

“THE VISION STILL HAS ITS TIME”: A SOCIAL-ETHICAL CRYPTANALYSIS OF THE SIGNS OF THE TIMES

The central thesis of this address is that the signs of the times must be read by persons with multiple perspectives in order to produce a reading that is capable of recognizing and proclaiming where the Spirit is at work in the world today. The signs of the times must also be read placing those whom the world marginalizes or ignores at the center of our vision. As Bernard Haring declared: “Moral theologians have to pay attention to those who seem to have no voice before the world. If [theologians’] heart[s], their love of Jesus [are] with the littlest, the despised, the morality they teach will become a proclamation for the despised, the marginalized, the ‘unclean’ of every sort.”¹

In moral theology, reading the signs of the times with the victims of every kind of injustice at the center of our analysis is a key step in the process of proclaiming hope to the world. This is a difficult year in which to discern those actions that are consistent with the hope that the Spirit holds out to all people—especially to those most heavily burdened in life—and to creation itself. In this address, I am going to take a hope-filled risk, akin to the risk hazarded by the prophet Habakkuk that even though “destruction and violence are before [us],” even though “the wicked circumvent the just” and “judgement comes forth perverted,” “the vision still has its time, presses on to fulfillment, and will not disappoint.”²

I will begin this address with brief remarks about the situation of younger theologians who struggle to read the signs of the times from the precarious vantage point of nontenure track academic posts. Then I explore some of the implications of the growing *mestiza* presence in American society and in the American Catholic church. I will consider how Catholic social thought might be adapted to better address the needs of the poor in an increasingly powerful worldwide legal system for the protection of intellectual property rights. I will reflect on the terrorist assaults on September 11th and raise a question about the United States’ conduct during the subsequent war in Afghanistan. I will close with a few remarks on the clergy sexual abuse scandal that has shaken the American Catholic church this year.

¹Bernard Haring, *My Hope for the Church: Critical Encouragement for the Twenty-First Century* (Liguori MO: Liguori/Triumph, 1997) 22.

²Habakkuk, 1:3-4; 2:3.

OUR TEMPORARY COLLEAGUES

Reading the signs of the times well is a communal activity. Our perception of the most important ways that God is working in the world today is sharpened when persons whose life experiences give them very different vantage points contribute to building up the church's picture of what is happening in the world.

One important difference is age. Our understanding of world events is, in some important ways, shaped by the moment in history when we begin to formulate our interpretation of what is going on in the world. The efforts of the Catholic Theological Society of America to read the signs of the times will be hampered, to some extent, if we do not have ongoing conversations among member theologians from different age groups. The reality is that we lack a substantial group of younger members who participate in the work of the society regularly. One important factor in this situation is the reality that, for more than two decades, younger scholars have experienced serious difficulties in obtaining those stable, tenure—track positions in colleges and universities that make it far easier to be ongoing participants in the professional development of theology.

As a result, we have fewer younger theological colleagues who over a period of time can engage with us in reading the signs the times. This is a serious problem for two reasons: younger scholars may have very different vantage points on contemporary events. They may be ready to identify and to embrace the positive possibilities in social, cultural and technological changes more quickly and more perceptively than many older colleagues. Second, those younger scholars become a part of the generations of theologians who read the signs of their times in the service of church. Look around this room this morning and make a guess about the average age of the regular participants in the work of the Catholic Theological Society of America. Who will be among the community of Catholic theologians working together to read the signs of the times for the sake of the church in 2022?

I cannot address in-depth the employment situation facing recent Ph.D.s in Catholic theology. However, I do want to pay brief attention to the use of adjunct faculty as an element in the difficult situation facing younger theologians.³ This is, in fact, not a new situation. The major change in the use of nonfull-time and

³I am not addressing here the situation of persons in their late 30s or even older who pursued the Ph.D. degree in theology as a second career. The older, newly graduated theologians face an even more difficult time on the job market because of age discrimination. Such second career theologians also have a unique perspective on theology. On the one hand, their recent graduate training has put them in touch with the newest theological developments. On the other hand, they reflect on contemporary theology bringing to bear their rich life experience. However, they do not read the signs of the times from the perspective the youngest age cohort of theologians, and they will not be reading the signs of the times for the sake of the church over as long a career in the future.

tenure-track faculty happened over the last quarter-century. A study by the American Association of University Professors indicates that "most of the relative growth in the numbers of part-time faculty occurred during the period from 1972 to 1977, a period often characterized as one of sharply reduced financial strength for both private and public institutions."⁴ Despite the economic ups and downs of the last quarter-century a heavy reliance on part-time faculty has become a persistent feature of the employment market in higher education. Recently the American Academy of Religion collected data on employment in departments of religion in United States and Canada. Catholic colleges and universities had by far the largest proportion of part-time positions when compared with Protestant, nonsectarian, or public colleges and universities. Almost half of the teaching positions in the religion departments of Catholic schools were less than full time.⁵

In addition, colleges and universities are making heavier use of full-time appointments which are nevertheless clearly designated as non tenure track. A comprehensive study of faculty holding non tenure track, full-time appointments between 1975 and 1995 showed "the proportion of full-timers working on contract climbed from 19 percent to 28 percent, while the proportion of those on the tenure track fell from 29 percent to 20 percent."⁶ In addition, almost 90 percent of the respondents predicted that the proportion of non tenure track full-time positions at their institution would remain the same or increase in the next few years. This led one of the study's authors to conclude "the two-tiered [faculty employment] system is here to stay."⁷ That judgment is certainly confirmed by the following data from the National Research Council, "in 1970, 68 percent of new Ph.D.'s found university or college teaching positions. But since 1980, the percentage has been around 51 percent, even though [college] enrollment rose 41 percent during that decade and has continued to grow, albeit more slowly. In some disciplines, conditions are worse than the average; the Modern Language Association's 1996-1997 survey discovered that 33.7 percent of new doctorates found tenure-track positions, down from 45.9 percent in 1993-1994."⁸ Unfortunately, I do not know a source for comparable data in the field of religion.

These trends have been particularly disadvantageous to women. A higher percentage of women faculty work part-time. Women are also more likely to hold full-time positions which are off the tenure track than are male colleagues.

⁴"The Status of Non-Tenure-Track Faculty" <www.aaup.org/statements/Redbook/Rbnonten.htm> (8/07/01).

⁵"Census of Religion and Theology Programs, 2000," *Religious Studies News* (January 2002): 25; chart "Faculty Profile."

⁶Courtney Leatherman, "Growth in Positions off the Tenure Track Is a Trend That's Here to Stay, Study Finds," *Chronicle of Higher Education*, 9 April 1999. Available from Lexis-Nexis Academic Universe.

⁷Courtney Leatherman, "Growth in Positions off the Tenure Track."

⁸Higher Education Department, American Federation of Teachers, "The Vanishing Professor" <www.aft.org/higher_ed/reports/publications/vanishing.html> (8/7/2001).

In fact the growth of women Ph.D.'s in the humanities may be yet another example of a trend in professional employment. As working conditions within a professional field become relatively less attractive, the proportion of women in that profession rises. Examples include the growth in women's representation in the fields of accounting, journalism, and psychology. So it may not be surprising that, as the proportion of secure, full-time, tenurable faculty positions declines, the number of women entering the professorate rises.

Adjunct positions are positive ones for some theologians. Some of our fellow scholars appreciate the flexibility that such positions offer. Others are grateful to escape some of the ancillary tasks, such as committee work, expected of full-time faculty.⁹ Moreover, younger women scholars may find such positions provide more flexibility in meeting their family obligations. However, such domestic flexibility is often obtained at the price of permanently limiting one's professional opportunities in the field of theology.¹⁰

In the early 1990s, the American Association of University Professors reported the, not surprising, finding that "full-time and tenure track faculty are . . . substantially more likely to have published" in the previous two years.¹¹ Since publication is a major way in which theology is developed, theology loses the insights of a significant number of younger colleagues, disproportionately female colleagues, when these young colleagues are excluded from tenure-eligible positions. On a more practical level, only about 25 percent of part-time faculty received any financial support to attend professional meetings.¹² Even colleagues in appointments that are full time but off the tenure track are somewhat less likely to receive institutional support to attend professional conferences. The lack of benefits such as (at least modest) subsidies for attendance at professional meetings translates into a real loss of theological dialogue partners with whom to read the signs of the times.

In light of these realities confronting recent Ph.D.'s in theology, we need to read the signs of the times of our own profession and to support the work of

⁹Robin Wilson, "For Some Adjunct Faculty Members, the Tenure Track Holds Little Appeal," *Chronicle of Higher Education*, 24 July 1998, A8. However, the same article includes data supplied by the American Association of University Professors showing that adjuncts in the liberal arts—which would include religion—were substantially less likely to be satisfied with part-time teaching positions. "Sixty percent of the adjuncts who taught at four-year institutions in the liberal arts said they did so because they could not find full-time professorships."

¹⁰There is a complex moral relationship between "flexible" contingent employment, societal gender norms, personal choice, and equality for women. I have written about these issues in a more general context in *The New Job Contract: Economic Justice in an Age of Insecurity* (Cleveland: Pilgrim Press, 1998) 111-16.

¹¹"The Status of Non-Tenure-Track Faculty."

¹²"Background Facts: Part-Time Faculty" <www.aaup.org/Issues/part-time/Ptfacts.htm> (08/07/01).

groups such as Coalition on the Academic Workforce and the organizers of activities such as Campus Equity Week, an international demonstration in support of better working conditions for "contingent" faculty.¹³

Younger theologians may have a greater flexibility that makes some of them particularly adept at discerning the new things that the Spirit is doing in the world today. We need to see afresh—through their young, sharp eyes—that "the joys and hopes, the griefs and anxieties of the [women and] men of this age, especially those who are poor or in any way afflicted, these too are the joys and hopes, the griefs and anxieties of the followers of Christ."¹⁴

THE FUTURE IS MESTIZA¹⁵

The future toward which the Spirit is luring us here in the United States at the beginning of the twenty-first century is *mestiza*. *Mestiza*, as I am using the term in this address, is a concept taken from Latina feminist theology and philosophy. A *mestiza* is a woman of mixed indigenous AmerIndian and Spanish descent. She is constantly moving between two or more cultures, developing a rich hybrid social analysis based on a critical consciousness of the strengths and flaws of each culture. No reading of the signs of the times will be complete unless we listen carefully to various *mestiza* voices.

A close reading of this particular sign of the times is especially important because the United States is again becoming a nation of immigrants. In February 2002 "the Census Bureau announced there are more immigrants in America than ever before in the nation's history—numerically though not proportionally—and the largest single block is from Mexico."¹⁶

With the 2000 Census, for the first time United States citizens of Hispanic descent surpassed the number of citizens of African descent.¹⁷ Among Hispanics,

¹³Contingent is a term that refers to jobs that are insecure, frequently are poorly paid, and are lacking even basic fringe benefits.

¹⁴*Gaudium et Spes*, 1.

¹⁵This is variant on the title of a book by Virgilo Elizondo, *The Future is Mestizo: Life Where Cultures Meet*, rev. ed. (Boulder: University of Colorado Press, 2000).

¹⁶Gregory Rodriguez, "Where the Minorities Rule," *New York Times*, 10 February 2002, sect. 4, p. 6.

¹⁷Nathan Glazer, "American Diversity and the 2000 Census," *Public Interest* (Summer 2001): 3-18. It should be noted there is special feature in the census data for 2000, which may make the tally of the African-American population misleadingly low. The 2000 Census allowed to persons to indicate more than one racial identification. Those persons who indicated that they were black and a member of another racial group, such as Native American, were not necessarily counted in the African-American total.

If one examines the statements above, it becomes clear that race is, in crucial ways, a socially constructed category. The shifting definitions of ethnic and racial groups used by the U.S. Census Bureau are one clear marker of the social construction of race and ethnicity. That having been said, race and ethnic identity continue to be social markers,

those who trace their ancestry to Mexico make up "by far the largest . . . group."¹⁸ In the last decade persons of Mexican descent have moved in large numbers across more diverse areas of the country. In fact, the largest growth in Hispanic population in the decade between 1990 and 2000—a growth that was largely fueled by persons of Mexican descent—occurred in the Midwest.¹⁹ Juan Figueroa, the president of the Puerto Rican Defense and Education Fund points out: "The Latinization of the country is not just happening in New York, Miami, or L.A. Its greatest impact is in the heartland in places like Reading, PA; Lorain, Ohio; and Lowell, Mass."²⁰ Catholics of Hispanic descent already make up 30 percent of the church here in the United States. Projections indicate that they will constitute the majority of U.S. Catholics by the year 2025.²¹

Mexican American women make up a growing proportion of all women in the United States. Women are a major component of the continuing high level of Mexican immigration to the United States. Women from Mexico are believed to be a significant part of the undocumented alien group in the United States, and "legal immigration to the United States has been net female for many years."²² In part, as a consequence of the strong female component of Mexican immigration, it is predicted that "by the year 2050, nearly one of every four women in the U.S. will be Latina," and many of those women will be of Mexican descent.²³

Thus, reading the signs of the times in United States today challenges us to begin to understand more clearly the situation of Mexican American women. I offer, in this section of this paper, an effort by an Anglo woman to understand better the social situation of Mexican American women and to learn from their contributions, particularly to the field of feminist theory and philosophy. In writing this section I have tried to keep in mind the words of Virgilio Elizondo, who has said, "Until now, all kinds of experts had studied us, but no one had

which have significant, and often detrimental impact on the lives of many persons. Close attention to ethnicity and race—as flawed as those categories may be—is incumbent upon Roman Catholic social ethicists and other persons of goodwill.

¹⁸Eric Schmitt, "Census Shows Big Gain for Mexican-Americans," *New York Times*, 10 May 2001, A28.

¹⁹"Christian Hispanics: the Same Politics, Culture," *The Christian Century* 118 (23-30 May 2001): 12.

²⁰Eric Schmitt, "Census Shows Big Gain for Mexican-Americans," A28.

²¹Reynaldo Anaya Valencia, "On Being an 'Out' Catholic: Contextualizing the Role of Religion at LatCrit II," *Chicano-Latino Law Review* 19 (Spring 1998): 453.

²²Susan Gonzalez Baker, "Mexican-Origin Women in Southwestern Labor Markets," in *Latinas and African American Women at Work: Race, Gender, and Economic Inequality*, ed. Irene Browne (New York: Russell Sage Foundation, 1999) 252.

²³United States Department of Health and Human Services, The Office on Women's Health, "Latina Women's Health," 1998 <www.4woman.gov/faq/latina.htm> (02/11/02).

even sought to enter into conversation with us so that they might truly understand who we see ourselves to be."²⁴

One serious difficulty facing Catholic social ethicists who want to understand the situation of Mexican American women is the limited quantity of social science research about their lives. When social scientists investigate the conditions confronting persons outside the dominant white, non-Hispanic group in the United States, they tend to focus on the distinction between whites and blacks. We definitely need continuing high quality social science research concerning the situation of African-Americans. However, there is a comparable dearth of social science studies about Mexican American women. Berta Esperanza Hernandez-Truyol's critique of legal scholarship is equally germane to American Catholic theology. She declares:

The existing analytical framework in law and much of the social sciences—one constrained within the parameters of a black-white, either-or paradigm—is wholly inadequate for Latinas. Such a dualistic framework, one that is this country's foundation for the equality construct, causes the legal system's confusion about and conflation of race, ethnicity/national origin and culture. Any bipolar paradigm excludes from consideration issues of language, culture, and immigration status—matters of critical importance to an analysis of Latinas' condition.²⁵

As Hernandez-Truyol has said so pointedly, one racial difference among women—black women in contrast to white women—is too often the sole category of analysis, if racial/ethnic differences among women are considered at all. In addition, the somewhat arbitrary census bureau category of Hispanic women conceals important differences in the social situations of women who were born in or whose familial origin is rooted in Cuba, Central and Latin America, Puerto Rico or Mexico, including those parts of Mexico annexed by the United States in the mid-nineteenth century.²⁶

²⁴Virgil P. Elizondo, "Mestizaje as a Locus of Theological Reflection," in *Frontiers of Hispanic Theology in the United States*, ed. Allan Figueroa Deck, S.J. (Maryknoll NY: Orbis Books, 1992) 106.

²⁵Berta Esperanza Hernandez-Truyol, "Las Olvidadas—Gendered in Justice/Gendered Injustice: Latinas, Fronteras, and the Law," *Journal of Gender, Race, and Justice* 1 (Spring 1998): 398.

²⁶There are sometimes significant tensions among women from various "Hispanic" groups. An interesting article in the *Wall Street Journal* showed how such ethnic differences can affect the life of the church. The story described tensions that arose between a rapidly increasing Mexican American group and long-established Puerto Rican and Dominican groups in one Bronx parish. Some frictions arose because recent Mexican arrivals were less likely to speak English and were poorer than the Hispanics of Caribbean descent. Disturbingly, the Anglo [Irish-American] pastor responded by exercising tight clerical control over the parish, refusing to permit a parish council for fear that it would become a venue for ethnic group feuding. Eduardo Porter, "At a Bronx Church, New Latinos Meet Old, and Tension Ensues," *Wall Street Journal*, 7 August 2001, A1.

What have I garnered from the patchwork of research available to me about Mexican American women? Latinas are confronted with poor health status vividly symbolized by the fact that they are at much greater risk than white, non-Hispanic women to become infected with the HIV virus.²⁷ AIDS is one of the leading causes of death among Hispanic women.²⁸ Diabetes and other illnesses linked to obesity are more serious health problems among Mexican American women.²⁹ The health status of Mexican American women is less favorable than that of Anglo women, in part because these women are more likely to be uninsured. In addition, "difficulties with language, transportation, child care, immigration status, or cultural differences act as further barriers to health care services."³⁰

The educational statistics for young women of Mexican origin are a cause for concern. Among Latinas, Mexican American women have the lowest percentage of college graduates—6.2%. They have the second lowest rate of high school completion among all groups of Hispanic women—44.2%.³¹ There is a pernicious, self-reinforcing cycle of poverty and lower educational achievement in the Mexican American community. Mexican American women are trapped alongside their male peers in this vicious cycle.

Hispanic sociologists Ana Maria Diaz Stevens and Anthony M. Stevens-Arroyo point out that Catholic schools could be an important factor in enhancing the educational achievements of Hispanic students. They report that "whereas the national level of dropouts for Latinos from public education fluctuates between 40 and 50 percent, the success rate of the Catholic schools is over 90 percent."³² One New York state study found that almost 95% of Latino graduates from Catholic high schools got a college degree, but only 20% of public school graduates did so.³³

²⁷National Center for HIV, STD, and TB Prevention, Divisions of HIV/AIDS Prevention, "HIV/AIDS among Hispanics in the United States" <www.cdc.gov/hiv/pubs/facts/hispanic.htm> (02-11-02).

²⁸Sheba R. Wheeler, "AIDS Conference Puts Focus on Minority Women's Issues," *Denver Post*, 4 November 2001, B5.

²⁹National Women's Health Information Center, "Latina Women's Health" <www.4woman.gov/faq/latina.htm> (04/26/02).

³⁰National Women's Health Information Center, "Latina Women's Health."

³¹Angela Ginorio and Michelle Huston, *¡Si, Se Puede! Yes, We Can* (Washington DC: American Association of University Women Educational Foundation, 2001) ix.

³²Ana Maria Diaz Stevens and Anthony M. Stevens-Arroyo, *Recognizing the Latino Resurgence in U.S. Religion: the Emmaus Paradigm* (Boulder CO: Westview Press, 1998) 224.

³³Ana Maria Diaz Stevens and Anthony M. Stevens-Arroyo, *Recognizing the Latino Resurgence*, 224. This study covered all Hispanic students. In New York state, many of these students would have been from Puerto Rico and other Caribbean islands, not from Mexico.

In part because of poorer educational outcomes, the employment profile of Mexican American women is less favorable than other groups of women. In the last quarter century, Mexican American women have become much more likely to be employed in the paid labor force. By 1990, their labor force participation patterns had become much more like African-American and non-Hispanic, white women. Yet, much of the crucial progress that Anglo women and, to a lesser extent, African-American women made within the labor force in the 1980s was not shared by women of Mexican origin, who have suffered more severely from "industrial restructuring."³⁴ One factor that influences their lower earnings is their population concentration—at least until recently—in areas of the country which are nonunion and where wages are unusually low. Another crucial factor is their greater likelihood to be immigrants, which, in turn, is linked to greater difficulties with English language proficiency. Still, it is disturbing that Mexican-origin women, who have a high-school education or better, earn "considerably less than [Anglo] women" with similar educational achievements.³⁵

Sociologist Susan Gonzalez Baker tells us: "Mexican-origin women [worked] disproportionately in blue-collar manufacturing." But, since manufacturing jobs were declining as a source of employment "Mexican-origin" women moved "most dramatically toward service work over the 1970–1990 period."³⁶ In 1990, "one in twenty Mexican-born women in the urban Southwest worked as a domestic in a private home," and that rate represented an increase in the importance of domestic work as a source of employment for women immigrating from Mexico.³⁷ Still, some Mexican American women have begun to make appreciable inroads into clerical, technical, professional and managerial employment.³⁸

Work by Gonzalez Baker raises some provocative questions about the economic interrelationships among Mexican American women, African-American women, and white women from other ethnic groups—at least in five Southwestern states. According to Gonzalez Baker's analysis, the presence of a larger number of immigrant women from Mexico during the 1980s was associated with a growth in earnings for non-Hispanic, white women. By 1990, the presence of many immigrant women from Mexico was associated with higher earnings for

³⁴Irene Browne, "Latinas and African American Women in the U.S. Labor Market," in *Latinas and African American Women at Work: Race, Gender, and Economic Inequality*, ed. Irene Browne (New York: Russell Sage Foundation, 1999) 3 and 13.

³⁵Joya Misra, "Latinas and African American Women in the Labor Market: Implications for Policy," in *Latinas and African American Women at Work: Race, Gender, and Economic Inequality*, ed. Irene Browne (New York: Russell Sage Foundation, 1999) 410.

³⁶Gonzalez Baker, "Mexican-Origin Women in Southwestern Labor Markets," 244.

³⁷Gonzalez Baker, "Mexican-Origin Women in Southwestern Labor Markets," 249.

³⁸Gonzalez Baker, "Mexican-Origin Women in Southwestern Labor Markets," 249.

African-American women, too. It may well be that low paid domestic work done by immigrant women from Mexico allowed both Anglo and African-American women to devote more time to better paying jobs, thereby earning higher wages. However, the presence of growing numbers of immigrant women from Mexico was associated with *lower earnings for native-born Mexican American women*. A large presence of immigrant women in the work force had a particularly detrimental impact on the wages for Mexican American women who had not completed high school.³⁹

Despite the important educational, cultural, and spiritual support that the Catholic church has provided to many people of Hispanic descent, both Latina and Latino scholars challenge the Hispanic American church to struggle with problems of sexism. Aida Hurtado reminds us that: "when Chicano feminists questioned their roles in the Chicano movement, they were perceived by both men and women as not only attacking unequal gender practices but questioning the Catholic underpinnings of *all* Chicano culture."⁴⁰ Dr. Hernandez-Truyol makes the troubling claim that "Latinas are taught by all—family, *church*, and popular culture (majority and Latina/o alike)—that they are inferior to men."⁴¹ Reynaldo Valencia points bluntly to "one of the most disturbing paradoxes in contemporary Mexican American existence—the prevalence of sexism in contemporary Chicano/a culture." Moreover, he identifies the Catholic religion as an important element in the genesis and maintenance of that sexism.⁴² Nevertheless, some Mexican American women say that their religion—while in some ways a source of oppression—also grounds their struggle. Other American Catholics need to be in solidarity with Mexican American female Catholics as they struggle to diminish Catholicism's oppressive tendencies, while drawing strength to resist all forms of sexual and ethnic discrimination from their faith.

LEARNING FROM THE BORDER CROSSERS

Taking seriously the insights of Mexican American feminists writers also challenges us to see the borderlands—the area immediately surrounding the United States/Mexico border—as a cultural milieu where Latinas develop important cultural insights and skills. The relationships among people when migrants cross borders raise some of the most challenging moral issues of our times. Franz Hinkelammert states "uncontained migrations from the Third World to the developed world, by those excluded from their native lands, are going to subvert existing social systems, demonstrating ever more clearly that we

³⁹Gonzalez Baker, "Mexican-Origin Women in Southwestern Labor Markets," 247.

⁴⁰Aida Hurtado, "*Sitios y lenguas: Chicanas Theorize Feminisms*," *Hypatia* 13 (Spring 1998): 141.

⁴¹Hernandez-Truyol, "Las Olvidadas," 377; emphasis added.

⁴²Valencia, "On Being an 'Out' Catholic," 466.

live in one world whose survival is a problem for all of us. This seems to be the vortex into which modernity is falling."⁴³

As a result of modern air transportation and modern telecommunications, including international satellite tv, the experience of immigrants in the American church has taken on new contours. A basic aspect of experience for many Mexican Americans today—for good and for ill—is that of crossing borders, as they journey fairly frequently between jobs and residences in the United States and towns in Mexico where they have family and roots.⁴⁴

Even some Mexican Americans who have been citizens of the United States for a long time report that they are made to have a sense of being strangers—aliens in this land. Justo Gonzalez explains: "there are many others who are not exiles in the sense that they left the land of their birth to come to this nation. They were born here. And so were their parents and grandparents. But they too are strangers in the deeper sense of living in a land not their own. Although they are U.S. citizens by birth, they are often seen and treated as less than full citizens, and therefore they are strangers living in a native land that remains foreign."⁴⁵ Thus, even Mexican American women, whose ancestors lived in the Southwest before that territory was annexed by the United States, say that they feel themselves constantly to be moving between two or more cultures—crossing psychological and cultural borders frequently, if not physical ones.

The strengths developed and challenges faced in border crossing are a central theme in contemporary Hispanic feminist thought. In *Borderlands/La Frontera: the New Mestiza*, Gloria Anzaldua proclaims that because she is "a *mestiza*, continually walk[ing] out of one culture and into another"—"in all cultures at the same time" then she is able to listen to "*todas las voces que me hablan simultáneamente*" [all the voices that speak to me simultaneously].⁴⁶ Ultimately, *mestiza* consciousness requires making choices having listened to multiple, sometimes conflicting, voices. Maria Lugones, in dialogue with the work of Anzaldua, differentiates sharply between *mestiza* experience and the experience of being "a hyphenated" self.

The dual, hyphenated, personality is an Anglo creation. . . . It is part of the Anglo imagination that we can keep our culture and assimilate, a position that would be contradictory if both cultures were understood as informing the "real" fabric of everyday life. But in thinking of a Mexican American, the Anglo

⁴³Franz Hinkelammert, quoted in Maria Pilar Aquino, "Directions and Foundations of Hispanic/Latino Theology: Toward a Mestiza Theology of Liberation," *Journal of Hispanic/Latino Theology* 1 (November 1993): 13.

⁴⁴Karen Mary Davalos "La Quinceañera: Making Gender and Ethnic Identities," *Frontiers: A Journal of Women's Studies* 16 (1996): 101-27.

⁴⁵Justo L. González quoted in Aída Besançon Spencer, "On Being a Stranger in a Time of Xenophobia," *Theology Today* 54 (January 1998): 465.

⁴⁶Gloria Anzaldua, *Borderlands/La Frontera: the New Mestiza* (San Francisco: Spinsters/Aunt Lute Press, 1987) 77.

imagination construes "Mexican" as the name for a superexploitable being who is a practitioner of a superfluous, ornamental, culture. Being "American" is what supposedly gives us (dubious) membership in the "real" culture, the culture of the ideally culturally unified-through-assimilation polis illegitimately called "America."

. . . the plurality of the new mestiza is anchored in the borders, in the space where critique, rupture, and hybridization take place. Though she cannot choose not to be read, constructed, with a logic of hyphenation, demoralization, instrumentality, stereotyping, and devaluation, she can imbue that person with a sense of conflicted subjectivity and ambiguity. . . . The plural personality of the new mestiza is a self-critical, self-animated plurality.⁴⁷

Feminist philosopher Mariana Ortega warns "Being-at-ease in the 'world,' . . . is not a feature of the 'world'-traveler self. It is not the feature of the individual who is considered the 'alien,' the 'stranger,' by the dominant group and who is no longer fully at ease in his or her own culture and is now in the midst of another culture."⁴⁸In particular, the dominant group's social and economic power means Latina women "most likely . . . have to travel to [the Anglo] 'world.'"⁴⁹

My major moral claim in this section is that the burden of "world" traveling needs to be assumed more frequently by Anglos. We need to make it a priority to learn how the world seems from the perspective of those of Mexican origin in our communities. Thus, American Catholics face an increasingly important moral imperative to keep company with the *mestizas* among us as they cross *los fronteras*. Although it was not her purpose, Ortega has described well where the Spirit is challenging Anglo Catholics to go. We, Anglos, are called "to travel 'worlds,' not as tourists who travel to relax, exoticize, and consume, but as people ready to learn from others and to put themselves at risk in order to take a critical stance against the injustices suffered by people who, day to day, go on being harassed, abused, or ignored."⁵⁰

Since reading the signs of the times in the American Catholic church means understanding as well as possible how the Spirit is at work in the lives of *mestizas*, then how can the Catholic Theological Society of America foster a much deeper appreciation of *mestizas'* insights? We can make it a priority to become knowledgeable about work being done by theologians who are members of Academy of Catholic Hispanic Theologians of the United States (ACHTUS). We can resolve to make use of the theological resources being cultivated with

⁴⁷Maria Lugones, "On Borderland/La Frontera: an Interpretative Essay," *Hypatia* 7 (Fall 1992): 35.

⁴⁸Mariana Ortega, "New Mestizas, World-Travelers, and Dasein: Phenomenology and the Multi-Voiced, Multi-Cultural Self," *Hypatia* 6 (Summer 2001): 9.

⁴⁹Mariana Ortega, "New Mestizas, World-Travelers, and Dasein," 11.

⁵⁰Mariana Ortega, "New Mestizas, World-Travelers, and Dasein," 20.

support from both the Lilly Foundation and the Pew Charitable Trust. Despite the problems of high school and college completion by Latinas/os, we need to give Latina/o students special encouragement and support to join us in the work of theology.

In this section, I have chosen to emphasize the reality and metaphor of border crossing because it is a central theme in Latina feminist theory. However, I want to remain attentive to the warning of Roberto Goizueta: "The U. S. has romanticized the immigrant experience and the life of the frontier, thereby denying the profound loss implicit in any experience of exile or immigration. (Ironically, this romanticization is today accompanied by an increasing hostility toward flesh-and-blood immigrants themselves.)"⁵¹

There is a particularly unfortunate irony in 2002 about the prevalence of border crossing as a positive metaphor in much Latina feminist work. On a very mundane level, border crossing between Mexico and the United States has become much more difficult since September 11. It is somewhat hard to remember now that in early September 2001 President George Bush had a very positive state visit from Mexican President Vicente Fox, during which the two men talked about a variety of policy changes to improve the situation of Mexican citizens who work—legally and illegally—in United States. President Bush surprised many by pushing for consideration of an amnesty program for undocumented aliens from Mexico. The precise contours of the program were far from clear and important questions were raised about the moral legitimacy of distinguishing between undocumented Mexican workers and undocumented aliens from other nations. Still, those concerned about the plight of the approximately three million undocumented Mexican workers in United States were very encouraged. However, the attacks by foreign terrorists on New York and Washington shifted the focus of public concern to *tighter* control over U.S. borders. Among the precious things that were damaged by the terrorist attacks of September 11 was an opening for a more just relationship between Mexico and the United States oriented toward serving the interests of working class Mexicans who cross into the United States in search of better economic opportunities.

In preparing for this plenary, I was struck by a detail in Roberto Gozueta's theological reflection on the story of Our Lady of Guadalupe's appearance to Juan Diego. Gozueta says: "Indeed, through Guadalupe, the very relationship between evangelizer and evangelized is reversed: The indigenous man, Juan Diego, is sent to evangelize the bishop."⁵² We Anglo Catholics need to recognize that we have an opportunity to be evangelized by *mestizas* and *mestizos*. They challenge Anglos to recognize that God's kingdom is for everyone, and in God's

⁵¹Roberto S. Goizueta, *Caminemos con Jesus: Toward a Hispanic/Latino Theology of Accompaniment* (Maryknoll NY: Orbis, 1995) 61.

⁵²Roberto S. Goizueta, "Resurrection at Tepeyac: The Guadalupan Encounter," *Theology Today* 56 (October 1999): 341.

kingdom those who seem at the periphery from the perspective of the privileged and powerful are actually at the center.

JUSTICE TRIPS OVER INTELLECTUAL PROPERTY

The Spirit is calling us in our times to confront more effectively the forces in our world today that press down "those who seem to have no voice before the world." One particularly important place where we need to discern what is happening to those who "seem to have no voice" is in world economic markets. We are facing a time of fundamental economic change. As the *Wall Street Journal* stipulates: "In past eras, control of land, oil or large pools of capital held the key to amassing money and power. Today, it is intellectual property."⁵³ The growing economic importance of intellectual property challenges Catholic social ethicists to press further our analysis of the rights and obligations that flow from society's grant of legal ownership over knowledge.

The AIDS crisis in sub-Saharan Africa represents one of the most poignant and pointed examples of the urgency of the question of intellectual property rights.⁵⁴ Patents for a variety of antiretroviral drugs, which have prolonged life for many in the first world, are powerful examples of intellectual property rights increasingly protected through a global trade regime under the control of the World Trade Organization. At the start of the 21st century, a crucial international

⁵³"Drug Makers' Battle Is One Over Ideas," *Wall Street Journal*, 19 March 2001, A1.

⁵⁴In this talk, I am concentrating on the situation in sub-Saharan Africa. However, there is in another important situation regarding the extent of the property rights of holders of pharmaceutical patents. This situation arises from the decision by the government of Brazil to provide aggressive governmental assistance aimed at developing a national capacity to manufacture generic versions of the AIDS cocktail. The program has been a rousing success. As a result of the Brazilian government's program "deaths from AIDS had . . . [been] halved and the government has saved more than US\$ 400 million in hospital treatment costs over the past four years." "South Africa's Moral Victory," *Lancet* 357 (28 April 2001): 1303. However, in 1996 the United States government made a formal complaint to the World Trade Organization about Brazil's violation of pharmaceutical companies' patent rights under the Agreement on Trade Related Intellectual Property Rights. (Shanker Singham, "Competition Policy and the Stimulation of Innovation: TRIPS and the Interface between Competition and Patent Protection in the Pharmaceutical Industry," *Brooklyn Journal of International Law* 26 [2000]; available from Lexis-Nexis Academic Universe.) In 2001, however, during the period when the international media and NGOs were focusing the attention of a world audience on the question of access to AIDS drugs in developing nations, the U.S. withdrew its complaint against Brazil. In light of the Qatar meeting's clarification of the right of a nation-state to force compulsory licensing of a drug formula when faced with urgent national health problems, Brazil appears to have the right to stimulate local production of AIDS drugs without being in violation of TRIPS.

debate has been taking place about whether the holders of pharmaceutical patents are entitled to prevent others from "expropriating" their intellectual property in order to produce much cheaper, "pirated" copies of patented AIDS drugs for distribution to the poor in the third world. In the face of the AIDS pandemic, the property rights of the holders of pharmaceutical patents raise life and death moral questions.

In this section, I will concentrate on the problem of AIDS in sub-Saharan Africa, especially in the nation of South Africa. However, this is a global health crisis. HIV infection rates are growing rapidly in Eastern Europe, the Caribbean, Latin America, and in eastern and southern Asia. In 2001, 20 million people had already died from AIDS and another 36 million persons were currently infected.⁵⁵ "By 2005, an estimated 100 million people will be infected [across the globe]."⁵⁶

"Sub-Saharan Africa is the epicenter of a global AIDS epidemic. An estimated 25.3 million people in that region are infected with HIV. . . . Each year, 2.4 million sub-Saharan Africans die of the disease"⁵⁷ These multimillions who die annually represent 85 percent of the AIDS related deaths worldwide.⁵⁸ Women make up slightly more than half of the persons living with HIV in sub-Saharan Africa.⁵⁹ The social impact of the deaths of many young adults is disastrous. One telling example of the social consequences of this pandemic is that "in Zambia, a shortage of school teachers has occurred because more teachers are dying of AIDS than can be trained to replace them."⁶⁰

According to World Health Organization, in 2001, 5 million Africans were "ready for antiretroviral therapy, meaning they [were] sick enough to need drugs, not too sick to benefit from them, and living in places where they could get them."⁶¹ Of those five million, it is estimated that 10,000 were actually receiving effective antiretroviral therapy.

Pharmaceutical patents are not the only thing that stands in the way of mitigation of the AIDS pandemic in third world countries. Many countries in the Third World are so poor that they could not afford to distribute even generic versions of HIV drugs to the many people who are infected. There is so little

⁵⁵"The Global HIV and AIDS Epidemic, 2001." (Center for Disease Control) MMWR: Morbidity and Mortality Weekly Report 50 (1 June 2001) <<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5021a3.htm>> (03/13/02).

⁵⁶Bill Clinton, "We Can Win the War on AIDS," *Washington Post*, 24 June 2001, B7.

⁵⁷Sabin Russell, "U.S. Push for Cheap Cipro Haunts AIDS Drug Dispute," *San Francisco Chronicle*, 8 November 2001, A13.

⁵⁸Jill Wechsler, "AIDS and Drug Access," *Pharmaceutical Technology* 24 (March 2000): 14.

⁵⁹Diana Russell, "AIDS as Mass Femicide: Focus on South Africa," *off our backs* (January 2001). Available from ProQuest.

⁶⁰"The Global HIV and AIDS Epidemic, 2001" <www.cdc.gov/mmwr/preview/mmwrhtml/mm5021a3.htm> (03/13/02).

⁶¹Sheryl Gay Stolberg, "Africa's AIDS War," *New York Times*, 10 March 2001, A1.

money to be made supplying patented AIDS drugs in Africa that the multinational pharmaceutical corporations had not even bothered to file for patents in many African nations.⁶² To understand why European and American drug companies have concluded there is no economically viable "market" for advanced AIDS drugs throughout much of Africa, consider Zambia. Zambia spends \$19.20 per capita per year on all health care services, including drugs.⁶³ Many African countries do not have the basic medical infrastructure to administer antiretroviral drugs safely and effectively. In particular, some of these drugs have very serious side effects, and persons who receive them need careful medical monitoring. Moreover, some African governments have not done enough to educate people about preventive measures. In Uganda, by contrast a vigorous public health education program has reduced the transmission of HIV infection by 50 percent.⁶⁴ In countries such as South Africa, Roman Catholic bishops continue to be a part of the problem as they oppose public health efforts to promote the use of condoms to prevent the spread of AIDS. In South Africa, the government has been very reluctant to supply antiretroviral drugs, even in single doses to minimize transmission from mother to newborn in the birth process. Highly placed government officials, including the current president, refuse to accept that the HIV virus causes AIDS.

Male dominance in sexual relationships and rape are important factors in the prevalence of HIV infection among African women (and women elsewhere across the globe). Health researcher Charlotte Watts, offers a caution that is important for ethicists as well as public health officials. She has "called for a broadening of the context of risk [of sexual transmission the human immunodeficiency virus], moving away from the standard perspective that sex is mutually desired."⁶⁵ Vulnerability to sexual violence is a significant risk factor for women exposed to HIV infection. U.N. official Peter Piot, has stated "gender inequality—including women's economic dependence on men—is a driving force of the AIDS epidemic."⁶⁶

Still, it must be acknowledged that the international regime for patent protection remains a key piece—albeit only one piece—in a complex situation which permits the death of literally millions of mainly poor people per year from AIDS.

⁶²Amir Attaran and Lee Gillespie-White, "Do Patents for Antiretroviral Drugs Constrain Access to AIDS Treatment in Africa?" *JAMA: Journal of the American Medical Association* 286 (17 October 2001): 1886–92.

⁶³David Ranii, "Drug Company Defends Itself, Patents amid Controversy over AIDS Drug Prices," *News & Observer*, 14 March 2001. Available from Lexis-Nexis Academic Universe.

⁶⁴Jill Wechsler, "AIDS and Drug Access," *Pharmaceutical Technology*, 24 (March 2000): 22.

⁶⁵Carmen Retzlaff, "A Tapestry of Women's Experiences" <www.iapac.org/clinimgt/women/retzlaff010m.html> (05/24/2001).

⁶⁶Diana Russell, "AIDS as Mass Femicide."

In 1994, the World Trade Organization was created. One of its responsibilities is to mediate disputes among member nations about compliance with an international Agreement on the Trade Related Aspects of Intellectual Property—acronym TRIPS. This international agreement sets forth provisions for uniform protection of intellectual property rights by members nations. Such an agreement on international protection of intellectual property had been strongly advocated by first world nations, such as the United States, which were eager to protect the property rights that flowed from technological knowledge and cultural creativity. The U.S. government pressed for strong international protections of patent rights in part to protect U.S.-based pharmaceutical companies, which represent a \$300-billion-a-year industry.⁶⁷

Article 31 of the TRIPS agreement contained a provision that allowed nation states to grant compulsory licenses for patented products in the event of a national emergency. The workability of article 31 appeared about to be tested in South Africa in 2001. The South African legislature had passed a law that permitted its minister of health to issue compulsory licenses for pharmaceuticals and to permit “parallel importation” of essential drugs. The South African Pharmaceutical Association responded with a lawsuit in the South African courts seeking to prevent the government from utilizing these new powers. In particular, the plaintiffs sought to prevent the government from buying substantially cheaper generic versions of key AIDS drugs. Cipla, an Indian pharmaceutical company, had offered “an AIDS regime, which typically consists of three drugs, for \$600 per year per patient—a small fraction of the \$10,000 to \$15,000 that Americans pay.”⁶⁸

Africa represents a very small market for the multinational pharmaceutical companies. What really motivated their attempt to prevent the South African government from using generic versions of antiretroviral drugs were two problems. First, low-cost generic AIDS drugs or brand name AIDS drugs sold at greatly reduced costs in poor countries might be diverted into “black market” channels in wealthier countries—with a loss of a portion of the pharmaceutical companies’ revenues and profits. Second, if the major drug companies sold some of their drugs in Africa at their “manufacturing” costs, consumers and governments in the richer countries will see starkly the very large gap between production costs and the sales price of these life-saving drugs.

Media coverage of the South African court case was so embarrassing to major multinational pharmaceutical companies that they decided to settle out-of-court—offering philanthropic programs to make antiretroviral drugs more readily available to the poor. Michael Clough, a researcher on international studies,

⁶⁷Nigel Page, “Coping with a Climate of Uncertainty: Who Owns What?” *Financial Times*, 21 June 2001. Available from Lexis-Nexis Academic Universe.

⁶⁸Sheryl Gay Stolberg, “Africa’s AIDS War,” *The New York Times*, 10 March 2001, A1.

points out that: "the more important lesson to draw from these developments in South Africa is that values, articulated and pushed by an increasingly empowered network of local and international activist movements, have become a decisive factor in the global-policy equation."⁶⁹ Clough uses the intriguing term "global civil society" as a term for an international community of persons of conscience who put substantial pressure on multinational pharmaceutical companies to respond more compassionately to those who were dying in Africa.

As a result of lobbying pressure from developing nations and humanitarian organizations, the World Trade Organization at its meeting in Doha, Qatar (2002) clarified the rights of governments to force mandatory licensing of patented drug formulas in the event of a public health emergency. The agreement in Qatar permits governments to act "to protect public health" and "to ensure access to medicines for all."⁷⁰ One international health activist suggested the Qatar meeting signaled a historic shift of perspective. Rachel Cohen from Doctors Without Borders said: "Historically, medicines have been treated like any other commodity. The Doha declaration implicitly recognizes that, because medicines can save lives, they should be allowed different patent standards."⁷¹

The Vatican has voiced its opinions on the question of intellectual property rights in the context of the AIDS crisis.⁷² A Vatican representative at the Qatar meeting said:

The holy see . . . underlines that there is a "social mortgage" on all private property, namely, that the reason for the very existence of the institution of

⁶⁹Michael Clough, "South Africa Again Gives the World a Conscience," *Los Angeles Times*, 18 March 2001, M1.

⁷⁰Council for Trade-Related Aspects of Intellectual Property Rights, "Paragraph 6 of the Doha Declaration of the TRIPS Agreement and Public Health" <www.wto.org> (03/12/02).

⁷¹Carlyn Kolker, "Doing the Doha Shuffle—At a WTO Meeting Nations Agreed to Break Pharmaceutical Patents during Emergencies. Or Did They?" *The American Lawyer*, February 2002. Available from Lexis-Nexis Academic Universe. However, it should be noted that the same news report indicates that some of the drug companies view the situation post-Qatar quite differently. "[Such] drug companies emphasize that the treaty itself survived. 'The declaration hasn't changed anything in regard to the TRIPs agreement,' says Jeffrey Sturchio, an executive director of public affairs for Merck & Co., Inc."

⁷²I had hoped that the United States Catholic Conference might also have addressed this key moral issue. However, the only reference to drug patents I could find on the website for the National Conference of Catholic Bishops was a staff member's vigorous protest that the Food and Drug Administration appeared ready to permit the importing of RU-486 from manufacturing plants in China where the patent rights of the European patent holder might not be respected. In other words, a staff member for the NCCB was using respect for patent rights as an argument against making a "generic" version of the so-called "abortion pill" available in the United States. Susan E. Wills, "RU-486: Coming to America?" (15 September 2000) <<http://www.nccbuscc.org/prolife/publicat/lifeissues/09152000.htm>> (03/11/02).

private property is to ensure that the basic needs of every man and woman are met and sustained. This "social mortgage" on private property must also be applied today to "intellectual property" and to "knowledge." . . . whenever there is a conflict between property rights, on the one hand, and fundamental human rights and concerns of the common good, on the other, property rights should be moderated by an appropriate authority, in order to achieve a just balance of rights.⁷³

John Paul II criticized "exorbitant" prices for crucial AIDS drugs. He declared "of its nature private property also has a social function which is based on the law of common purpose of goods."⁷⁴ Thus, the pope refers to a base point for the church's teaching on private property—the doctrine of the common destination of the goods of creation.

It is precisely at this point that I think Roman Catholic social ethicists need to begin to reexamine the church's teachings on the rights and obligations of private property in the new situation where intellectual property is a far more prominent source of wealth and power. It is not clear to me that the doctrine of the common destination of the goods of creation is a persuasive justification to support the claim of poor South Africans to affordable access to antiretroviral drugs. Nevirapine—to select one AIDS drug by way of example—is not a part of the goods of creation in anything like the same sense as the drug quinine which can be fairly directly abstracted from plant material. The tangible substances which are used to compound nevirapine are the least important element in the efficacy and availability of this drug. A very large component of what makes such drugs a desirable good for persons infected with HIV is rather the scientific know-how—the intellectual capital—which was expended in their discovery, refinement and testing. The key intellectual contributions from the many scientists and researchers who contributed to the development of such patented pharmaceutical compounds are not among the "goods of creation," in this sense that we have normally understood that phrase.

Roman Catholic social thinking about property as the fruit of human labor mixed with tangible materials found on or in the creator's earth does not fit the reality of intellectual property well. The farmer who tills arable land has a moral claim, based on his effort, to the food which the land yields. In long established

⁷³"An intervention by His Excellency Monsignor Diarmuid Martin to the Plenary Council of the World Trade Organization on Trade—related Aspects of Intellectual Property Rights," 20 June 2001 <www.vatican.va> (03/11/02). Monsignor Martin quoted from John Paul II, "Message to the 'Jubilee 2000 Debt Campaign' Group, September 23, 1999" <www.vatican.va>.

⁷⁴"Message of John Paul II to the Secretary-General of the United Nations Organization [on the Occasion of a Special Session of the General Assembly of the United Nations on 25-27 June 2001]." The references provided for the "common purpose of goods" are *Gaudium et Spes*, 7,1; and *Centesimus Annus*, 30 <www.vatican.va>.

Catholic tradition, malnourished neighbors also have claim to the food that the land yields, because fertile land is a gift to all of humanity from the creator who is the source of that land's existence. Under early industrialism, natural resources such as cotton or iron were crucial elements in the production of textiles and steel. So it continued to make sense to assert that poorer members of the community had a moral claim on a share of goods which were derived by industrial exploitation of the natural riches which the creator had destined for all of humanity. As the role of technological know-how or intellectual capital expands in the postindustrial era, intellectual creativity plays a larger and larger role in the value of some goods—of which many pharmaceuticals are an example. Any moral claim to access to antiretroviral drugs based upon the drug company's exploitation of "the goods of creation" is a tenuous moral assertion.

Catholic thinkers need to explore more vigorously the developing emphasis in Catholic social thought on a so-called social mortgage on property. This is a fruitful direction for two reasons: it connects us to a notion—deeply embedded in Catholic thought—of the human person as a social being. Society as a whole has a moral claim on all types of property because property development is always a social process relying in fundamental ways on social resources and social interaction. Second, language about a "social mortgage" on private property may make us more sensitive to the social construction of intellectual property claims as socially enforceable power to control certain knowledge. Property—especially intellectual property as opposed to tangible personal property—is at root a legal prerogative. Lawyer Robert Weissman makes the point: "intellectual property is more obviously a creation of the state than other sorts of property. Hence it intuitively enjoys less of a moral right than other property claims."⁷⁵

Various societies contribute substantially to the development of, and continued enjoyment of, intellectual property. Society, therefore, has a significant moral claim to influence how intellectual property is exploited. Given the worth and value of human persons, there is a strong moral basis for the assertion that society should use its social mortgage on intellectual property to press for the use of such property in the way which benefits all persons, serving their basic human needs. In *Rerum Novarum*, Leo XIII asserted "when there is a question of protecting the rights of individuals, the poor and the helpless have a claim to special consideration [from civil authorities]."⁷⁶ Leo had in mind the nation state. It is time to extend his insight about the special claim of the poor and the helpless from the level of national governments to global economic institutions

⁷⁵Robert Weissman, "A Long, Strange TRIPS: the Pharmaceutical Industry Drive to Harmonize Global Intellectual Property Rules, and the Remaining WTO Legal Alternatives Available to Third World Countries," *University of Pennsylvania Journal of International Economic Law* 17 (Winter 1996): 1088.

⁷⁶*Rerum Novarum*, 29.

such as the World Trade Organization. Only a radical transformation of our moral understanding of the rights of the poor and the obligations of the owners of intellectual property will be adequate to provide real hope to those who are HIV positive in the poorest countries of the earth.

BOMBLETS ARE NOT TOYS

From where I stand, 2001 has been a heartbreaking year in which to struggle to find signs that "the vision still has its time, presses on to fulfillment and will not disappoint." I have lived for 25 years in New York City, and I love the city. Speaking before the General Assembly of the United Nations after September 11th, then Mayor Rudolph Guiliani described one of the most important reasons that I love New York. In New York City one confronts daily the reality of humanity's diversity *and* humanity's shared human dignity. Guiliani said:

Just go outside for a walk in the streets and parks of New York City. You can't walk a block in New York City without seeing somebody that looks different than you, acts different than you, talks different than you, believes different than you. If you grow up in New York City, you learn that. And if you're an intelligent or decent person, you learn that all those differences are nothing in comparison to the things that unite us.⁷⁷

My son worked literally across the street from the World Trade Center. Fortunately, his company evacuated its building quickly and safely on the morning of September 11th. So my son survived. As a person who has walked some of the halls of the World Trade Center and who has seen the gaping hole that is "ground zero," to read the signs of the times close to September 11, 2001 means to confront squarely the presence of immensely destructive evil in our world.

From where I stand, the first thing that any decent person must do is to join the chorus of voices including John Paul II, the Tenth Ordinary General Assembly of the Synod of Bishops, the American bishops, and (then) Mayor Rudolph Giuliani in the denunciation of the attacks of September 11th as grievous moral evils devoid of any possible moral justification. Guiliani said to the General Assembly of the United Nations:

There is no excuse for mass murder, just as there is no excuse for genocide. Those who practice terrorism—murdering or victimizing innocent civilians—lose any right to have their cause understood by decent people and lawful nations.

. . . The era of moral relativism between those who practice or condone terrorism, and those nations who stand up against it, must end. Moral relativism does not have a place in this discussion and debate.

There is no moral way to sympathize with grossly immoral actions.⁷⁸

⁷⁷Rudolph W. Giuliani, "Remarks to the United Nations General Assembly Special Session on Terrorism" (Monday, 1 October 2001) <usinfo.state.gov/topical/pol/terror/01100110.htm> (02/11/02).

⁷⁸Rudolph W. Giuliani, "Remarks to the United Nations General Assembly Special

The terrorists' deliberate, deadly assaults on thousands of people going about their ordinary daily tasks are examples of objectively, gravely evil acts which fall into the category described in *Veritatis Splendor* as "kinds of behavior . . . that are intrinsically evil" and "do not allow for any legitimate exception."⁷⁹ The hijacking and murder of hundreds of people traveling for dozens of mundane reasons on the planes turned into horrifying weapons in New York, Washington, and a Pennsylvania field are rightly seen by leaders of all major religions as human acts "which are by their nature 'incapable of being ordered' to God, because they radically contradict the good of the person made in [God's] image."⁸⁰ I have emphasized this point because I believe that progressive religious voices have sometimes unnecessarily antagonized others in American society by speaking about the necessity to understand the root causes of terrorism in a way which appeared to some to provide a moral excuse for terrorism. As a heartbroken New Yorker, I and many of my neighbors need to hear an unambiguous moral denunciation of acts of terrorism.

It is an intellectually daunting task for Roman Catholic ethicists to decide which features of the post September 11th situation most urgently require careful moral consideration. Persons across a wide spectrum in the American Catholic church (and the universal Church) have pointed toward the necessity of investigating the root causes of terrorism. Here, I challenge that portion of Guiliani's statement to the United Nations in which he conflates "understanding" the causes and aims of terrorism with condoning terrorist acts. As the American Catholic bishops assert paying "greater attention to the roots of terrorism" is a means "to protect against further attacks and to advance the global common good."⁸¹ The pope and bishops have been quick to point our attention to the ways in which a grinding poverty, which deprives a majority of the persons alive today of the minimum conditions for decent human existence, can serve as a breeding ground for nihilistic destructiveness. The absolute poverty of many persons across the globe is made even less tolerable by an awareness of extremes of wealth enjoyed by some of the world's economic elites. The relative deprivation of the poor is exacerbated by widespread access to satellite television with its distorted depiction of Western profligate consumption. Repressive political regimes which deprive people of fundamental civil and political rights, including the right to a vigorous free press, create conditions under which persons with terribly distorted views strike out violently against those whom they imagine to be the source of their oppression.

Session on Terrorism."

⁷⁹*Veritatis Splendor*, 67.

⁸⁰*Veritatis Splendor*, 80.

⁸¹United States Conference of Catholic Bishops, "A Pastoral Message: Living with Faith and Hope after September 11" <www.nccbuscc.org/sdwp/sept11.htm>.

A dangerous mix of practical atheism—which sees religion as a trivial private taste—and an anemic religious tolerance which hesitates to criticize any feature, no matter how morally repulsive, in the religious practices of other faiths, has meant that there has been little serious critical engagement with so-called fundamentalist religious groups as these have become more powerful geopolitical forces. In addition, the oppression of women, especially when that oppression appears to be legitimated by religious traditions, has been a relatively low international priority. Groups dedicated to women's rights had denounced the misogynist policies of the Taliban for years, but no government in the developed world considered protection of women's basic rights as justification for international humanitarian intervention in Afghanistan prior to September 11th. Perhaps one positive legacy of the "war on terrorism" might be the realization that the world cannot afford to tolerate regimes in which the basic rights of women are trampled.

The voices who often offer careful moral judgments about the conduct of United States' military have been unusually quiet thus far. The shocking loss of thousands of American lives made it hard to say anything morally coherent in the immediate aftermath of September 11th. Americans, as many from around the world would remind us, have been extraordinarily blessed for well over a century with a large measure of security from violence as we went about our daily lives. We rarely acknowledged that such a wonderful sense of personal security was denied to some of our own communities, particularly those in poor urban neighborhoods, which had been made treacherous by a violent drug trade and, sometimes, by police brutality. Still, many Americans enjoyed a firm and precious sense of public safety which was destroyed along with the World Trade Center. So the war on terrorism began as an effort by government to restore "the public tranquility"—a crucial dimension of the common good brought into stark relief through its sudden absence. Perhaps it has been much harder to raise moral challenges with respect to a war being fought for such a legitimate, defensive cause.

The task of reading the signs of the times, however, requires that we scrutinize carefully the morality of our nation's conduct of this war on terrorism. What I say here draws upon the just war tradition. I have chosen the just war tradition because my reading of human nature leads me to believe that—short of the kingdom of God—evildoers will use violence against the innocent. Thus, human communities need agents who will use force, even lethal force, on behalf of the community to protect public safety and security. However, the use of deadly force by police agencies or armed forces must be subject to moral scrutiny and moral limits. The police and the Armed Forces act on behalf of the community. Therefore, citizens collectively are accountable for the ways in which force is used to protect the common good.

I read the Christian version of the just war tradition as one deeply infused by a profound reluctance to sanction military violence. It seems to me that this

tradition articulates a deep understanding of the inevitable tragic losses that accompany any resort to state-directed violence, even as a last resort in defense of the innocent. I will raise questions about the morality of one of the weapons that the U.S. military has used to pursue its objectives in Afghanistan—cluster bombs. While I will concentrate on the U.S. use of cluster bombs, this weapon is used by many other nations and also some "revolutionary" military groups. Virgil Wiebe reports that "cluster munitions have been employed worldwide, used by state and nonstate actors in places as diverse as the Afghanistan, Angola, Chechnya, Croatia, the Falkland/Malvinas Islands, Ethiopia, Eritrea, Kashmir, Lebanon, Nagorno-Karabakh, Sierra Leone, Sudan, and Vietnam."⁸² The moral issues raised here are equally germane to the use of this weapon by these other entities.

A cluster bomb is a weapons unit composed of a large container that is designed to separate in the air, releasing multiple small explosive devices that scatter and then, theoretically, explode—spreading lethal metal fragments over a wide area. The type of bomb used in Afghanistan disperses 202 "submunitions" or bomblets. The bomblets being used in Afghanistan also have an incendiary feature that will cause fires, if the bomblet falls on fuel or other flammable materials. Another feature of this "combined effects" bomb is that it releases metal projectiles that can pierce enemy armored personnel carriers, tanks or grounded aircraft—damaging or destroying such enemy equipment. When a cluster bomb is successfully deployed, several hundred small explosive devices hurl steel pellets or shrapnel over an area as wide as 800 by 400 feet—or more than two football fields.⁸³

Cluster bombs are designed to kill or disable a large number of enemy soldiers. A single cluster bomb can heavily damage many pieces of enemy equipment, such as tanks or grounded airplanes. U.S. cluster bombs were first used in Afghanistan on October 26th against "reinforced front lines of Taliban troops at the strategic northern crossroad of Mar-i-Sharif."⁸⁴ According to the *Los Angeles Times*, "a succession of fireballs erupted over an expanse the size of a football field, killing 259 Al Qaeda fighters and taking out a command center, artillery, and armored vehicles."⁸⁵

⁸²Virgil Wiebe, "Footprints of Death: Cluster Bombs as Indiscriminate Weapons under International Humanitarian Law," *Michigan Journal of International Law* 22 (Fall 2000): 93.

⁸³"Cluster Bombs in Afghanistan: a Human Rights Background" (October 2001) <www.hrw.org/backgrounder/arms/cluster-bck1031.htm>.

⁸⁴Paul Watson and Lisa Getter, "Response to Terror; Civilians in Danger; Silent Peril Lies in Wait for Afghanistan's People," *Los Angeles Times*, 1 December 2001. Available from Lexis-Nexis Academic Universe.

⁸⁵John Hendren, "Afghanistan Yields Lessons for Pentagon's Next Targets," *Los Angeles Times*, 21 January 2002, A1.

However, some of the cluster bomb's submunitions fail to explode as they fall or when they first hit the ground. For example, the bomblets are less likely to explode on contact if they fall onto a soft surface such as sand, mud, or snow. Experts from the International Committee of the Red Cross report that "[dormant] cluster bomblets . . . [do] not have to be touched to explode. And . . . one of the main problems with this extremely unstable remnant of war . . . is that they are completely unpredictable and extremely sensitive."⁸⁶ These unexploded submunitions become *more unstable and dangerous over time*.⁸⁷

Manufacturers of these submunitions anticipate a three to five percent rate of unexploded bomblets when a cluster bomb is dropped. Pentagon sources concede a ten percent failure rate in Afghanistan.⁸⁸ International "demining specialists" in Afghanistan are estimating that 20 percent of U.S. bomblets have failed to explode. In March 2002, officials from the United Nations estimated that United States had dropped 1,152 cluster bombs in Afghanistan, leaving an estimated 14,000 unexploded submunitions.⁸⁹

In order to read the signs of the times about these weapons adequately, one needs familiarity with technical information about these weapons and an appreciation of the perspective of military leaders on the weapons' uniquely useful qualities. However, I contend that one must also attend carefully to small stories about individual victims in order to have considered sufficiently the signs of the times. So from the pages of *The New York Times*, I relate the following vignette. "Ten-year-old Mohebolah Seraj went out to collect wood for his family." The family—composed of a mother and eight children—were displaced persons who were seeking to escape famine in Afghanistan. Young Mohebolah "thought he had happened upon a food packet. He picked it up and lost three fingers in an explosion." Doctors told the reporter that the entire hand might require amputation. His sobbing mother cried: "It wouldn't matter if my daughter lost a hand, but my son was supposed to help support us."⁹⁰

⁸⁶Ragnhild Imerslund, "When Toys Kill; Another Challenge in Kosovo," *The Magazine of the Red Cross/Red Crescent Movement* (February 2000) <www.redcross.int/EN> (02/18/02).

⁸⁷Virgil Wiebe and Titus Peachey, "War's Insidious Litter: Cluster Bombs," *Christian Science Monitor*, 9 June 1999 <www.csmonitor.com/durable/1999/06/09/p11s2.htm> (02/18/02).

⁸⁸Elizabeth Neuffer, "Unexploded US Bomblets Mine Villages," *Boston Globe*, 20 January 2002, A23.

⁸⁹Richard Norton-Taylor, "Afghanistan Littered with 14,000 Unexploded Bomblets, Says UN," *Guardian*, 23 March 2002, 18.

⁹⁰Amy Waldman, "Bomb Remnants Increase War's Toll," *The New York Times*, 23 November 2001, B4. The reporter who created this account noted that the hospital where the interview took place was "a grim place, lacking power and basic sanitation."

According to weapons expert William Arkin "cluster bombs have been shown to be a greater hazard to civilians than virtually any other weapon that is legal," under international law.⁹¹ A number of opponents of this weapon claim that children are most at risk. A writer for the Red Cross entitled her story on the effects of cluster bombing in Kosovo, "When Toys Kill."⁹² Reporters in Afghanistan echo the sad note that the bright, shiny objects are particularly attractive to poor children who have no toys.

The key criteria for judging the moral legitimacy of the use of cluster bombs are discrimination (or noncombatant immunity) and proportionality. The principle of discrimination means that noncombatants should not be directly and deliberately targeted. As the American bishops put it: "just response to aggression must be discriminate; it must be directed against unjust aggressors, not against innocent people caught up in a war not of their making."⁹³ The United States military accepts the principle of noncombatant immunity.⁹⁴ They make serious efforts to insure that civilians are not deliberately targeted. In Afghanistan, the Pentagon has an elaborate procedure for selecting bombing targets. This system is designed to insure that targets are legitimate military objectives and collateral civilian casualties are minimized.

Does the use of cluster bombs violate the second just war norm—proportionality? Proportionality requires that the harm caused as the result of specific military choices be in proportion to the importance of the military objective and the likelihood that the objective can be achieved. Thus, the use of a cluster bomb is morally acceptable if the bomb is used in an assault on an important military objective, if the attack is likely to be successful, and if any harm unintentionally inflicted upon innocent civilians during bombing is proportional to the importance of the military objective.

When making a judgment about proportionality with respect to the use of cluster bombs, one crucial issue is the extent of the period of time over which harm is assessed. Should harm be reckoned only in the immediate aftermath of

⁹¹Paul Watson and Lisa Getter, "Civilians in Danger."

⁹²Ragnhild Imerslund, "When Toys Kill."

⁹³U.S. Catholic Bishops, "The Challenge of Peace: God's Promise and Our Response," 104.

⁹⁴There has been, however, at least one statement by U.S. leaders that should be critically scrutinized as suggesting a deviation from the firm commitment to noncombatant immunity. When asked about the death of women and children, probably family members accompanying al Qaeda males, in eastern Afghanistan, Secretary of Defense Donald Rumsfeld was quoted as saying that those women *and children* were there "of their own free will, knowing who they're with and who they're supporting and who they're encouraging and who they're assisting." It is a basic repudiation of just-war theory to say that children who are with enemy soldiers are by their very presence "assisting" those soldiers and, hence, lose their noncombatant immunity. See Eric Schmitt, "Pentagon Says U.S. Airstrike Killed Women and Children," *The New York Times*, 13 March 2002, A 14.

the bombing? Or does a legitimate moral calculus require that we also consider the harm done when so-called "dud" bomblets explode months and years after the original military bombardment? A report for the Mennonite Central Committee delineates the scope of harm which needs to be considered when judging the proportionality of cluster bombs. That report indicates that "cluster weapons inhibit agricultural production, impede the return of refugees and displaced persons to their homes, sap families' economic prospects by transforming breadwinners into disabled dependents, and overburden already deficient public health networks."⁹⁵ So, in making a judgment about whether the deployment of cluster bombs meets the criteria of proportionality, one must consider the three- or four-year-old who may be blown apart by an unexploded bomblet unleashed before he or she was born.

It is possible that technology will help minimize the moral difficulties associated with the use of cluster bombs. In 2000, *Aviation Week and Space Technology* reported that "stung by repeated criticism from the humanitarian organizations," the United States Navy had made it a priority "to improve or replace the BLU-97 cluster bomb." The Navy was challenging weapons manufacturers to cut the rate of unexploded submunitions from four percent to one percent. However, Naval officials concede that "the technology to take reliability [of bomblets] to that level is going to be very tough."⁹⁶ If developments in military technology minimize the serious moral difficulties created by high rates of unexploded, but still very dangerous, bomblets, the improved military technology will be the result of a commitment to protect the lives of civilians—a commitment at the heart of United States military ethics, but also a military commitment that has been strengthened in response to the demands of humanitarian organizations such as church groups.

One of the most effective ways to constrain the harm done by cluster bombs would be to change appropriate international law, such as the United Nations Convention on Conventional Weapons.⁹⁷ Humanitarian groups have suggested that the use of cluster bombs should be outlawed in or near any concentration of civilians. It appears to have been the policy of the U.S. military not deliberately to target cluster bombs near civilian areas in Afghanistan. Leaders at the

⁹⁵Virgil Wiebe and Titus Peachey, "Drop Today, Kill Tomorrow: Cluster Munitions as Inhumane and Indiscriminate Weapons," (December 1997; rev. June 1999) <www.mcc.org/clusterbomb/drop_today>. A news story from Afghanistan provides examples of just such problems: David Filipov, "US Bombers Gone, but Bombs Remain, Villagers Return to Ruined Homes and Deadly Risks Aftermath," *Boston Globe*, 2 December 2001, A23.

⁹⁶Robert Wall, "Criticism Forces Bomb Upgrade," *Aviation Week and Space Technology* 153 (27 November 2000): 37; emphasis added.

⁹⁷This was suggested to me by James Turner Johnson, an expert on just-war theory. Panel: "Waging a Righteous War: the Media, Morality, and the War on Terrorism," Monmouth University, 25 April 2002.

International Red Cross have also suggested that military forces that use these weapons ought to be required to keep careful records about where the bombs were targeted and to clear unexploded ordinance after a military conflict has ended.⁹⁸ The United States has already provided United Nations mine removal experts with a list of 188 locations where cluster bombs were dropped and unexploded ordinance is likely to be found in Afghanistan.⁹⁹

There is a horrible disjunction between contemplating the realities of cluster bombs as a military weapon and proclaiming, as has John Paul II, that Christian love is, finally, the only force stronger than violence. Yet, as the American bishops acknowledged in their peace pastoral: "We must recognize the reality of the paradox we face as Christians living in the context of the world as it presently exists, we must continue to articulate our belief that love is possible and the only real hope for all human relations, and yet accept that force, even deadly force, is sometimes justified and that nations must provide for their defense."¹⁰⁰ The restoration of peace will require concerted actions to promote economic and political justice and cultural freedom across the globe. Germain Grisez was on target in a message that he sent to the CTSA e-mail discussion list. Grisez asserted: "Even when carried out within proper limits, deadly force against persons cannot be an adequate response to terrorism. . . . serious effort[s] at reconciliation must be implemented by economic and political action designed to mitigate suffering and reduce hatred."¹⁰¹ In the end, our domestic tranquility in the 21st century will depend more on the ability of nations "to mitigate suffering and reduce hatred," than on the technological sophistication of our precision targeted cluster bombs.

CONSISTENT PROTECTION FOR THE LITTLEST CATHOLICS

Finally, it is not possible to think about reading the signs of the times on behalf of the Catholic Church in 2002 without making some brief comments about the child sex abuse scandal. The leaders of our church appear to have tried misguidedly to protect the church's public reputation at the cost of—surely unintended—severe harm to our own little ones. Now the church as a community and an institution is called to conversion and transformation, so that it may again become a credible sign of a divinely inspired hope that "opens up new and

⁹⁸"Call to Restrict the Use of Cluster Bombs," *The Times*, 5 December 2001, 17.

⁹⁹Mark Magnier, "Response to Terror; \$27 Million Pledged for De-Mining Aid," *Los Angeles Times*, 23 January 2002, A10.

¹⁰⁰U.S. Catholic Bishops, "The Challenge of Peace: God's Promise and Our Response," 78.

¹⁰¹Germain Grisez, "Thoughts on Responding to Terrorism," CTSAList, 17 September 2001.

greater hopes, till the whole cosmos and all peoples are embraced" by the Spirit's healing love.¹⁰²

Nobert Rigali, in a review of the literature on this moral issue, rightly pointed out that feminist theologians deserve credit for much of the best work in Christian ethics on sexual abuse of women and children, in society at large and by clergy in particular. Relying on the work of our Protestant colleague, Lois Gehr Livezey, Rigali connected explicit attention to child sexual abuse with the honest exploration of sexual and domestic violence spurred by feminist ethics.¹⁰³

Unwanted sexual contact between Catholic priests and older teenagers is a grave moral evil. Sexual contact between a priest and a younger teenager or child who does not yet have the capacity fully to understand and to give free consent to sexual activity is an even more grave moral evil. I have argued elsewhere that the most fundamental sexual evil should be seen, not as non reproductive sexual activity, but as violent or coercive sexual activity.¹⁰⁴ Child sexual abuse is an especially sharp example of the moral evil entailed in coercive sexual activity.

Feminist ethicists have helped us understand that various forms of sexual abuse involve the misuse of power. One of the things that makes sexual contact between priests and young members of the Catholic Church so disturbing is that the spiritual office of the priest inevitably gives the priest power and authority. This spiritual power is completely corrupted, when it is used to compel young people to accept unwanted sexual attentions. The abuse of sacred power is starkly revealed in the statement by a woman who was repeatedly sexually molested by a priest of the Cleveland diocese when she was eight. According to the woman, "each time afterward, he would assure her he was God's best friend and warn her not to tell her parents. If she did, she would face eternal damnation. 'When you are little, burn in hell—my God, that's pretty scary,'" Sandra recalled. Sandra responded by clutching a raggedy stuffed animal as a shield against her molester and praying to God that he would go away."¹⁰⁵ Such sexual abuse of a child or a young person is particularly morally appalling because it misuses in the most egregious possible way the priest's power as a representative of Christ on earth.

Abused children and young people, their family members, and others have been grievously harmed by this wrongful behavior on the part of some predatory priests. We as a church have a serious moral obligation to do everything possible to minister compassionately to these children and youth throughout the rest of

¹⁰²Ferdinand Kerstiens, "Hope," *Encyclopedia of Theology: the Concise Sacramentum Mundi*, ed. Karl Rahner (New York: Seabury Press, 1975) 651.

¹⁰³Nobert J. Rigali, "Church Responses to Pedophilia," *Theological Studies* 55 (March 1994): 124-39.

¹⁰⁴Barbara H. Andolsen, "Whose Sexuality? Whose Tradition? Women, Experience, and Roman Catholic Sexual Ethics," in *Religion and Sexual Health: Ethical, Theological, and Clinical Perspectives* (Dordrecht: Kluwer, 1992) 69-71.

¹⁰⁵James F. McCarthy and David Briggs, "Woman Forgives Priest, not Church," *The Plain Dealer* (Cleveland), 12 March 2002, A1.

their lives, including their lives as adult survivors. "Binding up the wounds" of the survivors of child sexual abuse at the hands of priests must be our first priority as a church.

While the sexual exploitation of children and young people is a great moral evil, the moral culpability of some of the perpetrators would be difficult to assess and is ultimately God's judgment, not ours. There is some psychological data which suggests that at least a significant minority of the people who sexually molest children were victims of sexual abuse as children themselves. So like domestic violence, a part of the evil consequences of child sexual abuse is that some of the victims are so psychologically damaged that they go on to inflict this serious harm in the next generation.

It is difficult to know the extent of the child sexual abuse crisis in terms of the number of child or teenage victims of priest sexual abusers, the period of time over which this victimization occurred, and the extent to which reforms made in some dioceses over the last two decades have substantially reduced the chances that other children will be victimized in the future.¹⁰⁶ It is only fair to contextualize the problem of priest sexual abuse of children in the Catholic church. In society at large, persons, primarily men at present, who wish to prey on children and young people as sexual targets gravitate toward those helping professions that provide frequent opportunities for trusted access to children. This includes the priesthood, but it also includes school teaching and leadership in voluntary organizations that serve children, such as the Boy Scouts. Among clergy, child sexual abuse is certainly not limited to Catholic priests. A striking reminder of this reality is the fact that in Canada, right now, some Protestant churches—Anglican, Presbyterian, and United Church—are facing ruinous lawsuits filed on behalf of First Nations children who were physically and sexually abused in religiously operated residential schools.¹⁰⁷

In society at large, most children who are sexually abused are female children who are abused by laymen of all religious faiths or none—all too often men who are members of their own families or close family friends. Let me reiterate: The vast majority of child sexual abuse is "opposite" sex abuse of girls by men. Solid social science data indicates that there is *no special link between homosexual orientation and sexual abuse of children*. To single out gay priests and seminarians for adverse action simply because they are gay—as some seem to be suggesting—will do *absolutely nothing* to protect our children. I agree

¹⁰⁶For an especially helpful description of how the church in the United States has struggled to put procedures in place to avoid the serious problems that occurred during the 1960s–1980s, see Peter Steinfelds, "The Church's Sex-Abuse Crisis: What's Old, What's New, What's Needed—and Why," *Commonweal* (19 April 2002): 13–19.

¹⁰⁷BBC News Online, "Sued Canada Churches Seek Bailout" (18 June 2000) <http://news.bbc.co.uk/low/english/world/americas/newsid_795000/795866.stm>. Brian Thorpe, "Letter to Pastoral Charges and Special Ministries in B.C. Conference, Presbytery Chairs and Secretaries" (6 February 1996) <www.uccanbc.org/issues/brian.html>.

strongly with James Keenan that when some gay priests abuse teenage boys, "the problem is not the abusing priests' homosexuality, but rather their [sexual] immaturity and *their abuse of power*."¹⁰⁸

Singling out gay priests and seminarians for adverse action would violate the central moral norm of respect for the basic human dignity of every person. Citing the instruction on the *Pastoral Care of Homosexual Persons*, a committee of the U.S. Bishops' Conference says that "the teachings of the Church make clear that the fundamental human rights of homosexual persons must be defended and that all of us must strive to eliminate any forms of injustice, oppression, or violence against them."¹⁰⁹ It would be a serious injustice to scapegoat the many talented and pastorally sensitive gay seminarians and priests because of some *culpably misguided* notion that homosexually oriented men represent a special threat to children.

The overwhelming majority of Catholic priests—gay and straight—are exercising moral self-restraint and responsibility in their relationships with children and teens. The almost forty years since the second Vatican Council have been challenging ones for the many good men who have remained in the priesthood. One tragic consequence of the church leaders' secrecy about and mishandling of reports of clergy sexual abuse has been the undeserved damage to the public's respect for the priests as a group. That—after a lifetime of dedicated service to the church—many priests say they are now hesitant to wear their Roman collar in public because of the distrust and contempt that they encounter is a sad commentary on how the church as a community has been wounded by this self-inflicted crisis.

The church has a grave responsibility as an institution to develop and follow policies and procedures designed to minimize the possibility that other children will be sexually exploited by priests or religious—or by lay employees or volunteers.

Fairness requires that I acknowledge that many of the cases which have been so dramatically highlighted in the press within the last year are cases which go back thirty years or more. There have been important reforms in the recruitment of candidates to the priesthood. In the better administered dioceses, a man like John Geoghan would not be ordained today. The practice of recruiting candidates for the priesthood at the age of fourteen into an insular residential minor

¹⁰⁸James Keenan, "Sex Abuse, Power Abuse," *The Tablet* (11 May 2002): 10.

¹⁰⁹The Bishops' Committee on Marriage and Family, "Always Our Children: a Pastoral Message to Parents of Homosexual Children and Suggestions for Pastoral Ministers" (10 September 1997) <www.usccb.org/laity/always.htm>. The Catechism of the Catholic Church similarly declares: "Every sign of unjust discrimination [against women and men with "homosexual tendencies"] should be avoided" (§2358). The Congregation for the Doctrine of the Faith issued a document titled "Letter to the Bishops of the Catholic Church on the Pastoral Care of Homosexual Persons" that said "the intrinsic dignity of each person must always be respected in word, in action and in law."

seminary system has, as I understand it, been abandoned. The teenage years are crucial to the development of maturity in the number of ways including the beginning of sexual maturity. It is important that young men who may have vocations to the priesthood are tested by the normal sexual trials of adolescent life and come to the seminary having coped with those teenage trials in a healthy way. Candidates for the priesthood also now undergo rigorous psychological screening. However, I hear that in some diocese a few candidates are accepted despite cautionary findings on these psychological tests.

I stand before you as a lifelong Catholic laywoman, a parent, and a grandparent. This year's string of revelations about the mishandling by bishops, archbishops and cardinals of credible accusations of clergy child sexual abuse has profoundly scandalized me. This crisis suggests to me that we radically need to reassess our ecclesiology with particular attention to our theologies of the priesthood and of the laity. I would stress that it is urgent that the role and moral responsibilities of the laity in the Catholic church be considered from a fresh viewpoint.¹¹⁰ In the minds of traditionalists, it is the clergy alone—particularly the bishops—who are responsible for directing the internal life of the Catholic Church on the basis of the charism and authority granted to them through ordination. While lay Catholics should be active participants in the sacramental life of the church, their vocation as Christians has more external focus. It is the role of the laity to live out the teachings of the Catholic Church in the world. This dichotomy—the clergy are responsible for life within the church, and the laity are responsible for embodying the social values of the church in the world—is not adequate in the face of this moral crisis.

As a result of thorough press investigations of numerous incidents of priests' sexual abuse of children, it has become more difficult for lay Catholics to be effective witnesses to Christ in the world *as Catholics*. The moral integrity of the Catholic Church has been called into serious and well-deserved public question by the failure of some of its most visible and powerful leaders to respect one of the most fundamental principles of the natural moral law: do no harm to vulnerable children. I propose that the laity has a serious responsibility in this moral crisis to act with the clergy and bishops to put in place well-devised policies and procedures to protect children from sexual abuse *and to see that those procedures are consistently followed in the future*.

The present governance structure of the Roman Catholic church blocks the ability of most lay persons to influence the personnel policies and practices of

¹¹⁰There is a tantalizing hint in *Lumen Gentium* that well-qualified lay people might, on rare occasion, have an obligation to speak out about the good of the Church (§37). Even more interesting is the accompanying footnote 178 that refers to an elocution by Pius XII. Speaking of the responsibility of the laity to act for the good of the church Pius uses the fascinating metaphor "in the case of decisive battles, it happens at times that the best initiatives come from the front lines." Quotation taken from *The Documents of Vatican II*, ed. Walter M. Abbott (New York: Guild Press, 1966).

a diocese. Normally, in ethics one is responsible only for those things about which one can exercise choice. One has no obligation to do what one is literally not able to do. However, the magnitude of harm to children and the enormous scope of public scandal caused by the failure of church leaders effectively to minimize continuing harm to children require an otherwise extraordinary attempt by lay Catholics to demand accountability from the bishops and the Vatican on this matter.

This is the time to take with utter seriousness the vision of church found in the second chapter of Ephesians. We—all of us, most of us lay persons—are “fellow citizens of the saints and members of the household of God.” *The whole church* forms an edifice rising from a “foundation of the apostles and prophets with Christ Jesus himself as the capstone.” *The whole people of God* is called to build up the church as a fitting “dwelling place for God in the Spirit.” We are to do this so that our church—as a temple of the Spirit—may be an effective sign to the world opening up “new and greater hopes, till the whole cosmos and all peoples are embraced” by the Spirit’s healing love. Instead, in 2002, *the whole people of God* has allowed the foundations of trust in the church to crack and the facade of God’s dwelling place to be defaced by its own leaders. All of us—clergy and laity alike—need to work diligently together to undo the serious damage that we have inflicted on the church as “the dwelling place for God in the Spirit.”¹¹¹

BARBARA HILKERT ANDOLSEN
Monmouth University
West Long Beach, New Jersey

¹¹¹Ephesians 2:19-22.