappointment by many. At a meeting of Catholic and Jewish scholars (March 28-30, 1999), Edward Cardinal Cassidy, president of the above-mentioned commission, explained the Vatican gauntlet the document had to run to get

¹John Courtney Murray, S.J., "Religious Freedom," in *Documents of Vatican II*, ed. Walter M. Abbott, S.J. (New York: America Press, 1966) 673.

²*Origins* 27/40 (26 March 1998): 670-75.

published at all. "The greatest difficulty was the fear that if you say the church has been wrong in the past, then it can be wrong today and tomorrow."³

First, a word about my title, "Moral Doctrine: Stability and Development." By "moral doctrine" I mean anything in the moral area authoritatively proposed by the magisterium. Clearly this could range all the way from infallible proposals to merely disciplinary ones. Practically speaking, most theologians believe the church's moral teaching is proposed noninfallibly.

I use the term "stability" because I thought of it first when Margaret Farley phoned me to solicit a title. Actually, I mean it to refer to the degree of adequacy which the Catholic consciousness feels that it has achieved in penetrating, grasping and formulating a moral issue. The deeper the penetration, the firmer the grasp and the more accurate the formulation, the greater the stability—and, I take it, the less space for development. But the more contingent the issue, the less will we find these epistemological characteristics. For example, flexibility is obvious in the church's concrete social teaching in the spheres of economics, politics, and international relations. In this sense, development and change are accepted by all pacifically as nonthreatening realities. And the magisterium seems to realize this in the expected response to these teachings.

It is in other areas where the actions of the magisterium (whether by encyclicals, appointment of bishops, policy postures, group approvals, and support, etc.) lead us to believe that the current doctrine is written in stone and any talk of development is treated as confrontational. I intend to face this head on, because it is where the real problem exists, where divisions tend to become trenches—and where ecclesiastical authorities tend to resemble, in the words of Bishop Kenneth Untener, a dysfunctional family.⁴ In short, it is an area where sharp but civil exchange may enlighten us about moral development. I speak, of course, of birth regulation and *Humanae Vitae*.

I will proceed in three steps. First, I will state my assumptions about noninfallible moral teaching. Second, I will turn to *Humanae Vitae* and to the source or understanding from which it derives its conclusions: the inseparability of the unitive and procreative in human sexuality. Third, I will propose the possibility of an expanded understanding of this principle.

ASSUMPTIONS

I believe this section of my presentation is key, because I strongly suspect that most tensions, difficulties, and disagreements are tied to unspoken assumptions. Thus, the need to make them explicit.

1. *Noninfallible teaching*. One dimension of the context for discussing doctrinal development in moral theology is the ecclesial status of the teaching,

³Peter Steinfels, "Beliefs," *New York Times*, 3 April 1999, A11.

⁴*Origins* 20/25 (29 November 1990): 404.

specifically whether it is infallibly or noninfallibly proposed. With regard to the central assertion of *Humanae Vitae* (every contraceptive act is morally wrong), I realize that some theologians (e.g., Cappello and Vermeersch) thought *Casti Connubii* constituted an infallible declaration. Others (Zalba, Ford, and Grisez) thought the teaching was infallible by reason of its proposal by the ordinary and universal magisterium of the bishops. Theologians have generally rejected the Vermeersch-Cappello thesis. They have also found the Ford-Grisez analysis unpersuasive, and for several reasons. First, how do we know that the bishops around the world have taught this as a doctrine to be held *definitively*? Second, there is the very notion of teaching that is required. Recall the words of Cardinal Leo-Joseph Suenens to the birth control commission. When it was objected that the church could not change its position because this position had been taught by the universal magisterium, Suenens stated: "We have heard arguments based on 'what the bishops all taught for decades.' Well, the bishops did defend the classical position. But it was imposed on them by authority. The bishops didn't study the pros and cons. They received directives, they bowed to them, and they tried to explain them to their congregations."⁵ I do not believe this qualifies as "teaching" under contemporary standards.

Third and finally, there is the Code of Canon Law. "Nothing is understood to be infallibly defined unless this is clearly established."⁶ This applies not merely to definitions, but *a fortiori* to teachings of the ordinary and universal magisterium which are more difficult to establish as teachings to be definitively held.

2. *Provisional character of such teaching.* By "provisional" I mean capable of modification "even to the point of being capable of including error." This last citation is taken from a document of the German bishops (1967).⁷ While discussing the teaching office of the church, the bishops note:

In order to maintain the true and ultimate substance of the faith it must, even at the risk of error in points of detail, give expression to doctrinal directives which have a certain degree of binding force and yet, since they are not *de fide* definitions, involve a certain element of the provisional even to the point of being capable of including error. . . . In such a case the position of the individual Christian in regard to the Church is analogous to that of a man who knows that he is bound to accept the decision of a specialist even while recognizing that it is not infallible.

⁵Robert Blair Kaiser, *The Politics of Sex and Religion* (Kansas City MO: Leaven Press, 1985) 170.

⁶Canon 750. Cf. also Francis A. Sullivan, S.J., *Creative Fidelity* (Mahwah NJ: Paulist Press, 1996) 106-107.

⁷The text was published by the Secretariat of the Conference of German Bishops in the fall of 1967 as a semiprivate document. Access to it is difficult but pertinent sections can be found in *Readings in Moral Theology No. 3: The Magisterium and Morality*, ed. Charles E. Curran and Richard A. McCormick, S.J. (Mahwah NJ: Paulist Press, 1982) 113-16.

Rahner tells us that this episcopal document was severely criticized in high places in a circulated mimeograph response.⁸ The grounds: "provisional" is a false understanding of the binding force of such teaching. It equivalently equates the church's teaching authority to any other human authority of which we say, "*Tantum valet quantum probat.*"

Rahner vigorously rejects this critique as being "theologically . . . radically mistaken." It prescribes a more or less unconditional obedience to such doctrinal declarations. Of course, in disputing the German bishops the author of the critique is contradicting his own assertions about the assent to be given to these teachings.

This leads Rahner to the shrewd observation that the "real situation, however, is in fact this: our present-day Catholic authoritarians are only too ready to uphold Pope and bishop so long as they teach what they themselves regard as right. Otherwise they dispense themselves from that very attitude of unconditional obedience to doctrine which they defend indiscriminately against the 'modernists' of today as a sacred principle."

The heat and strength of these exchanges suggest that this is an area where the notion of doctrinal development may meet some stubborn resistance. One party to the discussion denies the very condition necessary for development to occur.

3. *The presumption of truth.* It has been traditional teaching that authoritative magisterial teaching enjoys the presumption of truth. I see no reason to question this general statement. If there is no such presumption, it is difficult to see how the teaching is authoritative in any recognizable theological sense.

Several glosses are immediately necessary. First, the strength of this presumption differs depending on the matter in question, its place in church tutelage, etc. Second, the presumption is *only* a presumption. This assertion might appear trivial were it not for the fact that some discussants, by emphasis and implication, elevate it to more than a presumption.

Finally, this presumption is anchored in the promised special guidance of the Spirit to the official teachers in the church. However, this presumption can be weakened in a variety of human ways. For instance, if official teachers overlook or neglect certain sources essential to the accuracy of a moral position, the presumption is correspondingly weakened. The same should be said if the atmospheric conditions in the church are those of oppression or ambition. With regard to this latter, the May 28, 1999, issue of the *National Catholic Reporter* detailed the shock of Cardinal Bernardin Gantin, for fourteen years head of the Congregation of Bishops, at the "amazing careerism" in the ranks of the episcopate. Both oppression and ambition easily lead to suppression of one's true thoughts and convictions. In other words, a presumption of truth may not be

⁸Cf. *ibid.*, n. 7 at p. 117.

interpreted in such a way that it is presumptuous on the Spirit, a kind of magisterial magic that dispenses teachers from the hard work of human reflection.

4. *The possibility of error.* This follows from the noninfallible, provisional character noted above. Error should be relatively rare; otherwise the notion of an *authoritative* teaching office is quite empty.

5. *Assent is conditional.* Once again, this is quite traditional manualist teaching. The condition was variously expressed. For instance, Lercher states it as follows: "unless a grave suspicion should arise that the presumption is not verified."⁹ I believe the response to the *Hauptthese* of *Humanae Vitae* reveals this "grave suspicion" on the part of many theologians with subsequent dissent.

6. *Dissent is justified by serious reasons.* When I speak of "dissent," I refer to two things: the individual's *private* disagreement and its *public* expression. There is not much problem with the first since it is provided for even by the manualists.

Public dissent has become a problem, largely because of the attitudes and statements of John Paul II and Joseph Ratzinger. Neither pope nor prefect sees much place for it in the ongoing purification of the church's inheritance. Therefore, it becomes a contentious issue that touches closely the idea of development of moral doctrine. For if any public disagreement from official formulations is disallowed in the church, the church's teaching is frozen into the last official formulation. Development cannot occur. On this view *Humanae Vitae* is not simply an enlightening word; it is the *last* word.

When dealing with John Paul II's attitude toward dissent, caution is required. He leaves the impression that it is not to be tolerated. Indeed, his episcopal appointments and other actions reinforce this.

But the pope's more general statements demand close scrutiny.

In Los Angeles, John Paul II addressed the American Catholic bishops. He referred to the "inacceptability of dissent and confrontation *as a policy and method* in the area of Church teaching."¹⁰ He did not spell this out. But in combination the two words ("policy and method") describe the posture of one who *regularly* and *on principle* ("policy") dissents as a *way of approaching* (method) church teaching. That is, indeed, totally unacceptable because it quite simply empties authentic teaching of any presumption of truth. But I know of no one who does this. When one qualifies this or that teaching (almost always an application of a more general principle) because he/she cannot find sound reasons to support it and proposes weighty reasons against it, this is not dissent "as a

⁹L. Lercher, *Institutiones Theologiae Dogmaticae*, ed. F. Schlagenhafen, 5th ed. (Barcelona, 1951) 297.

¹⁰*John Paul II in America* (Boston: Daughters of St. Paul, 1987) 196.

policy and method." Obviously, then, the pope is not rejecting any theological dissent, but only a certain kind—and, I would think, a relatively rare kind.

John Paul II referred to the bishops' "role as authentic teachers of the faith when opinions at variance with the Church's teaching are proposed as a basis for pastoral practice."¹¹ This clearly points to a distinction between "opinions at variance with the Church's teaching" and such opinions "proposed as a basis for pastoral practice." Only these latter are rejected by the pope. What the Holy Father did not adequately address is what authentic teachers do about respectful disagreement with church teaching. Is it simply to be ignored? Or does it invite official leadership to a new reflection? If one opts for the "ignore-alternative," then the key theological issue embedded in dissent has not been faced.

Again, the pope stated: "Dissent from Church doctrine remains what it is, dissent; as such it may not be proposed or received on an equal footing with the Church's authentic teaching."¹² This more than obviously suggests that John Paul II is not concerned with theological dissent as such, but with its presentation or acceptance "on an equal footing." That is, it is presented or received as if the church had no authentic teaching or as if such teaching did not matter. One wishes—vainly, I suppose—that some of the pope's cantankerous loyalists were as nuanced as the Holy Father.

I have placed significant emphasis on dissent for two reasons. (1) Some sort of dissent seems to be the very condition of development. (2) There is, I believe, a deliberate institutional attempt to nourish conditions hostile to it.

In the end, I agree with Avery Dulles when he writes of Vatican II: "By its actual practice of revision, the Council implicitly taught the legitimacy and even the value of dissent."¹³

It is stated that dissent is justified by serious reasons. This is the statement of the American bishops.¹⁴ It is interesting above all because it suggests that moral conclusions are not totally independent of the reasons adducible. Recall the words of Paul VI in *Humanae Vitae*.

That obedience, as you well know, obliges not only because of the reasons adduced, but rather because of the light of the Holy Spirit, which is given in a particular way to the pastors of the Church in order that they may illustrate the truth.¹⁵

¹¹Ibid., 196.

¹²Ibid., 195.

¹³Avery Dulles, S.J., "The Theologian and the Magisterium," *Proceedings of the Catholic Theological Society of America* 31 (1976): 235-46 at 240.

¹⁴Originally appeared in *Human Life in Our Day* (Washington: USCC, 1968). The pertinent section may be found in *Readings in Moral Theology No. 6: Dissent in the Church* (Mahwah NJ: Paulist Press, 1988) 127-28.

¹⁵Paul VI, *Humanae vitae* (Washington DC: U.S. Catholic Conference, 1968) 17n.28.

A balanced perspective calls for the rejoinder of the late Bernard Häring.

If the Holy Spirit gives a very special grace in the composition and promulgation of this document [*Humanae Vitae*], then one may legitimately expect that this grace will manifest itself in the way the question itself is handled. That means in the solid presentation of proofs from human experience and with good arguments. In my opinion that is not true in the present instance.¹⁶

7. *Inaccuracy and the need for adjustment are much more likely to be found in applications than in more general principles.* This should be obvious because applications involve contingent facts and varying interpretations, hence diverging judgments. Vatican II recognized this when it stated: "It happens rather frequently, and legitimately so, that with equal sincerity some of the faithful will disagree with others on a given matter."¹⁷ So did the American bishops in *The Challenge of Peace*. Of applications they noted that "prudential judgments are involved, based on specific circumstances" and "the Church expects a certain diversity of views even though all hold the same moral principles."¹⁸

THE INSEPARABILITY OF THE UNITIVE AND PROCREATIVE

It is the official teaching of the church that "each and every marriage act (*quilibet matrimonii usus*) must remain open to the transmission of life." As *Humanae Vitae* states:

That teaching, often set forth by the magisterium, is founded upon the inseparable connection, willed by God and unable to be broken by man on his own initiative, between the two meanings of the conjugal act: the unitive meaning and the procreative meaning.¹⁹

The encyclical regards this inseparability as a "fundamental principle."

One thing is absolutely clear: The conclusion that *every act* must remain open to procreation is an *application* of the more general inseparability principle. Paul VI felt that "the people of our day are particularly capable of seizing the deeply reasonable and human character of this fundamental principle."

Principle, yes. Application, no. As sixty Quebecois theologians pointed out in the wake of *Veritatis Splendor*:

We feel obliged to point out that theologians, and the best among them, have concluded after twenty-five years of discussion and exchange, that no really convincing and decisive argument has yet been found for affirming that *in all circumstances and for whatever reason*, any contraceptive act which utilizes

¹⁶Bernard Häring, "The Encyclical Crisis," *Commonweal* 88 (1968): 588-94.

¹⁷*Documents of Vatican II*, as in n. 1, 244.

¹⁸"The Challenge of Peace: God's Promise and Our Response," *Origins* 12/44 (14 April 1983): 700.

¹⁹N. 12, p. 7.

artificial methods is immoral. It is pointless to insist on a reality which you know as well as we: the vast majority of Catholics on this continent, as in different parts of the world, have not succeeded in understanding the severity of official Catholic thinking on this subject which involves their daily lives.²⁰

James Gaffney concludes as follows:

Inside the Catholic church the doctrine is rejected in practice by a great majority, in theory by an even greater majority, and accepted by most of those few who do accept it on grounds of authority alone.²¹

EXPANSION OF THE INSEPARABILITY PRINCIPLE

Paul VI in *Humanae vitae* explicitly structures his approach to reproductive ethics in terms of dominion and its limits.²² When we study the development of Catholic tradition on dominion over life itself (*esse*), we notice a gradual narrowing of dominion. But interestingly this has been accompanied by an expansion of concern for well being (*bene esse*). We see this in the shift of moral concern to the prevention of the causes of abortion, to peace making (rather than concern for justifying wars), to the creation of conditions for peaceful and dignified dying, and the like. This shift in emphasis comes to powerful expression in Bernardin's consistent-ethic-of-life approach. Here the moral duty to protect and nourish human *esse* is sharply and inseparably connected to the duty to foster *bene esse*. Thus, shockingly to some, Bernardin's emphasis would see discrimination against women in the workplace as part and parcel of an attitude that weakens resistance to killing, whether in national conflicts or in terminal illness. I see this emphasis as a natural culmination of the trajectory of Catholic tradition over the centuries as it struggles to discover (*recta ratio*) the place of dominion and limits where life is concerned. Now let us turn to the sources of life.

²⁰"Lettre ouverte aux évêques du Québec," *L'Eglise canadienne* 27 (Jan. 1994): 14-15. The point made by the Canadian theologians is underlined by the fact that the most vigorous defenders of *Humanae vitae* (G. Grisez, Janet Smith) reject each other's argument.

²¹James Gaffney, "The Pope on Proportionalism," in *Readings in Moral Theology No. 10: John Paul II and Moral Theology*, ed. Charles E. Curran and Richard A. McCormick, S.J. (Mahwah NJ: Paulist Press, 1998) 60.

²²Paul VI writes: "To experience the gift of married love while respecting the laws of conception is to acknowledge that one is not the master of the sources of life but rather the minister of the design established by the Creator. Just as man does not have unlimited dominion over his body in general, so also, and with more particular reason, he has no such dominion over his specifically sexual faculties, for these are concerned by their very nature with the generation of life, of which God is the source" (n. 13).

Where the sources of life are concerned dominion meets its limits in Catholic teaching in the inseparability of the unitive and procreative. Note the *locus* of the intertwining of these two meanings: *the conjugal act*. When these two meanings are separated, whether in procreation or its prevention, we have gone beyond our dominion over nature. In the words of the British moral theologian Kevin Kelly: "that is the boundary beyond which we must not go. That is the limit to our dominion over nature."²³ Implicit in this analysis is that every act of intercourse is somehow procreative, a notion that André Hellegers once referred to as "ununderstandable."²⁴

Many theologians and non-Catholic church bodies hold that the unitive and procreative goods should be held together, but they do not see this as applying to every conjugal act of intercourse, but to the relationship. I have summarized this as follows:

The issue at stake should be clear: the meaning of the inseparability of the unitive and the procreative. Specifically, must these be held together in *every act* (thus no contraception or IVF), or is it sufficient that the *spheres* be held together, so that there is no procreation apart from marriage, and no full sexual intimacy apart from a context of responsibility for procreation? As long as there is debate on these understandings, IVF will be as controversial as Pope Paul VI's encyclical *Humanae vitae*.²⁵

This is where the matter now stands. Is there a possibility of development? Possibly. Just as the tradition on the protection of *life* gradually has expanded to include the enhancement of life as necessary to such protection, so one might hope that the concern to protect the *sources of life* would expand beyond concern for the physical integrity of acts to center on the importance of relationships for this protection. In other words, we should understand the bonding or inseparability of the relational and procreational goods not primarily as a characteristic of individual sexual acts, but above all as characteristic of the relationship. Were this the case, the limits on human dominion would not be constituted by interventions as such (whether contraceptive or procreative), but only by *arbitrary* ones.

RICHARD A. McCORMICK
University of Notre Dame
Notre Dame, Indiana

²³Kevin T. Kelly, *Life and Love* (London: Collins Liturgical Publications, 1987) 42.

²⁴André E. Hellegers, "A Scientist's Analysis," in *Contraception: Authority and Dissent*, ed. Charles E. Curran (New York: Herder and Herder, 1969) 231.

²⁵Richard A. McCormick, S.J., "Therapy or Tampering? The Ethics of Reproductive Technology," *America* 153 (1985) 399.